

1 [Eastern Neighborhoods Area Plans – monitoring program, CAC, Integrated PDR TIDF fee.]

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3 **Ordinance amending the Administrative Code Chapter 10E to establish the Eastern**
4 **Neighborhoods Monitoring Program for purposes of reviewing the effectiveness of the**
5 **Eastern Neighborhoods Area Plans and implementation of specified improvements, the**
6 **Integrated PDR Reporting program, and the Eastern Neighborhoods Citizens Advisory**
7 **Committee; amending Administrative Code Chapter 38, Sections 38.1, 38.3, and 38.10**
8 **to create a Transit Impact Development Fee for Integrated PDR; and adopting**
9 **environmental findings.**

10 Note: Additions are *single-underline italics Times New Roman*;
11 deletions are *strikethrough italics Times New Roman*.
12 Board amendment additions are double underlined.
13 Board amendment deletions are ~~strikethrough normal~~.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. In accordance with the actions contemplated herein, this Board adopted
15 Ordinance No. _____, that included findings pursuant to the California
16 Environmental Quality Act (California Public Resources Code sections 21000 et seq.). A copy
17 of said Ordinance is on file with the Clerk of the Board of Supervisors in File No.
18 _____ and is incorporated by reference herein.

19 Section 2. The San Francisco Administrative Code is hereby amended by amending
20 Chapter 10E as follows:

21 CHAPTER 10E: ~~DOWNTOWN~~ NEIGHBORHOOD AREA PLAN MONITORING

22 SEC. 10E.1. DOWNTOWN PLAN FINDINGS. The Board of Supervisors makes the
23 following findings in support of this ordinance.

24 (a) The Planning Commission has adopted the Downtown Plan as part of the General
25 Plan of the City and County of San Francisco, and the Board of Supervisors, acting upon the

1 recommendation of the Planning Commission, has adopted amendments to the Planning
2 Code called for in the Downtown Plan.

3 (b) The focus of the Downtown Plan is to prevent development where change would
4 diminish the City's character or livability but to allow appropriately scaled development that
5 would further the City's economic, fiscal and social objectives.

6 (c) The Downtown Plan is based on certain assessments about the ability of the City
7 to absorb the impacts of growth in downtown San Francisco and the desirability of increasing
8 housing, ridesharing and transit use in light of the anticipated downtown growth. The
9 Downtown Plan proposes various actions which should be taken to achieve the following
10 goals: An increase in the City's housing supply by an average of 1,000 to 1,500 new housing
11 units per year; and increase in ridesharing to a point where the number of persons commuting
12 by auto or van rises from 1.48 to 1.66 persons per vehicle; and an increase in the use of
13 transit by downtown workers from 64 percent to 70 percent of all work trips.

14 (d) The Downtown Plan recommends the adoption of a formal process for monitoring
15 progress toward Plan goals. This monitoring process is necessary to evaluate the
16 effectiveness of the Plan and the impacts of downtown growth, and to make any adjustments
17 deemed appropriate to the controls described in the Downtown Plan or to additions to the
18 City's infrastructure and services.

19 (e) The purpose of this monitoring system shall be to determine whether the
20 infrastructure and support systems necessary to accommodate the growth of downtown,
21 particularly housing supply and transit capacity, have kept pace with development in the C-3
22 Districts. If downtown is growing at a faster pace than the necessary infrastructure and
23 support systems, it may become necessary to make further efforts to slow down the pace of
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1 development, or devise additional mechanisms for providing required infrastructure and
2 support systems.

3 (f) The Planning Department shall undertake a two-tiered monitoring program. The
4 two tiers are: 1) An annual collection and reporting of data from selected sources that are
5 gathered on a regular basis, and 2) every five years, a more extensive data collection effort
6 that includes an analysis of long-term policy indicators such as the TDR program, urban form
7 goals, any impact fee funds, and provides analysis of the Downtown Plan's policy objectives.
8 The annual monitoring should provide an early warning system for trends that may develop,
9 indicating a shortfall in the long range goals.

10 SEC. 10E.2. ANNUAL REPORT. The Planning Department shall prepare an annual
11 report detailing the effects of downtown growth. The report shall be presented to the Board of
12 Supervisors, Planning Commission, and Mayor, and shall address: (1) the extent of
13 development in the C-3 Districts; (2) the consequences of that development; (3) the
14 effectiveness of the policies set forth in the Downtown Plan in maintaining San Francisco's
15 environment and character; and (4) recommendations for measures deemed appropriate to
16 deal with the impacts of downtown growth.

17 (a) Time Period and Due Date. Reports shall be due by July 1st of each year, and
18 shall address the immediately preceding calendar year, except for the five year report, which
19 shall address the preceding five calendar years.

20 (b) Data Source. The Planning Department shall assemble a data base for 1984 and
21 subsequent years for the purpose of providing the reports. City records shall be used
22 wherever possible. Outside sources shall be used when data from such sources are reliable,
23 readily available and necessary in order to supplement City records.

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1 (c) Categories of Information. The following categories of information shall be
2 included:

3 Commercial Space and Employment.

4 (1) The amount of office space "Completed," "Approved," and "Under Construction"
5 during the preceding year, both within the C-3 Districts and elsewhere in the City. This
6 inventory shall include the location and square footage (gross and net) of those projects, as
7 well as an estimate of the dates when the space "Approved" and "Under Construction" will
8 become available for occupancy.

9 (2) Office Vacancy Ratio. An estimate of the current office vacancy rate in the C-3
10 Districts and citywide.

