



SAN FRANCISCO PLANNING DEPARTMENT

December 16, 2013

Ms. Angela Calvillo, Clerk
Honorable Supervisor Wiener
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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Suite 400
San Francisco,
CA 94103-2479

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415.558.6377

**Re: Transmittal of Planning Department Case Number 2013.1465T:
Amend Section 411 – Transit Impact Development Fee
Board File No. 13-0938
Planning Commission Recommendation: Approval**

Dear Ms. Calvillo and Supervisor Wiener,

On December 12, 2013, the San Francisco Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed amendments to Section 411 of the Planning Code (Transit Impact Development Fee) introduced by Supervisor Scott Wiener. At the hearing, the Planning Commission recommended approval of the proposed ordinance. Further, the Commission requested that a finding be added to the Planning Commission Resolution stating that future amendments to the legislation that introduce fees for residential uses should be re-referred to the Planning Commission for consideration.

Pursuant to San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-page Documents", the Department is sending electronic documents and one hard copy. Additional hard copies may be requested by contacting Lisa Chen at 575-9124.

Please find attached documents relating to the action of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "AnMarie Rodgers".

AnMarie Rodgers
Manager of Legislative Affairs

cc:

Jon Givner, City Attorney
David Greenburg, City Attorney
Jason Elliot, Mayor's Director of Legislative & Government Affairs

Transmittal Materials

**CASE NO. 2013.1465T
Transit Impact Development Fee**

Attachments (two hard copies of the following):

Planning Commission Resolution

Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution

HEARING DATE DECEMBER 12, 2013

Project Name: Transit Impact Development Fee
Case Number: 2013.1465T [Board File No. 13-0938]
Initiated by: Supervisor Wiener / Introduced September 24, 2013
Staff Contact: Lisa Chen, Planner, Citywide Planning Division
lisa.chen@sfgov.org, 415-575-9124
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: **Approval**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTIONS 411.3 AND 411.8 REGARDING TRANSIT IMPACT DEVELOPMENT FEE EXEMPTIONS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on September 24, 2013, Supervisor Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 13-0938, which would amend Sections 411.3 and 411.8 of the Planning Code regarding the Transit Impact Development Fee; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 21, 2013; and

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15273; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve** the proposed ordinance.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Transit Impact Development Fee (TIDF) serves as the City's primary mechanism to offset the impacts of new development to the transit system.
2. With the exception of projects in specific redevelopment areas, currently the TIDF does not identify if, and to what extent, the TIDF applies in the case of significant development projects for which the City enters into a development agreement, redevelopment plan, interagency agreement, or other comparable agreement.
3. The current timing of TIDF calculation is inconsistent with that of other development impact fees, which may lead to difficulties or inconsistencies in calculating the fee.
4. If the proposed legislation is ever amended to include fees to residential uses in the future, it should be re-referred to the Planning Commission.
5. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

TRANSPORTATION ELEMENT

OBJECTIVE 1

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

POLICY 1.3

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.

The proposed Ordinance directly addresses the need for enhanced transit service to accommodate commuters. By requiring that new non-residential development pay an impact fee to offset the impacts on transit of that new development, and by directing revenue from that fee to Muni operations and capital improvements, the City is able to provide the transit service necessary to support commuters.

OBJECTIVE 11

ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

POLICY 11.2

Continue to favor investment in transit infrastructure and services over investment in highway development and other facilities that accommodate the automobile.

POLICY 11.3

Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

The proposed Ordinance requires that developers pay a Transit Impact Development Fee, which helps mitigate the impact of development on the transit system and encourages efficient coordination between transportation infrastructure and land use development.

OBJECTIVE 21

DEVELOP TRANSIT AS THE PRIMARY MODE OF TRAVEL TO AND FROM DOWNTOWN AND ALL MAJOR ACTIVITY CENTERS WITHIN THE REGION.

POLICY 21.1

Provide transit service from residential areas to major employment centers outside the downtown area.

POLICY 21.2

Where a high level of transit ridership or potential ridership exists along a corridor, existing transit service or technology should be upgraded to attract and accommodate riders.

POLICY 21.11

Ensure the maintenance and efficient operation of the fleet of transit vehicles.

The proposed Ordinance supports the City's transit system by establishing revenues which can fund transit service to employment centers and high-volume corridors, system maintenance and efficiency, and service upgrades and technology.

5. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance will not have a negative impact on neighborhood serving retail uses, nor on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance will have no adverse effect on existing housing and neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance will have no adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance will support MUNI service by supporting funding for transit service required to accommodate new development. The proposed Ordinance will not overburden streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not impact preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

Landmarks and historic buildings would not be negatively impacted by the proposed Ordinance.

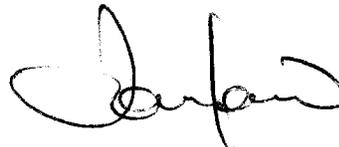
8. That our parks and open space and their access to sunlight and vistas be protected from development;

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed Ordinance.

6. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution and in the proposed Ordinance.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on December 12, 2013.



Jonas P. Ionin
Commission Secretary

AYES: Wu, Antonini, Borden, Hillis, Moore, Sugaya

NOES:

ABSENT: Fong

ADOPTED: December 12, 2013



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: NOVEMBER 21, 2013

Project Name: **Amendments to Planning Code Section 411 – Transit Impact Development Fee**

Case Number: 2013.1465T [Board File No. 13-0938]

Initiated by: Supervisor Wiener / Introduced September 24, 2013

Staff Contact: Lisa Chen, Planner, Citywide Planning Division
lisa.chen@sfgov.org, 415-575-9124

Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

Recommendation: **Recommendation of Approval**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend Planning Code Section 411 (Transit Impact Development Fee) to revise deadlines for certain Transit Impact Development Fee (TIDF) exemptions; eliminate project-specific references in exemptions applicable to redevelopment areas and make such exemptions dependent on the terms of the controlling development agreement, redevelopment plan, interagency agreement or other contract entered into by the City; and, require that the TIDF be calculated based on the rate in effect and the time of issuance of the first construction document.

The Way It Is Now:

The Transit Impact Development Fee (TIDF) is an impact fee levied on most non-residential new development citywide to offset new development's impacts on the City's transit system. Fees are calculated on the basis of gross square feet of new development, multiplied by the square foot rate in effect at the time of the issuance of the building or site permit. Revenue generated by the fee is directed to the San Francisco Municipal Transportation Agency (SFMTA) to fund Muni capital and system maintenance.

The fee includes exemptions for residential projects, projects creating less than 800 gross square feet of new development, projects considered "charitably exempt," and projects consisting of specific land uses (such as public utilities and automotive services). Existing law also exempts development in Mission Bay North and South to the extent that imposing the TIDF would be inconsistent with the terms of the applicable redevelopment plan or interagency cooperation agreement (in effect, deferring to the terms of the controlling development agreement).

For certain categories of exemptions [(1) property beneficially owned by the City, (2) automotive services; and, (3) wholesale storage of materials and equipment uses], projects must apply for an environmental evaluation, categorical exemption, or preliminary project assessment before December 31, 2013 in order to

receive the exemption. Proposed projects with these land uses in specified redevelopment areas (the Mission Bay North Project Area, the Mission Bay South Project Area, the Hunters Point Shipyard Project Area, the Bayview Hunters point Redevelopment Area, and the Transbay Redevelopment Area), must submit comparable documentation to the Successor Agency to the San Francisco Redevelopment Agency by this date in order to receive the exemption.

The Way It Would Be:

The proposed ordinance would revise deadlines for certain categories of exemptions [(1) property beneficially owned by the City, (2) automotive services; and, (3) wholesale storage of materials and equipment uses] from December 31, 2013 to the effective date of the ordinance.

The proposed ordinance also removes all project-specific references for exemptions applicable to redevelopment areas (the Mission Bay North Project Area, the Mission Bay South Project Area, the Hunters Point Shipyard Project Area, the Bayview Hunters Point Redevelopment Area, and the Transbay Redevelopment Area). Instead, the proposed Ordinance clarifies that whether, and to what extent, TIDF applies to any new development project for which the City enters into a redevelopment plan, development agreement, interagency cooperation agreement, or other comparable agreement (collectively, "development agreement") is dependent on the terms of the controlling agreement. See Exhibit A for a table detailing changes to exemption categories in Section 411.3(a)(2)-(3).

