

File No. 101247

Committee Item No. 7

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date December 13, 2010

Board of Supervisors Meeting

Date \_\_\_\_\_

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form (for hearings)             |
| <input type="checkbox"/>            | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

#### OTHER

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Environmental Review Determination Letter, 10/6/10</u> |
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Completed by: Alisa Somera Date December 9, 2010

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document can be found in the file.

1 [Planning Code Amendment - Update the Visitacion Valley Community Facilities and  
 2 Infrastructure Fee and Fund]

3 **Ordinance amending the San Francisco Planning Code by amending Sections 420.1**  
 4 **through 420.5 to update the Visitacion Valley Community Facilities and Infrastructure**  
 5 **Fee and Fund and to conform the program with other Area Plan fee programs; making**  
 6 **conforming changes to Sections 401 (definitions) and 406 (waiver, reduction, or**  
 7 **adjustment of development project requirements); and making findings, including**  
 8 **environmental findings.**

9 NOTE: Additions are *single-underline italics Times New Roman*;  
 10 deletions are *strike-through italics Times New Roman*.  
 11 Board amendment additions are double-underlined;  
 Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. Findings. The Board of Supervisors hereby finds that:

14 A. The Planning Department has determined that the actions contemplated in this  
 15 ordinance comply with the California Environmental Quality Act (California Public Resources  
 16 Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of  
 17 Supervisors in File No. 101247 and is incorporated herein by reference.

18 B. Pursuant to Section 302 of the Planning Code, the Board finds that this  
 19 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in  
 20 Planning Commission Resolution No. \_\_\_\_\_ and the Board incorporates such reasons  
 21 herein by reference. A copy of Planning Commission Resolution No. \_\_\_\_\_ is on file  
 22 with the Board of Supervisors in File No. \_\_\_\_\_.

23 C. This ordinance is in conformity with the General Plan and the Priority Policies of  
 24 Planning Code Section 101.1 for the reasons set forth in Planning Commission Resolution No.  
 25 \_\_\_\_\_ and the Board incorporates those findings herein by reference.

1 Section 2. The San Francisco Planning Code is hereby amended by amending  
2 Sections 401, 406, and 420.1 through 420.5, to read as follows:

3 **SEC. 401. DEFINITIONS.** ~~(a)~~ In addition to the specific definitions set forth elsewhere  
4 in this Article, the following definitions shall govern interpretation of this Article:

5 ~~(1)~~—"Affordable housing project." A housing project containing units constructed to  
6 satisfy the requirements of Sections 413.5, 413.8, 415.4, or 4.5.5 of this Article, or receiving  
7 funds from the Citywide Affordable Housing Fund.

8 ~~(2)~~—"Affordable to a household." A purchase price that a household can afford to pay  
9 based on an annual payment for all housing costs of 33 percent of the combined household  
10 annual net income, a 10 percent down payment, and available financing, or a rent that a  
11 household can afford to pay based on an annual payment for all housing costs of 30 percent  
12 of the combined annual net income.

13 ~~(3)~~—"Affordable to qualifying households":

14 (A) With respect to owned units, the average purchase price on the initial sale of all  
15 affordable owned units in an affordable housing project shall not exceed the allowable  
16 average purchase price. Each unit shall be sold:

17 (i) Only to households with an annual net income equal to or less than that of a  
18 household of moderate income; and

19 (ii) At or below the maximum purchase price.

20 (B) With respect to rental units in an affordable housing project, the average annual  
21 rent shall not exceed the allowable average annual rent. Each unit shall be rented:

22 (i) Only to households with an annual net income equal to or less than that of a  
23 household of lower income;

24 (ii) At or less than the maximum annual rent.

25 ~~(4)~~—"Allowable average purchase price":

1 (A) For all affordable one-bedroom units in a housing project, a price affordable to a  
2 two-person household of median income as set forth in Title 25 of the California Code of  
3 Regulations Section 6932 ("Section 6932") on January 1st of that year;

4 (B) For all affordable two-bedroom units in a housing project, a price affordable to a  
5 three-person household of median income as set forth in Section 6932 on January 1st of that  
6 year;

7 (C) For all affordable three-bedroom units in a housing project, a price affordable to  
8 a four-person household of median income as set forth in Section 6932 on January 1st of that  
9 year;

10 (D) For all affordable four-bedroom units in a housing project, a price affordable to a  
11 five-person household of median income as set forth in Section 6932 on January 1st of that  
12 year.