11 (3) Citywide and C-3 District Office Employment. An estimate of additional office
12 employment, by occupation type, in the C-3 Districts and citywide.

13 (4) Tourist Hotel Rooms and Employment. An estimate of the net increment or tourist
14 hotel rooms and additional hotel employment in the C-3 Districts.

15 (5) Retail Space and Employment. An estimate of the net increment of retail space
16 and of the additional retail employment relocation trends and patterns within the City and the
17 Bay Area.

18 (6) Business Formation and Relocation. An estimate of the rate of the establishment
19 of new businesses and business and employment relocation trends and patterns within the
20 City and the Bay Area.

21 Housing.

22 (7) Housing Units Certified for Occupancy. An estimate of the number of housing units
23 throughout the City newly constructed, demolished, or converted to other uses.

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1 (8) Jobs/Housing Linkage Program. A summary of the operation of the Jobs/Housing
2 Linkage Program (formerly the Office Affordable Housing Production Program) and the
3 Housing Affordability Fund, identifying the number and income mix of units constructed or
4 assisted with these monies.

5 Transportation.

6 (9) Parking Inventory. An estimate of the net increment of off-street parking spaces
7 approved in C-3 Districts.

8 (10) Vehicle Occupancy Rates. An estimate of vehicle occupancy rates for vehicles in
9 or entering the City.

10 (11) Transit Service. An estimate of transit ridership for peak periods.

11 (12) Transit Impact Fee. A summary of the use of the transit impact development fee
12 funds, collected from development.

13 Fiscal.

14 (13) Revenues. An estimate of the net increment of revenues by type (property tax,
15 business taxes, hotel and sales taxes) from office, retail and hotel space.

16 (d) Report. The analysis of the factors under Commercial Space and Employment will
17 provide an estimate of the increase in housing and transit demand. The comparison of
18 increased demand with the increase in the supply of housing and in transit ridership will
19 indicate the degree that the City is able to accommodate new development. Based on this
20 data, the Department shall analyze the effectiveness of City policies governing downtown
21 growth and shall recommend any additional measures deemed appropriate.

22 SEC. 10E.3. FIVE YEAR REPORT.

23 On March 15, 1990, and every fifth year thereafter by July 1st, the report submitted
24 shall address the preceding five calendar years and, in addition to the data described above,
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1 shall include, as deemed appropriate, a cordon count of downtown oriented travel and an
2 employer/employee survey and any other information necessary for the purpose of monitoring
3 the impact of downtown development. The five-year report shall monitor long-term policy
4 indicators such as the TDR program, urban form goals, any impact fee funds, and provide
5 analysis of the Downtown Plan's policy objectives. If the Planning Department determines that
6 early warnings from the annual reports indicate the need for collection of a cordon count and
7 employer/employee survey, it may include such data in any annual report, and may include an
8 analysis of data for a period of time earlier than the preceding calendar year.

9 SEC. 10E.4. INFORMATION TO BE FURNISHED.

10 It shall be the duty of the heads of all departments, offices, commissions, bureaus and
11 divisions of the City and County of San Francisco, upon request by the Planning Department,
12 to furnish such information as they may have or be able to obtain relating to the matters to be
13 included in the reports required herein.

14 **SEC. 10E.5. EASTERN NEIGHBORHOODS AREA PLANS MONITORING PROGRAM.**

15 *(a) Findings.*

16 *(1) The Board of Supervisors and the Planning Commission have adopted the Eastern*
17 *Neighborhoods Area Plans as part of the General Plan of the City and County of San Francisco as*
18 *further described in Ordinance Nos. _____, copies of which are on file with the Clerk of the*
19 *Board of Supervisors in File Nos. _____ and are incorporated herein by reference. The*
20 *Area Plans outline specific goals that cumulatively frame the community's vision for the management*
21 *of growth and development in the Eastern Neighborhoods (East SoMa, Mission, Showplace*
22 *Square/Potrero Hill, and Central Waterfront).*

23 *(2) The Eastern Neighborhoods Area Plans introduce innovative policies and land use controls*
24 *to achieve the plan goals. Successful realization of the plan's goals requires a coordinated*
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1 implementation of land use controls, community and public service delivery, key policies, and
2 community infrastructure improvements.

3 (3) The Eastern Neighborhoods Area Plans also establish general public improvements and
4 amenities needed to meet the needs of both existing residents, as well as those needs generated by new
5 development, and identified these in the Eastern Neighborhoods Needs Assessment. A copy of this
6 document is on file with the Clerk of the Board of Supervisors in File No. _____ and is
7 incorporated herein by reference.

8 (4) In order to ensure a Citywide commitment to implementation of the Eastern Neighborhoods
9 Area Plans, the implementing agencies identified in each Plan's Implementation Matrix, including the
10 Arts Commission, Department of Building Inspection (DBI), Department of Public Health (DPH),
11 Division of Emergency Services (DEM), Capital Planning Committee, City Administrator's Office,
12 Controller's Office, Department of Public Works (DPW), Human Services Agency (HSA), Mayor's
13 Office of on Community Development Investment (MOCDI), Mayor's Office of Education, Mayor's
14 Office of Housing (MOH), Office of Economic and Workforce Development (OEWD), or successor
15 offices, Planning Department, Port of San Francisco, Public Utilities Commission (PUC), Recreation
16 and Park Department (RPD), San Francisco County Transportation Authority (SFCTA), San Francisco
17 Unified School District (SFUSD), San Francisco Municipal Transportation Agency (SFMTA), and
18 other necessary agencies, shall be responsible for making progress towards the Plan's policies and
19 implementation measures; for budgeting revenue towards such implementation where possible; and for
20 cooperating with the Planning Department to report on such progress.