Finally, the proposed ordinance also requires that the TIDF be *calculated* based on the rate in effect at the time of issuance of the first construction document, as opposed to from the time of issuance of the site or building permit. The fee would continue to be *collected* at first construction document, as was the case previously. The proposed Ordinance changes the exemption deadline for "charitably exempt" projects to the issuance of the first construction document (as opposed to the time of issuance of the site or building permit), in order to remain consistent with this timeline.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

TIDF serves as the City's primary mechanism to offset new development's impacts on the transit system. First enacted for the Downtown area by local ordinance in 1981, the fee has been amended in 2004, 2010,

and 2012 to expand both the geographic scope and types of development subject to the fee, in recognition that a broad range of uses have impacts on the City's transit system. On May 15, 2012, Mayor Lee, along with co-sponsors Supervisor Wiener and Supervisor Olague, introduced a proposed ordinance establishing the Transportation Sustainability Program (TSP), which is proposed to replace the TIDF. The TSP would utilize an improved methodology to analyze transportation impacts under the California Environmental Quality Act (CEQA) and assess a citywide Transportation Sustainability Fee (TSF) that offsets impacts of new development to the City's transportation network, with a focus on multimodal transportation solutions. The Planning Department is currently preparing an Environmental Impact Report (EIR) to study the changes proposed under the TSP and their effects on the cumulative transportation system.

In absence of the TSP, code changes are needed to ensure more efficient and clear implementation of the TIDF. The proposed ordinance would improve administration of the TIDF in several ways. First, the TIDF calculation method and timing (based on square foot rates in effect at the time of issuance of the first construction document, rather than when the building or site permit is issued) would be consistent with that of other development impact fees, improving the fee assessment process for both project sponsors as well as City agencies. The fee would continue to be collected at first construction document, as was the case previously.

In the case of significant development projects for which the City enters into a development agreement or other comparable agreement, the proposed ordinance clarifies applicability of TIDF and makes the fee dependent on the terms of the controlling agreement. This provision is in acknowledgement of the fact that large development projects may have farther-reaching transit impacts and infrastructure needs than smaller projects, and a development agreement provides an option for the City to require mitigation measures that are more appropriate and site-specific than can be accounted for in a citywide fee. The language in the proposed ordinance allows for flexibility, deferring to the development agreement to determine the extent and calculation of TIDF fees to be applied.

ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Section 411 (Transit Impact Development Fee) would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under CEQA Guidelines Section 15273 (Rates, Tolls, Fares, and Charges).

PUBLIC COMMENT

As of the date of this report, the Planning Department has received no comments in regard to the proposed Ordinance.

RECOMMENDATION:	Recommendation of Approval
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Attachments:

Exhibit A: Proposed Changes to TIDF Exemptions in Sections 411.3 and 411.8

Exhibit B: Draft Planning Commission Resolution

Exhibit C: Board of Supervisors File No. 13-0938

CASE NO. 2013.1465T (Transit Impact Development Fee Exemptions)

Exhibit A: Proposed Changes to TIDF Exemptions in Sections 411.3 and 411.8

Category of Exemption	Subcategories (if applicable)	Existing	Proposed
<u>Section 411.3(a)(2)(A)</u> New development on property owned (including beneficially owned) by the City	City-owned property	Exempt	No change
	Beneficially owned property (Including named redevelopment areas: Mission Bay North Project Area, Mission Bay South Project Area, Hunters Point Shipyard Project Area, Bayview Hunters Point Redevelopment Area, and Transbay Redevelopment Area)	Exempt for projects that apply for an environmental evaluation, categorical exemption, or preliminary project assessment by December 31st, 2013	Changes deadline for the exemption to the effective date of the ordinance. Project-specific references removed.
<u>Section 411.3(a)(2)(B)</u> Previously: Any new development in Mission Bay North or South Changed to: any project controlled by a development agreement, redevelopment plan, interagency cooperation agreement, or other City agreement (collectively, "development agreement")	Mission Bay North or South	Dependent on Mission Bay North/South Redevelopment Plan and Interagency Cooperation Agreement	Project-specific references removed, but development agreement still applies. (No change)
	All other projects subject to a development agreement	n/a	Added; application of TIDF dependent on terms of development agreement.
<u>Section 411.3(a)(2)(C)</u> Federal property	n/a	Exempt	No change
<u>Section 411.3(a)(2)(D)</u> State property	n/a	Exempt	No change
<u>Section 411.3(a)(2)(E)</u> Projects for which project sponsor filed an application for environmental evaluation or categorical exemption by 4/1/2004, and for which the City issued a building permit or site permit by 9/4/2008.	n/a	Exempt	No change

CASE NO. 2013.1465T (Transit Impact Development Fee Exemptions)