13 (1) "Affordable to qualifying middle income households":

14 (A) With respect to owned units, the average purchase price on the initial sale of all  
15 qualifying middle income units shall not exceed the allowable average purchase price deemed  
16 acceptable for households with an annual gross income equal to or less than the qualifying  
17 limits for a household of middle income, adjusted for household size. This purchase price shall  
18 be based on household spending of 35% of income for housing, and shall only apply to initial  
19 sale, and not for the life of the unit.

20 (B) With respect to rental units, the average annual rent--including the cost of  
21 utilities paid by the tenant according to the HUD utility allowance established by the San  
22 Francisco Housing Authority -- for qualifying middle income units shall not exceed the  
23 allowable average purchase price deemed acceptable for households with an annual gross  
24 income equal to or less than the qualifying limits for a household of middle income, adjusted  
25 for household size. This price restriction shall exist for the life of the unit.

1 (5) — "Allowable average annual rent":

2 (A) For all affordable one-bedroom units in a housing project, 18 percent of the  
3 median income for a household of two persons as set forth in Section 6932 on January 1st of  
4 that year;

5 (B) For all affordable two-bedroom units in a housing project, 18 percent of the  
6 median income for a household of three persons as set forth in Section 6932 on January 1st  
7 of that year;

8 (C) For all affordable three-bedroom units in a housing project, 18 percent of the  
9 median income for a household of four persons as set forth in Section 6932 on January 1st of  
10 that year;

11 (D) For all affordable four-bedroom units in a housing project, 18 percent of the  
12 median income for a household of five persons as set forth in Section 6932 on January 1st of  
13 that year.

14 (6) — "Annual gross income." Gross income as defined in CCR Title 25, Section 6914,  
15 as amended from time to time, except that MOH may, in order to promote consistency with  
16 the procedures of the San Francisco Redevelopment Agency, develop an asset test that  
17 differs from the State definition if it publishes that test in the Procedures Manual.

18 (7) — "Annual net income." Net income as defined in Title 25 of the California Code of  
19 Regulations Section 6916.

20 (8) — "Average annual rent." The total annual rent for the calendar year charged by a  
21 housing project for all affordable rental units in the project of an equal number of bedrooms  
22 divided by the total number of affordable units in the project with that number of bedrooms.

23 (9) — "Average purchase price." The purchase price for all affordable owned units in  
24 an affordable housing project of an equal number of bedrooms divided by the total number of  
25 affordable units in the project with that number of bedrooms.

1           (10)—"Balboa Park Community Improvements Fund." The fund into which all fee  
2 revenue the City collects from the Balboa Park Impact Fee is deposited.

3           (11)—"Balboa Park Community Improvements Program." The program intended to  
4 implement the community improvements identified in the Balboa Park Area Plan, as  
5 articulated in the Balboa Park Community Improvements Program Document on file with the  
6 Clerk of the Board.

7           (12) "Balboa Park Impact Fee." The fee collected by the City to mitigate impacts of  
8 new development in the Balboa Park Program Area, as described in the findings in Section  
9 422.1.

10          (13)—"Balboa Park Program Area." The Balboa Park Plan Area in Figure 1 of the  
11 Balboa Park Station Area Plan of the San Francisco General Plan.

12          (14)—"Base service standard." The relationship between revenue service hours  
13 offered by the Municipal Railway and the number of automobile and transit trips estimated to  
14 be generated by certain non-residential uses, expressed as a ratio where the numerator  
15 equals the average daily revenue service hours offered by MUNI and the denominator equals  
16 the daily automobile and transit trips generated by non-residential land uses as estimated by  
17 the TIDF Study or updated under Section 411.5 of this Article.

18          (15)—"Base service standard fee rate." The TIDF that would allow the City to recover  
19 the estimated costs incurred by the Municipal Railway to meet the demand for public transit  
20 resulting from new development in the economic activity categories for which the fee is  
21 charged, after deducting government grants, fare revenue, and costs for non-vehicle  
22 maintenance and general administration.

23          (16)—"Board" or "Board of Supervisors." The Board of Supervisors of the City and  
24 County of San Francisco.

1           (17)—"Child-care facility." A child-care facility as defined in California Health and  
2 Safety Code Section 1596.750.

3           (18)—"Child-care provider." A provider as defined in California Health and Safety Code  
4 Section 1596.791.

5           (19)—"City" or "San Francisco." The City and County of San Francisco.

6           (20)—"Commercial Space Subject to the Market and Octavia Community  
7 Infrastructure Impact Fee." For each net addition of occupiable square feet within the Program  
8 Area which results in an additional commercial unit or any increased commercial capacity that  
9 is beyond 20 percent of the non-residential capacity at the time that requirements originally  
10 became effective.