21 (5) In order to ensure a balanced implementation of the Eastern Neighborhoods Area Plans, the
22 Planning Department shall institute a formal monitoring program for the Area Plan policies and
23 implementation measures. This monitoring program shall provide basic statistics on development
24 activity, housing construction, and infrastructure improvements in the Eastern Neighborhoods Plan
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1 Areas, and shall evaluate the effectiveness of the Plans' implementation according to growth in the
2 Plan Areas.

3 (6) The purpose of this Monitoring Program shall be to provide rigorous monitoring and review
4 of the effectiveness of the Eastern Neighborhoods Area Plans, to ensure rational growth in these
5 neighborhoods, and to ensure implementation of improvements to accompany this growth. The
6 program shall monitor progress towards the Eastern Neighborhoods Area Plans' objectives and
7 policies, by evaluating advancement according to each Plan's matrix of implementation actions; and
8 measure the balance of growth against needed improvements, according to standards established in the
9 Eastern Neighborhoods Needs Assessment.

10 **SEC. 10E.6. REPORTING REQUIREMENTS.**

11 (a) Beginning By July 1st two years after plan adoption, and on July 1st every five years
12 thereafter, the Planning Department shall prepare a report detailing development activity, housing
13 construction, and infrastructure improvements in the Eastern Neighborhoods Plan Area. The
14 information shall be presented to the Board of Supervisors, Planning Commission, the Citizens
15 Advisory Committee, and Mayor, and shall also include recommendations for measures deemed
16 appropriate to deal with the impacts of neighborhood growth.

17 (b) Time Period and Due Date. Reporting shall be presented by July 1st two years after plan
18 adoption to address the time period since plan adoption; and by July 1st during each required year
19 thereafter to address the five calendar years immediately preceding.

20 (c) Data Source. The Planning Department shall assemble data for the purpose of providing the
21 reports. City records shall be used wherever possible. Outside sources shall be used when data from
22 such sources are reliable, readily available and necessary in order to supplement City records. When
23 data is not available for the exact boundaries of the Plan Area, a similar geography will be used and
24 noted.

1 (d) Eastern Neighborhoods Implementation Matrix. The report shall review progress toward
2 each implementation measure specified in each Plan's Implementation Matrix. Copies of these
3 matrices are on file with the Clerk of the Board of Supervisors in File No. _____ and are
4 incorporated herein by reference. It shall evaluate the actions of each responsible agency/ies
5 according to the timeline specified in the Implementation Matrix, and recommend amendments to
6 implementation measures where relevant. All departments responsible for implementation measures
7 shall cooperate and furnish information relating to their responsibilities as stated in the matrices.

8 (e) Development Activity. The report shall detail all development activity in the Plan Area over
9 the Monitoring Period, including additions and deletions of residential and commercial space, and
10 shall include unit size and bedroom count of units constructed, retail space and employment generated,
11 conversions and other development statistics. The monitoring program shall include the following
12 categories of information:

13 (1) Office Space. Amount of office space constructed in preceding years and related
14 employment.

15 (2) Visitor and Hotel Space. Amount of hotel rooms constructed in preceding years and related
16 employment.

17 (3) Retail Space. Amount of retail space constructed in preceding years and related
18 employment.

19 (4) Business Formation and Relocation. An estimate of the rate of the establishment of new
20 businesses and business and employment relocation trends and patterns within the City and the Bay
21 Area.

22 (5) Housing. An estimate of the number of housing units newly constructed, demolished, or
23 converted to other uses.

1 (f) Public Benefit. The report shall detail the construction of any improvements or infrastructure
2 as described in the Eastern Neighborhoods Public Benefits Program, a copy of which is on file with
3 the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by
4 reference. The report shall include the following categories of information:

5 (1) Inclusionary Housing Program. A summary of the number and income mix of units
6 constructed or assisted through this program, an analysis of units constructed within each alternative,
7 including new alternatives established for the Eastern Neighborhoods UMU districts.

8 (2) Jobs/Housing Linkage Program. A summary of the operation of the Jobs/Housing Linkage
9 Program (formerly the Office Affordable Housing Production Program) and the Housing Affordability
10 Fund, identifying the number and income mix of units constructed or assisted with these monies.

11 (3) Streetscape, Transportation, and Public Realm. A detailed description of any transportation
12 servicing infrastructure completed in the preceding five years, including transit, pedestrian, bike, traffic
13 and other modes of transportation.

14 (4) Open Space and Recreational Facilities. A summary of new parks, trails, public rights-of-
15 way, recreational facilities or activity space completed to serve the purposes of recreation in the
16 preceding five years, as well as any improvements to parks or recreational facilities.

17 (5) Community facilities. An assessment of the existing service capacity of community services
18 and facilities, and of any new services or facilities joining the neighborhood in the past five years. This
19 shall include a review of child care, library services and any other categories deemed relevant, such as
20 health care centers, human services, and cultural centers.

21 (6) Neighborhood Serving Businesses. An assessment of neighborhood serving businesses in the
22 area, including their establishment, displacement, and economic health.

1 (g) Fees and Revenues. The report shall monitor expenditure of all implemented fees, including
2 the Eastern Neighborhoods Impact Fee and all Citywide fees, and tax revenue, as listed below. It shall
3 report on studies and implementation strategies for additional fees and programming.

4 (1) Impact Fee. A summary of the collected funds from the Eastern Neighborhoods Impact Fee
5 collected from development, and a detailed accounting of its expenditure over that same period.