Exhibit A: Proposed Changes to TIDF Exemptions in Sections 411.3 and 411.8

Category of Exemption	Subcategories (if applicable)	Existing	Proposed
Section 411.3(a)(2)(F) Specific land uses	Public facilities/utilities	Exempt	No change
	Open recreation/horticulture	Exempt	No change
	Vehicle storage and access	Exempt	No change
	Automotive services (Including named redevelopment areas: Mission Bay North Project Area, Mission Bay South Project Area, Hunters Point Shipyard Project Area, Bayview Hunters Point Redevelopment Area, and Transbay Redevelopment Area)	Exempt for projects that apply for an environmental evaluation, categorical exemption, or preliminary project assessment by December 31st, 2013	Changes deadline for the exemption to the effective date of the ordinance. Project-specific references removed.
	Wholesale storage of materials and equipment (Including named redevelopment areas: Mission Bay North Project Area, Mission Bay South Project Area, Hunters Point Shipyard Project Area, Bayview Hunters Point Redevelopment Area, and Transbay Redevelopment Area)	Exempt for projects that apply for an environmental evaluation, categorical exemption, or preliminary project assessment by December 31st, 2013	Changes deadline for the exemption to the effective date of the ordinance. Project-specific references removed.
Other uses as defined in Sec. 227(c)-(l), (n)-(o), and (q)-(r)	Exempt	No change	
Section 411.8(b) Charitable exemptions	n/a	Exempt	Changes the deadline by which projects may apply for an exemption from issuance of a building/site permit, to the issuance of the first construction document.

Note:

The proposed Ordinance does not make any changes to the following:

- The square footage threshold for calculating the fee [greater than 3,000 sq ft prior to 1/1/2013, or greater than 800 sq ft thereafter; per Sec. 411.3(c)]
- The TIDF Schedule of fee categories [Sec. 411.3(e)]

1 [Planning Code - Transit Impact Development Fee Exemptions]

2
3 **Ordinance amending the Planning Code to revise deadlines for certain Transit Impact**
4 **Development Fee (TIDF) exemptions; eliminate project-specific references in**
5 **exemptions applicable to redevelopment areas, and make such exemptions dependent**
6 **on the terms of the controlling development agreement, redevelopment plan,**
7 **interagency agreement or other contract entered into by the City; require that the TIDF**
8 **be calculated based on the rate in effect and the time of issuance of the first**
9 **construction document; and making environmental findings, and findings of**
10 **consistency with the General Plan, and the eight priority policies of Planning Code,**
11 **Section 101.1.**

12 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
13 **Additions to Codes** are in *single-underline italics Times New Roman font*.
14 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.
15 **Board amendment additions** are in Arial font.
16 **Board amendment deletions** are in ~~Arial font~~.
17 **Asterisks (* * * *)** indicate the omission of unchanged Code
18 subsections or parts of tables.

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

20 Section 1.

21 (a) The Planning Department has determined that the actions contemplated in this
22 ordinance comply with the California Environmental Quality Act (California Public Resources
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
24 Supervisors in File No. ___ and is incorporated herein by reference.

25 (b) On _____, the Planning Commission, in Resolution No. _____, approved
this legislation, recommended it for adoption by the Board of Supervisors, and adopted
findings that it will serve the public necessity, convenience and welfare. Pursuant to Planning

1 Code Section 302, the Board adopts these findings as its own. A copy of said Resolution is on
2 file with the Clerk of the Board of Supervisors in File No. _____, and is incorporated by
3 reference herein.

4 (c) In Resolution No. _____, the Planning Commission adopted findings that
5 this legislation is consistent, on balance, with the City's General Plan and the eight priority
6 policies of Planning Code Section 101.1. The Board adopts these findings as its own.

7 Section 2. The Planning Code is hereby amended by revising Section 411.3, to read
8 as follows:

9 **SEC. 411.3. APPLICATION OF TIDF.**

10 (a) Application. Except as provided in Subsections (1) and (2) below, the TIDF shall
11 be payable with respect to any new development in the City for which a building or site permit
12 is issued on or after September 4, 2004. In reviewing whether a development project is
13 subject to the TIDF, the project shall be considered in its entirety. A sponsor shall not seek
14 multiple applications for building permits to evade paying the TIDF for a single development
15 project.