6 (2) Fiscal Revenues. An estimate of the net increment of revenues by type (property tax,
7 business taxes, hotel and sales taxes) from all uses.

8 (3) Fee Adjustments.

9 (i) The City shall review the amount of the Eastern Neighborhoods fee against any increases in
10 construction costs, according to changes published in the Construction Cost Index published by
11 Engineering News Record, or according to another similar cost index should there be improvements to
12 be funded through the Eastern Neighborhoods Impact Fee as listed in the Eastern Neighborhoods
13 Program.

14 (ii) The City shall review the level of the Eastern Neighborhoods housing requirements and fees
15 to ensure they are not so high as to prevent needed housing or commercial development.

16 (h) Agency Responsibilities. All implementing agencies identified in the Eastern Neighborhoods
17 Implementation Matrix shall be responsible for:

18 (1) Reporting to the Planning Department, for incorporation into the Monitoring report, on
19 action undertaken in the previous reporting period to complete the implementation actions under their
20 jurisdiction, as referenced in the Eastern Neighborhoods Implementation Matrix.

21 (2) Providing an analysis of the actions to be completed in the next reporting period, for
22 incorporation into the Monitoring report, including a description of the integrated approach that will
23 be used to complete those tasks.

1 (i) To the extent the Agencies identified in the Implementation Matrix are outside the
2 jurisdiction of this Board, this Board hereby urges such Agencies to participate in this process.

3 (j) Budget Implications. In cooperation with the Annual Progress reports required by
4 Administrative Code Chapter 36.4, and prior to the annual budget process, the Board shall receive a
5 presentation by the Interagency Planning and Implementation Committee and its member agencies to
6 describe how each agency's proposed annual budget advances the Plans' objectives, including specific
7 projects called for by this section. The Board of Supervisors shall give particular consideration to
8 proposed agency budgets that meet the implementation responsibilities as assigned by the City's
9 General Plan, including the Eastern Neighborhoods Implementation Matrix. Budget proposals that do
10 not include items to meet these implementation responsibilities shall respond to Board inquiries as to
11 why inclusion was not possible.

12 **SEC. 10E.78. INTEGRATED PDR REPORTING.**

13 (a) The owner of any property subject to an Integrated PDR Notice of Special
14 Restrictions (NSR) recorded pursuant to Planning Code Section 328 is required to ensure
15 that any new tenants or new occupants of any space that is permitted as Integrated PDR
16 contact the Integrated PDR Program of the Office of Economic and Workforce Development
17 (OEWD), or its successor, to register their respective Integrated PDR business with OEWD's
18 Integrated PDR Program Database and that these same businesses continually update
19 OEWD's PDR Program Database on an annual basis.

20 (b) Upon successful registration of a new Integrated PDR business, OEWD will
21 provide each individual Integrated PDR business registrant with a dated receipt
22 acknowledging that the subject Integrated PDR business has newly registered or updated
23 their existing registration with OEWD. This receipt shall be referred to as an "Integrated PDR
24 Registration Record" for purposes of this Section and Planning Code Section 328. If an
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1 Integrated PDR business failed to register for an Integrated PDR Registration Record as of
2 December 31st of the subject year, the OEWD is prohibited from issuing a receipt for that
3 year.

4 (c) It is the responsibility of the owner of any property subject to an Integrated PDR
5 NSR recorded pursuant to Planning Code Sections 328 to collect and retain copies of any
6 Integrated PDR Registration Records obtained by any tenant or occupant in a property
7 subject to this Section.

8 (d) Property owners who cannot provide sufficient evidence in the form of Integrated
9 PDR Registration Records to demonstrate to the Planning Department that current and former
10 occupants of any Integrated PDR space have satisfied the initial registration and annual
11 reporting requirements outlined in this Section will not be eligible for any waivers or reductions
12 of Outstanding Discount-Program Fees as set forth in Planning Code Section 328.

13 (e) OEWD, or its successor, shall make available summary reports of any and all
14 Integrated PDR business data collected pursuant to this program at the request of the
15 Planning Department staff or the Planning Commission, as necessary for their enforcement of
16 any provisions of the Planning Code or for general information.

17 (f) OEWD, or its successor, shall provide a 5-year summary report on the status of
18 employment of disadvantaged workers, as defined in Planning Code Section 328(b)(2) and
19 the profile of all businesses registered under this program within 6 months of the 5-year
20 anniversary of the adoption of this Section. This summary report shall contain data on the
21 total number and types of businesses occupying Integrated PDR space, as well the total
22 percentage share of the total workforce employed by businesses occupying Integrated PDR
23 space that qualify as disadvantaged workers as of the 5-year anniversary of the effective date
24 of this Section.

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1 **SEC. 10E.89. EASTERN NEIGHBORHOODS CITIZENS ADVISORY COMMITTEE.**

2 (a) Establishment and Purpose. An Eastern Neighborhoods Citizens Advisory
3 Committee (CAC) is hereby established. Within 6 months of adoption of the Eastern
4 Neighborhoods Area Plan and related planning code changes, the Mayor and the Board of
5 Supervisors shall have appointed all members to the CAC. The CAC shall be the central
6 community advisory body charged with providing input to City agencies and decision makers
7 with regard to all activities related to implementation of the Eastern Neighborhoods Area
8 Plans. The CAC is established for the purposes of providing input on the prioritization of
9 Public Benefits, updating the Public Benefits program, relaying information to community
10 members in each of the four neighborhoods regarding the status of development proposals in
11 the Eastern Neighborhoods, and providing input to plan area monitoring efforts as
12 appropriate. The CAC shall be advisory, as appropriate, to the Planning Department, the
13 Interagency Planning & Implementation Committee (IPIC), the Planning Commission and the
14 Board of Supervisors. The CAC may perform the following functions as needed:

15 (1) Collaborate with the Planning Department and the Interagency Plan Implementation
16 Committee on prioritizing the community improvement projects and identifying
17 implementation details as part of annual expenditure program that is adopted by the Board of
18 Supervisors;

19 (2) Provide an advisory a role in a report-back process from the Planning Department
20 on enforcement of individual projects' compliance with the Area Plans standards and on
21 specific conditions of project approvals so that those agreements will be more effectively
22 implemented;

23 (3) Collaborate with the Planning Department and relevant city agencies in the
24 monitoring of the Plans' implementation program at approximately every fifth year, in
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1 coordination with the Monitoring Program required by the Administrative Code Section 10.E;
2 and provide input to Plan area monitoring efforts for required time-series reporting.

3 (b) Representation and Appointments.

4 (1) The CAC shall consist of 13 members representing the diversity of the Eastern
5 Neighborhoods; key stakeholders, including resident renters, resident homeowners, low-
6 income residents, local merchants, established neighborhood groups within the plan area; and
7 other groups identified through refinement of the CAC process.

8 (2) All members shall live, work, own property or own a business in the Eastern
9 Neighborhoods Plan Area they are appointed to represent.

10 (3) The Board of Supervisors shall appoint a total of eight members to the CAC, with
11 two members representing each of the four Eastern Neighborhoods Plan Areas. Based on
12 this representational requirement and the Supervisorial District boundaries, the District 10
13 Supervisor shall nominate 4 CAC members, the District 6 Supervisor shall nominate 2 CAC
14 members, and the District 8 and District 9 Supervisors each shall nominate 1 CAC member.
15 The appointment of each of the Board's CAC nominees shall be confirmed by the full Board of
16 Supervisors.

17 (4) The Mayor shall appoint a total of five members, with one member representing
18 each of the four neighborhoods, and one at-large member.

19 (5) Members shall serve for two-year terms, but those terms shall be staggered such
20 that, of the initial membership, some members will be randomly selected to serve four year
21 terms and some will serve two year terms.

22 (6) At the first official meeting of the CAC, which shall not occur until the entire 13
23 member CAC is appointed by the respective appointment process, a lottery shall be

1 conducted in order to randomly select four Board of Supervisors appointees and two Mayoral
2 appointees to serve four-year terms.

3 (7) The Board of Supervisors or Mayor may renew a member's term.

4 (c) Committees or Working Groups of the CAC: According to procedures set forth in
5 bylaws adopted by the CAC, the CAC may, at its discretion create subcommittees or working
6 groups based around geographic areas or functional issues. Each of these subcommittees or
7 working groups shall contain at least one CAC member, but may also be comprised of
8 individuals who are not members of the CAC.

9 (d) Staffing for Eastern Neighborhoods Citizens Advisory Committee: The Planning
10 Department or Interagency Plan Implementation Committee shall designate necessary
11 staffing from relevant agencies to the CAC, as needed to complete the responsibilities and
12 functions of the CAC described in this code. To the extent permitted by law, staffing and
13 administrative costs for the CAC shall be funded through the Eastern Neighborhoods Public
14 Benefits Fund. Staff shall participate in the Interagency Planning and Implementation
15 Committee as set forth in Administrative Code Section 36.

16 (e) The Eastern Neighborhoods CAC will automatically terminate on December 31,
17 2020, unless the Board of Supervisors extends the CAC's term by Ordinance.

18 Section 3. The San Francisco Administrative Code is hereby amended by amending
19 Chapter 38, Sections 38.1, 38.3, and 38.10 as follows:

20 **SEC. 38.1. DEFINITIONS.**

21 For the purposes of this Chapter, the following definitions shall apply:

- 22 A. Accessory Use. A related minor use which is either necessary to the operation or
23 enjoyment of a lawful principal use or conditional use, or is appropriate, incidental and
24 subordinate to any such use and is located on the same lot as the principal or conditional use.

- 1 B. Base Service Standard. The relationship between revenue service hours offered by the
2 Municipal Railway and the number of automobile and transit trips estimated to be generated
3 by certain non-residential uses, expressed as a ratio where the numerator equals the average
4 daily revenue service hours offered by MUNI, and the denominator equals the daily
5 automobile and transit trips generated by non-residential land uses as estimated by the TIDF
6 Study or updated under Section 38.7 of this Chapter.
- 7 C. Base Service Standard Fee Rate. The transit impact development fee that would allow
8 the City to recover the estimated costs incurred by the Municipal Railway to meet the demand
9 for public transit resulting from new development in the economic activity categories for which
10 the fee is charged, after deducting government grants, fare revenue, and costs for non-vehicle
11 maintenance and general administration.
- 12 D. Board. The Board of Supervisors of the City and County of San Francisco.
- 13 E. Certificate of Final Completion and Occupancy. A certificate of final completion and
14 occupancy issued by any authorized entity or official of the City, including the Director of the
15 Department of Building Inspection, under the Building Code.
- 16 F. City. The City and County of San Francisco.
- 17 G. Covered Use. Any use subject to the TIDF.
- 18 H. Cultural/Institution/Education (CIE). An economic activity category that includes, but is not
19 limited to, schools, as defined in subsections (g), (h), and (i) of Section 209.3 of the Planning
20 Code and subsections (f)--(i) of Section 217 of the Planning Code; child care facilities, as
21 defined in subsections (e) and (f) of Section 209.3 of the Planning Code and subsection (e) of
22 Section 217 of the Planning Code; museums and zoos; and community facilities, as defined in
23 Section 209.4 of the Planning Code and subsections (a)--(c) of Section 221 of the Planning
24 Code.

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- 1 I. Director. The Director of Transportation of the MTA, or his or her designee.
- 2 J. Economic Activity Category. One of the following six categories of nonresidential uses:
3 Cultural/Institution/Education (CIE), Management, Information and Professional Services
4 (MIPS), Medical and Health Services, Production/Distribution/Repair (PDR),
5 Retail/Entertainment, and Visitor Services.
- 6 K. Gross Floor Area. The total area of each floor within the building's exterior walls, as
7 defined in Section 102.9 of the San Francisco Planning Code, except that for purposes of
8 determining the applicability of the TIDF, the exclusion from this definition set forth in Section
9 102.9(b)(12) of that Code shall not apply.
- 10 L. Gross Square Feet of Use. The total square feet of gross floor area in a building and/or
11 space within or adjacent to a structure devoted to all covered uses, including any common
12 areas exclusively serving such uses and not serving residential uses. Where a structure
13 contains more than one use, areas common to two or more uses, such as lobbies, stairs,
14 elevators, restrooms, and other ancillary space included in gross floor area that are not
15 exclusively assigned to one use shall be apportioned among the two or more uses in
16 accordance with the relative amounts of gross floor area, excluding such space, in the
17 structure or on any floor thereof directly assignable to each use.
- 18 M. Management, Information and Professional Services (MIPS). An economic activity
19 category that includes, but is not limited to, office use as defined in Section 313.1(35) of the
20 Planning Code; medical offices and clinics, as defined in Section 890.114 of the Planning
21 Code; ~~and~~ business services, as defined in Section 890.111 of the Planning Code, Integrated
22 PDR, as defined in Section 890.49 of the Planning Code, and Small Enterprise Workspaces,
23 as defined in Section 227(t) of the Planning Code.

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- 1 N. Medical and Health Services. An economic activity category that includes, but is, not
2 limited to, those non-residential uses defined in Sections 209.3(a) and 217(a) of the Planning
3 Code; animal services, as defined in subsections (a) and (b) of Section 224 of the Planning
4 Code; and social and charitable services, as defined in subsection (d) of Section 209.3 of the
5 Planning Code and subsection (d) of Section 217 of the Planning Code.
- 6 O. Municipal Railway; MUNI. The public transit system owned by City and under the
7 jurisdiction of the Municipal Transportation Agency.
- 8 P. Municipal Transportation Agency; MTA. The agency of City created under Article 8A of
9 the San Francisco Charter.
- 10 Q. Municipal Transportation Agency Board of Directors; MTA Board. The governing board of
11 the MTA.
- 12 R. New Development. Any new construction, or addition to or conversion of an existing
13 structure under a building or site permit issued on or after September 4, 2004, that results in
14 3,000 gross square feet or more of a covered use. In the case of mixed use development that
15 includes residential development, the term "new development" shall refer to only the non-
16 residential portion of such development. "Existing structure" shall include a structure for which
17 a sponsor already paid a fee under the prior TIDF ordinance, as well as a structure for which
18 no TIDF was paid.
- 19 S. Office Space Development Fee; OSDF. A fee imposed under Section 38.3-1 of this
20 Chapter.
- 21 T. Planning Code. The Planning Code of the City and County of San Francisco, as it may be
22 amended from time to time.
- 23 U. Production/Distribution/Repair (PDR). An economic activity category that includes, but is
24 not limited to, manufacturing and processing, as defined in Section 226 of the Planning Code;
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1 those uses listed in Section 222 of the Planning Code; automotive services, as defined in
2 Section 223(a)--(k) of the Planning Code; arts activities and spaces, as defined in Section
3 102.2 of the Planning Code; and research and development, as defined in Section 313.1(42)
4 of the Planning Code.

5 V. Residential. Any type of use containing dwellings as defined in Section 209.1 of the
6 Planning Code or containing group housing as defined in Section 209.2(a)--(c) of the Planning
7 Code.

8 W. Retail/Entertainment. An economic activity category that includes, but is not limited to,
9 retail use, as defined in Section 218 of the Planning Code; entertainment use, as defined in
10 Section 313.1(15) of the Planning Code; massage establishments, as defined in Section
11 218.1 of the Planning Code; laundering, and cleaning and pressing, as defined in Section 220
12 of the Planning Code.

13 X. Revenue Service Hours. The number of hours that the Municipal Railway provides service
14 to the public with its entire fleet of buses, light rail (including streetcars), and cable cars.

15 Y. Sponsor. An applicant seeking approval for construction of new development subject to
16 this chapter, such applicant's successors and assigns, and/or any person or entity that
17 controls or is under common control with such applicant.

18 Z. TIDF Study. The study commissioned by the San Francisco Planning Department and
19 performed by Nelson/Nygaard Associates entitled "Transit Impact Development Fee Analysis-
20 -Final Report," dated May 2001, including all the Technical Memoranda supporting the Final
21 Report and the Nelson/Nygaard update materials contained in Board of Supervisors File No.
22 040141.

23 AA. Transit Impact Development Fee; TIDF. The development fee that is the subject of this
24 Chapter.

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1 BB. Treasurer. Treasurer of the City and County of San Francisco.

2 CC. Trip Generation Rate. The total number of automobile and Municipal Railway trips
3 generated for each 1,000 square feet of development in a particular economic activity
4 category as established in the TIDF Study, or pursuant to the five-year review process
5 established in Section 38.7 of this Chapter.