16 (1) The TIDF shall not be payable on new development, or any portion
17 thereof, for which a TIDF has been paid, in full or in part, under the prior TIDF Ordinance
18 (former Chapter 38 of the Administrative Code as amended through June 30, 2010), except
19 where

20 (A) gross square feet of use is being added to the building; or

21 (B) the TIDF rate for the new development is in an economic activity
22 category with a higher fee rate than the current rate for the economic activity category under
23 which the TIDF was originally paid, as set forth in Section 411.3(e).

24 (2) No TIDF shall be payable on the following types of new
25 development.

1 (A) New development on property owned (including beneficially
2 owned) by the City, except for that portion of the new development that may be developed by
3 a private sponsor and not intended to be occupied by the City or other agency or entity
4 exempted under Section 411.1 et seq., in which case the TIDF shall apply only to such non-
5 exempted portion. New development on property owned by a private person or entity and
6 leased to the City shall be subject to the fee, unless the City is the beneficial owner of such
7 new development or unless such new development is otherwise exempted under this Section.
8 Nothing in this Section shall interfere with the exclusive jurisdiction of the City's charitable
9 trust departments under Article V of the Charter or impose the TIDF on new development by
10 private nonprofit supporting organizations, beneficiaries, tenants, or licensees of said
11 departments, on property under the exclusive jurisdiction of said departments. The exception
12 established under subsection 411.3(a)(2)(A) for new development on property beneficially
13 owned by the City shall only be applicable where a project sponsor for a new development
14 has filed an application for environmental evaluation, a categorical exemption or a preliminary
15 project assessment on or before the effective date of Ordinance No. _____ December 31, 2013,
16 or, for new development ~~within the Mission Bay North Project Area, the Mission Bay South Project~~
17 ~~Area, the Hunters Point Shipyard Project Area, the Bayview Hunters Point Redevelopment Area, or the~~
18 ~~Transbay Redevelopment Project Area~~ subject to a redevelopment plan, development agreement,
19 interagency cooperation agreement, or other agreement entered into by the City, the project sponsor
20 submits proof that the sponsor has submitted to the successor agency to the former
21 Redevelopment Agency of the City and County of San Francisco documentation comparable
22 to that required for an application for environmental evaluation, a categorical exemption or a
23 preliminary project assessment for the project on or before ~~December 31, 2013~~ the effective date
24 of Ordinance No. _____.
25

1 (B) Any new development ~~in Mission Bay North or South~~ to the extent
2 application of this Chapter ~~to that development would be inconsistent with~~ violate the terms of a
3 redevelopment plan, development agreement, interagency cooperation agreement, or other agreement
4 entered into by the City that is valid and effective on the date that TIDF payments are due under
5 Section 411.3(b). If any such redevelopment plan, development agreement, interagency cooperation
6 agreement or other agreement permits some, but not all, of the TIDF to apply to a development, then
7 the TIDF shall apply to the extent permitted~~the Mission Bay North Redevelopment Plan and~~
8 ~~Interagency Cooperation Agreement or the Mission Bay South Redevelopment Plan and Interagency~~
9 ~~Cooperation Agreement, as applicable.~~

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

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

14 (E) New development for which a project sponsor filed an application
15 for environmental evaluation or a categorical exemption prior to April 1, 2004, and for which
16 the City issued a building permit or site permit on or before September 4, 2008; provided
17 however, that such new development may be subject to the TIDF imposed by Ordinance No.
18 224-81, as amended through June 30, 2004, except that the administration, imposition, review
19 and collection of any such fee shall be conducted in accordance with the administrative
20 procedures set forth in Section 411.9. DBI and MTA shall make the text of Ordinance No. 224-
21 81, as amended through June 30, 2004, available on their websites and shall provide copies
22 of that ordinance upon request.

23 (F) The following types of new developments, except to the extent that
24 any such new development is also captured under a more specific use under this Code that is
25 not otherwise exempt:

1 (i) Public facilities/utilities, as defined in Section 209.6 of this
2 Code, except that this exclusion shall not apply to new development on property owned by a
3 private person or entity and leased to the City;

4 (ii) Open recreation/horticulture, as defined in Section 209.5 of
5 this Code, including private noncommercial recreation open use, as referred to in Section
6 221(g) of this Code;

7 (iii) Vehicle storage and access, as defined in Section 209.7 of
8 this Code;

9 (iv) Automotive services, as defined in Section 223(l)-(v) of this
10 Code, that are in a new development, where the project sponsor has met the deadline
11 established in Section 411.3(a)(3);

12 (v) Wholesale storage of materials and equipment, as defined
13 in Section 225 of this Code, where the project sponsor has met the deadline established in
14 Section 411.3(a)(3);

15 (vi) Other Uses, as defined in Section 227(c)-(l), (n)-(o), and (q)-
16 (r) of this Code;

17 (3) The exclusions from TIDF set forth in Section 411.3(a)(2)(F)(iv) and (v)
18 (automotive services and wholesale storage of materials and equipment) shall only apply
19 where a project sponsor for a new development has filed an application for environmental
20 evaluation, a categorical exemption or a preliminary project assessment for the project on or
21 before the effective date of Ordinance No. _____ December 31, 2013, or, for new development
22 within the Mission Bay North Project Area, the Mission Bay South Project Area, the Hunters Point
23 Shipyard Project Area, the Bayview Hunters Point Redevelopment Area, or the Transbay
24 Redevelopment Project Area subject to a redevelopment plan, development agreement, interagency
25 cooperation agreement, or other agreement entered into by the City, the project sponsor submits

1 proof that the sponsor has submitted to the successor agency to the former Redevelopment
2 Agency of the City and County of San Francisco documentation comparable to that required
3 for an application for environmental evaluation, a categorical exemption or a preliminary
4 project assessment for the project, on or before ~~December 31, 2013~~ the effective date of
5 Ordinance No. _____.

6 (b) Timing of Payment. Except for those Integrated PDR projects subject to Section
7 328 of this Code, the TIDF shall be paid prior to issuance of the first construction document,
8 with an option for the project sponsor to defer payment until prior to issuance of the first
9 certificate of occupancy upon agreeing to pay a deferral surcharge in accordance with Section
10 107A.13 of the San Francisco Building Code. Under no circumstances may any City official or
11 agency, including the Port of San Francisco, issue a certificate of final completion and
12 occupancy for any new development subject to the TIDF until the TIDF has been paid.

13 (c) Calculation of TIDF.

14 (1) The TIDF shall be calculated on the basis of the number of gross square
15 feet of new development, multiplied by the square foot rate in effect at the time of ~~building or~~
16 ~~site permit~~ issuance of the first construction document for each of the applicable economic activity
17 categories within the new development, as provided in Subsection 411.3(e) below. An
18 accessory use shall be charged at the same rate as the underlying use to which it is
19 accessory, except that where any underlying use other than Residential is exempt from the
20 TIDF under this Section, the fee shall nonetheless be charged for the accessory use unless
21 such accessory use is otherwise exempt. Whenever any new development or series of new
22 developments cumulatively creates more than 3,000 gross square feet of covered use within a
23 structure, in the case of a building or site permit issued on or before January 31, 2013, or
24 more than 800 gross square feet of covered use within a structure, in the case of a building or
25 site permit issued on or after February 1, 2013, the TIDF shall be imposed on every square

1 foot of such covered use (including any portion that was part of prior new development below
2 the applicable square foot threshold).

3 (2) When calculating the TIDF for a development project in which there is a
4 change of use such that the rate charged for the new economic activity category is higher
5 than the rate charged for the existing economic activity category, the TIDF per square foot
6 rate for the change of use shall be the difference between the rate charged for the new use
7 and the existing use.

8 (3) Where a new development is subject to a redevelopment plan, development
9 agreement, interagency cooperation agreement, or other agreement entered into by the City, and under
10 the terms of that plan or agreement, calculation of the TIDF for the development would be different
11 from the calculation under subparagraph (2) above, the TIDF shall be calculated in accordance with
12 the requirements of the applicable plan or agreement.

13 (d) Credits. When determining the number of gross square feet of use to which the
14 TIDF applies, the Department shall provide the following credits:

15 (1) Prior Use Credits. There shall be a credit for prior uses eliminated on the
16 site. The credit shall be calculated according to the following formula:

17 (A) There shall be a credit for the number of gross square feet of use
18 being eliminated by the new development, multiplied by an adjustment factor to reflect the
19 difference in the fee rate of the use being added and the use being eliminated. The
20 adjustment factor shall be determined by the Department as follows:

21 (i) The adjustment factor shall be a fraction, the numerator of
22 which shall be the fee rate which the Department shall determine, in consultation with the
23 MTA, if necessary, applies to the economic activity category in the most recent calculation of
24 the TIDF Schedule approved by the Board or Supervisors for the prior use being eliminated by
25 the project.

1 (ii) The denominator of the fraction shall be the fee rate for the
2 use being added, as set forth in the most recent calculation of the TIDF Schedule approved by
3 the Board of Supervisors.