6 DD. Use. The purpose for which land or a structure, or both, are legally designed,
7 constructed, arranged or intended, or for which they are legally occupied or maintained, let or
8 leased.

9 EE. Visitor Services. An economic activity category that includes, but is not limited to, hotel
10 use, as defined in Section 313.1(18) of the Planning Code; motel use, as defined in
11 subsections (c) and (d) of Section 216 of the Planning Code; and time-share projects, as
12 defined in Section 11003.5(a) of the California Business and Professions Code.

13 **SEC. 38.3. IMPOSITION OF TRANSIT IMPACT DEVELOPMENT FEE.**

14 A. Subject to the exceptions set forth in subsections D and E below, each sponsor of a new
15 development in the City shall pay to the City and deliver to the Treasurer upon issuance of
16 any temporary certificate of occupancy, and as a condition precedent to issuance for such
17 new development of any certificate of final completion and occupancy, whichever occurs first,
18 a TIDF. The TIDF shall be calculated on the basis of the number of gross square feet of new
19 development, multiplied by the square foot rate in effect at the time of payment for each of the
20 applicable economic activity categories within the new development, as provided in Section
21 38.4 of this Chapter. An accessory use shall be charged at the same rate as the underlying
22 use to which it is accessory. Whenever any new development or series of new developments
23 cumulatively creates more than 3,000 gross square feet of covered use within a structure, the
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1 TIDF shall be imposed on every square foot of such covered use (including any portion that
2 was part of prior new development below the 3,000 square foot threshold).

3 B. No City official or agency, including the Department of Building Inspection ("DBI") and the
4 Port of San Francisco, may issue a certificate of final completion and occupancy for any new
5 development subject to the TIDF until it has received notification from the Treasurer that the
6 TIDF in accordance with Section 38.4 of this Chapter has been paid.

7 C. Except as provided in Sections 38.3(D) and (E) below, the TIDF shall be payable with
8 respect to any new development in the City for which a building or site permit is issued on or
9 after September 4, 2004.

10 D. The TIDF shall not be payable on new development, or any portion thereof, for which a
11 transit impact development fee has been paid, in full or in part, under the prior Transit Impact
12 Development Fee Ordinance adopted in 1981 (Ordinance No. 224-81; former Chapter 38 of
13 this Administrative Code), except where (1) gross square feet of use is being added to the
14 building; or (2) the TIDF rate for the new development is in an economic activity category with
15 a higher fee rate than the rate set for MIPS, as set forth in Section 38.4.

16 E. No TIDF shall be payable on the following types of new development.

17 (1) New development on property owned (including beneficially owned) by the City,
18 except for that portion of the new development that may be developed by a private sponsor
19 and not intended to be occupied by the City or other agency or entity exempted under this
20 Chapter, in which case the TIDF shall apply only to such non-exempted portion. New
21 development on property owned by a private person or entity and leased to the City shall be
22 subject to the fee, unless the City is the beneficial owner of such new development or unless
23 such new development is otherwise exempted under this Section.

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1 (2) Any new development in Mission Bay North or South to the extent application of
2 this Chapter would be inconsistent with the Mission Bay North Redevelopment Plan and
3 Interagency Cooperation Agreement or the Mission Bay South Redevelopment Plan and
4 Interagency Cooperation Agreement, as applicable.

5 (3) New development located on property owned by the United States or any of its
6 agencies to be used exclusively for governmental purposes.

7 (4) New development located on property owned by the State of California or any of
8 its agencies to be used exclusively for governmental purposes.

9 (5) New development for which an application for environmental evaluation or an
10 application for a categorical exemption has been filed prior to April 1, 2004, and for which a
11 building permit or site permit is issued on or before September 4, 2008; provided however,
12 that such new development may be subject to the OSDf under Section 38.3-1 of this Chapter.

13 (6) The following types of new developments:

14 (a) Public facilities/utilities, as defined in Section 209.6 of the Planning Code;

15 (b) Open recreation/horticulture, as defined in Section 209.5 of the Planning Code,
16 including private noncommercial recreation open use, as referred to in Section 221(g) of the
17 Planning Code;

18 (c) Vehicle storage and access, as defined in Section 209.7 of the Planning Code;

19 (d) Automotive services, as defined in Section 223(l)--(v) of the Planning Code;

20 (e) Wholesaling, storage, distribution, and open-air handling of materials and
21 equipment, as defined in Section 225 of the Planning Code;

22 (f) Other Uses, as defined in Section 227(a)--(q) and (s)--(t) of the Planning Code;

1 In reviewing whether a development is subject to the fee, the Director shall consider the
2 project in its entirety. A sponsor may not seek multiple building permits to evade paying the
3 TIDF.

4 F. The sponsor shall pay, or cause to be paid, the TIDF to the Treasurer on the earliest of
5 the following dates (except for those Integrated PDR projects subject to Section 328 of the
6 Planning Code):

7 (1) The date when 50 percent of the net rentable area of the project has been
8 occupied;

9 (2) The date of issuance of the first temporary permit of occupancy in the new
10 development;

11 G. Upon payment of the fee in full to the Treasurer, and upon request of the sponsor, the
12 Treasurer shall issue a certificate that the fee has been paid. The sponsor shall present such
13 certification to DBI before the issuance of the final certificate of occupancy for the new
14 development. DBI shall provide notice in writing to the Treasurer, the Planning Department,
15 and MUNI at least five business days before issuing the final certificate of occupancy for any
16 new development project. DBI may not issue a final certificate of occupancy for any new
17 development until DBI has received notice from the Treasurer that the TIDF has been paid.
18 An exception to this process exists for Integrated PDR projects that are subject to Section 328
19 of the Planning Code, for which only 50% of the fees must be paid before the issuance of the
20 final certificate of occupancy.