4 (B) A credit for a prior use may be given only if the prior use was
5 active on the site within five years before the date of the application for a building or site
6 permit for the proposed use.

7 (C) As of September 4, 2004, no sponsor shall be entitled to a refund
8 of the TIDF on a building for which the fee was paid under the former Chapter 38 of the San
9 Francisco Administrative Code.

10 (D) Notwithstanding the foregoing, the adjustment factor shall not
11 exceed one.

12 (2) Policy Credits. Development projects that meet the criteria outlined in
13 Subsection 411.3(d)(2)(B) may receive Policy Credits, subject to the following limitations:

14 (A) Limit on Available Policy Credits. When making a determination
15 under this Article for the amount of TIDF owed, the Department shall allocate available Policy
16 Credits, described in Section 411.3(d)(2)(B), as follows:

17 (i) No development project shall receive a Policy Credit under
18 Section 411.3(d)(2)(B) if the total amount of credits received by development projects under
19 that section would exceed 3% of the total anticipated TIDF revenue for the current Fiscal
20 Year. To the extent Policy Credits allowed in any Fiscal Year are not allocated, the
21 unallocated amount shall be carried over to the next Fiscal Year. The amount to be carried
22 over to the next Fiscal Year shall be calculated based upon 3% of the sum of the actual TIDF
23 revenues collected during the current Fiscal Year and the total amount of policy credits
24 granted during the current Fiscal Year.

1 (ii) In no event shall the Policy Credits for a single development
2 exceed 100% of the total TIDF that would otherwise be due.

3 (B) The Planning Department shall maintain and shall make available
4 on the Planning Department's website, a list showing:

5 (i) All development projects receiving Policy Credits under
6 Section 411.3(d)(2)(C) of this Article, and, if applicable, the date(s) of approval and the
7 issuance of any building or site permit;

8 (ii) The total amount of Policy Credits received with respect to
9 each listed development project;

10 (iii) Any Policy Credits allocated to a development project the
11 site permit for which is modified, cancelled, revoked, or has expired;

12 (iv) Such other information as the Department may determine is
13 appropriate.

14 (C) Available Policy Credits. The following development projects may
15 receive Policy Credits, subject to the limitations set forth in Section 411.3(d)(2)(A):

16 (i) Small Businesses. Businesses that either occupy or expand
17 any preexisting non-residential space, provided that: (a) the gross square footage of such
18 non-residential space is not greater than 5,000 square feet, and (b) the business is not
19 formula retail, as defined in this Code. Only the gross square footage dedicated to such
20 business shall be eligible for the Policy Credit.

21 (ii) Reduced Parking Developments. In zoning districts that set
22 a parking maximum, development projects that provide a lower number, or ratio, of off-street
23 parking than permitted on an as-of-right basis without conditional use authorization in Table
24 151.1 of this Code. The credit shall be determined by the Department as follows:

1	Max. Allowed			60% or more		
2	in Planning		More than 50%	but less	75% or more	90% of
3	Code Table	50% of Max.	but less than	than 75% of	but less than	Max. or
4	151.1	or Less	60% of Max.	Max.	90% of Max.	more
5	TIDF Credit	90%	80%	50%	20%	0%

(D) Process for Allocation of Policy Credits. The Policy Credits

described in this Section shall be allocated to qualifying development projects by the Zoning Administrator at the moment their first entitlement is approved by the Planning Commission or the Planning Department. In addition, the following considerations shall apply:

(i) If a development project is modified for any reason after it is first approved, and such modification would result in a potential increase in the amount of Policy Credits allocated to it, the development project shall maintain the credits allocated on the list described in Section 411.3(d)(2)(A)(v). Any additional credit may only be allocated at the time such modification is approved, subject to the limits of Section 411.3(d)(2)(A)(i).

(ii) If a development project is modified for any reason after it is first approved, and such modification would result in a potential decrease in the amount of Policy Credits allocated to it, the remainder Policy Credits shall become available for other qualifying development projects during the approval period on account of such a modification.

(iii) The maximum amount of Policy Credits available for the approval period shall be increased by the amount of Policy Credits allocated to a development project for which an issued site or building permit has been finally cancelled or revoked, or has expired, with the irrevocable effect of preventing construction of the development.

(3) Limitation. In no event shall the combined Policy Credits and Prior Use Credits for a single development exceed 100% of the total TIDF that would otherwise be due.

(e) TIDF Schedule. The TIDF Schedule shall be as follows:

Economic Activity Category or Subcategory	TIDF Per Gross Square Foot of Development
Cultural/Institution/Education	\$10.00
Day Care/Community_Center	\$13.30
Post-Secondary School	\$13.30
Museum	\$11.05
Other Institutional	\$13.30
Management, Information and Professional Services	\$12.64
Medical and Health Services	\$13.30
Production/Distribution/Repair	\$6.80
Retail/Entertainment	\$13.30
Visitor Services	\$12.64

Section 3. The Planning Code is hereby amended by revising Section 411.8, to read as follows:

SEC. 411.8. CHARITABLE EXEMPTIONS.

(a) When the property or a portion thereof will be exempt from real property taxation or possessory interest taxation under California Constitution, Article XIII, Section 4, as implemented by California Revenue and Taxation Code Section 214, then the sponsor shall not be required to pay the TIDF attributed to the new development in the exempt property or portion thereof, so long as the property or portion thereof continues to enjoy the aforementioned exemption from real property taxation. This exemption from the TIDF shall not apply to the extent that the non-profit organization is engaging in activities falling under the Retail/Entertainment or Visitor Services economic activity categories in the new development that would otherwise be subject to the TIDF.

1 (b) The TIDF shall be calculated for exempt structures in the same manner and at the
2 same time as for all other structures. Prior to issuance of ~~a building or site permit~~ the first
3 construction document for the development project, the sponsor may apply to the Department
4 for an exemption under the standards set forth in subsection (a) above. If the Department
5 determines that the sponsor is entitled to an exemption under this Section, it shall cause to be
6 recorded a notice advising that the TIDF has been calculated and imposed upon the structure
7 and that the structure or a portion thereof has been exempted from payment of the fee but
8 that if the property or portion thereof loses its exempt status during the 10-year period
9 commencing with the date of the imposition of the TIDF, then the building owner shall be
10 subject to the requirement to pay the fee.

11 (c) If within 10 years from the date of the issuance of the Certificate of Final
12 Completion and Occupancy, the exempt property or portion thereof loses its exempt status,
13 then the sponsor shall, within 90 days thereafter, be obligated to pay the TIDF, reduced by an
14 amount reflecting the duration of the charitable exempt status in relation to the useful life
15 estimate used in determining the TIDF for that structure. The amount remaining to be paid
16 shall be determined by recalculating the fee using a useful life equal to the useful life used in
17 the initial calculation minus the number of years during which the exempt status has been in
18 effect. After the TIDF has been paid, the Department shall record a release of the notice
19 recorded under subsection (b) above.

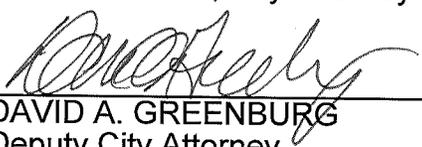
20 (d) If a property owner fails to pay a fee within the 90-day period, a notice for
21 request of payment shall be served by the Development Fee Collection Unit at DBI under
22 Section 107A.13 of the San Francisco Building Code. Thereafter, upon nonpayment, a lien
23 proceeding shall be instituted under Section 408 of this Article and Section 107A.13.15 of the
24 San Francisco Building Code.
25

1 Section 4. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
6 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
7 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
8 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
9 additions, and Board amendment deletions in accordance with the "Note" that appears under
10 the official title of the ordinance.

11
12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By:

16 
17 DAVID A. GREENBURG
18 Deputy City Attorney

19 n:\ptclas2013\1000412\00877372.doc



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Notice of Electronic Transmittal

Planning Department Response to the Amendment of Section 411 (Transit Impact Development Fee)

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

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Planning
Information:
415.558.6377

DATE: December 16, 2013
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: AnMarie Rodgers, Manager of Legislative Affairs – Planning Department (415) 558-6395
Lisa Chen, Case Planner – Planning Department (415) 575-9124
RE: BOS File No. 13-0938 [Planning Department Case Number 2013.1465T]
Amend Section 411 – Transit Impact Development Fee
HEARING DATE: December 12, 2013

In compliance with San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-Page Documents", the Planning Department has submitted a multi-page response to the Amendment of Section 411 [BF 13-0938] in digital format. A hard copy of this response is available from the Clerk of the Board. Additional hard copies may be requested by contacting Lisa Chen of the Planning Department at 415-575-9124.