21 **SEC. 38.10. NONPAYMENT, RECORDATION OF NOTICE OF FEE AND NOTICE OF**
22 **DELINQUENCY, ADDITIONAL REQUEST; NOTICE OF ASSESSMENT OF INTEREST,**
23 **AND INSTITUTION OF LIEN PROCEEDINGS.**

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1 A. Upon the Director's determination that a development is subject to this ordinance, he or
2 she may cause the County Recorder to record a notice that such development is subject to
3 the TIDF. The County Recorder shall serve or mail a copy of such notice to the persons liable
4 for payment of the fee and the owners of the real property described in the notice. The notice
5 shall include (1) a description of the real property subject to the fee; (2) a statement that the
6 development is subject to the imposition of the fee; and (3) a statement that the amount of the
7 fee to which the building is subject is determined under Sections 38.4, 38.5 and related
8 provisions of this ordinance.

9 B. When the Director determines that the fee is due, the Director shall notify the Treasurer,
10 who shall send a request for payment to the sponsor.

11 C. Payment of the TIDF imposed by this ordinance is delinquent if (1) in the case of a fee not
12 payable in installments, the fee is not paid within 30 days of request for payment; (2) in the
13 case of a fee payable in installments (for a fee determined prior to the effective date of this
14 ordinance or for a fee for Integrated PDR subject to Sec. 328 of the Planning Code), the fee
15 installment is not paid within 30 days of the date fixed for payment.

16 D. Where the TIDF is not paid within 30 days of request for payment, and where the TIDF is
17 payable in installments (for a fee determined prior to the effective date of this ordinance or for
18 a fee for Integrated PDR subject to Sec. 328 of the Planning Code) and any installment is not
19 paid within 30 days of the date fixed for payment:

20 (1) The Treasurer or his or her designee may cause the County Recorder to record a
21 notice of delinquent TIDF which shall include: (a) the amount of the delinquent fee; (b) the
22 amount of the entire fee as reflected on the final determination and a statement of whether the
23 fee is payable in installments; (c) the fee interest and penalty then due; (d) the interest and
24 penalties that shall accrue on the delinquent fee if not promptly paid; (e) a description of the
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1 real property subject to the fee; (f) notification that if the fee is not promptly paid proceedings
2 will be instituted before the Board of Supervisors to impose a lien for the unpaid fee together
3 with any penalties and interest against the real property described in the delinquency notice;
4 (g) notification of the fee payer's right to appeal the delinquency determination to the MTA
5 Board within 15 days of the notice to the fee payer.

6 (2) Where the Treasurer determines to record a notice of delinquency, he or she shall
7 also serve or mail the notice of delinquent TIDF to the persons liable for the fee and to the
8 owners of the real property described on the notice.

9 (3) Where a notice of TIDF delinquency has been recorded and the delinquent fee is
10 paid or the Treasurer's determination of delinquency is reversed by appeal to the MTA Board
11 or the delinquency is otherwise cured, the Treasurer shall promptly cause the County
12 Recorder to record a notice that the TIDF delinquency has been cured. Said notice shall
13 include: (a) description of the real property affected; (b) the book and page number of the
14 county record wherein the notice of delinquency was recorded; (c) the date the notice of
15 delinquency was recorded; (d) notification that the delinquency reflected on the notice of
16 delinquency was cured and the date of cure; (e) the amount of the entire fee as reflected on
17 the final determination; (f) if applicable, the amount of the fee paid to effect the cure; and (g) if
18 applicable, a statement that the fee was payable in installments and specification of the
19 delinquency installments cured; (h) if applicable, the amount of the fee paid to effect the cure.

20 (4) The Treasurer shall serve or mail the notice that the TIDF delinquency has been
21 cured, referred to in Section 38.10.D(3) of this ordinance, to the persons liable for the fee and
22 to the owners of the real property described in such notice.

23 E. Where the TIDF, not payable in installments, is not paid within 30 days of request for
24 payment, and where the TIDF is payable in installments (for a fee determined prior to the
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1 effective date of this ordinance) and the installment is not paid within 30 days of the date fixed
2 for payment, the Treasurer or his or her designee shall mail an additional request for payment
3 and notice to the owner stating the following:

4 (1) If the amount due is not paid within 30 days of the date of mailing the additional
5 request and notice, interest at the rate of one and one-half percent per month or portion
6 thereof shall be assessed upon the fee or installment due.

7 (2) With respect to both non-installment and installment fees, if the account is not
8 current within 60 days of the date of mailing the additional request and notice, the Treasurer
9 shall institute proceedings to record a lien in accordance with Section 38.11 for the entire
10 balance and any accrued interest against the property upon which the fee is owed.

11 F. Thirty days after mailing the additional request for payment, the Treasurer may assess
12 interest as specified in Paragraph 38.10.E(1) above. Sixty days after mailing the additional
13 request for payment and notice, the Treasurer may institute lien proceedings as specified in
14 Section 38.11.

15 G. The Treasurer shall submit a report to the Director on a quarterly basis of all fees
16 collected for the previous quarter, which report shall include the property address, name of
17 sponsor or owner of the property, and the amount of the fee, including interest, if any,
18 collected.

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APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

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By: _____
John D. Malamut
Deputy City Attorney

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