11           (21)—"Commercial development project." Any new construction, addition, extension,  
12 conversion or enlargement, or combination thereof, of an existing structure which includes any  
13 occupied floor area of commercial use; provided, however, that for projects that solely  
14 comprise an addition to an existing structure which would add occupied floor area in an  
15 amount less than 20 percent of the occupied floor area of the existing structure, the provisions  
16 of this Article shall only apply to the new occupied square footage.

17           (22)—"Commercial use." Any structure or portion thereof intended for occupancy by  
18 retail or office uses that qualify as an accessory use, as defined and regulated in Sections 204  
19 through 204.5 of this Code.

20           (23)—"Commission" or "Planning Commission." The San Francisco Planning  
21 Commission.

22           (24)—"Community apartment." As defined in San Francisco Subdivision Code Section  
23 1308(b).

24           (25)—"Community facilities." All uses as defined under Section 209.4(a) and 209.3(d)  
25 of this Code.

1           (26)—"Condition of approval" or "Conditions of approval." A condition or set of written  
2 conditions imposed by the Planning Commission or another permit-approving or issuing City  
3 agency or appellate body to which a project applicant agrees to adhere and fulfill when it  
4 receives approval for the construction of a development project subject to this Article .

5           (27)—"Condominium." As defined in California Civil Code Section 783.

6           (28)—"Cultural/Institution/Education (CIE)." An economic activity category subject to  
7 the TIDF that includes, but is not limited to, schools, as defined in Sections 209.3(g), (h), and  
8 (i) and 217(f)-(i) of this Code; child care facilities; museums and zoos; and community facilities  
9 , as defined in Sections 209.4 and 221(a)-(c) of this Code.

10          (29)—"DBI." The San Francisco Department of Building Inspection.

11          (30)—"Dedicated." Legally transferred to the City and County of San Francisco,  
12 including all relevant legal documentation, at no cost to the City.

13          (31)—"Dedicated site." The portion of site proposed to be legally transferred at no cost  
14 to the City and County of San Francisco under the requirements of this section.

15          (32)—"Department" or "Planning Department." The San Francisco Planning  
16 Department or the Planning Department's designee, including the Mayor's Office of Housing  
17 and other City agencies or departments.

18          (33)—"Designated affordable housing zones." For the purposes of implementing the  
19 Eastern Neighborhoods Public Benefits Fund, shall mean the Mission NCT defined in Section  
20 736 and the Mixed Use Residential District defined in Section 841.

21          (34)—"Development fee." Either a development impact fee or an in-lieu fee. It shall not  
22 include a fee for service or any time and material charges charged for reviewing or processing  
23 permit applications.

24          (35)—"Development Fee Collection Unit" or "Unit." The Development Fee Collection  
25 Unit at DBI.



1           (36)—"Development impact fee." A fee imposed on a development project as a  
2 condition of approval to mitigate the impacts of increased demand for public services, facilities  
3 or housing caused by the development project that may or may not be an impact fee  
4 governed by the California Mitigation Fee Act (California Government Code Section 66000 et  
5 seq.).

6           (37)—"Development impact requirement." A requirement to provide physical  
7 improvements, facilities or below market rate housing units imposed on a development project  
8 as a condition of approval to mitigate the impacts of increased demand for public services,  
9 facilities or housing caused by the development project that may or may not be governed by  
10 the California Mitigation Fee Act (California Government Code Section 66000 et seq.).

11           (38)—"Development project." A project that is subject to a development impact or in-  
12 lieu fee or development impact requirement.

13           (39)—"Development under the TIDF." Any new construction, or addition to or  
14 conversion of an existing structure under a building or site permit issued on or after  
15 September 4, 2004, that results in 3,000 gross square feet or more of a covered use. In the  
16 case of mixed use development that includes residential development, the term "new  
17 development" shall refer to only the non-residential portion of such development. "Existing  
18 structure" shall include a structure for which a sponsor already paid a fee under the prior TIDF  
19 ordinance, as well as a structure for which no TIDF was paid.

20           (40)—"Director." The Director of Planning or his or her designee.

21           (41)—"DPW." The Department of Public Works.

22           (42)—"Eastern Neighborhoods Infrastructure Impact Fee." The fee collected by the  
23 City to mitigate impacts of new development in the Eastern Neighborhoods Program Area, as  
24 described in the Findings in Section 423.1

1           (43)—"Eastern Neighborhoods Public Benefits Fund." The fund into which all fee  
2 revenue collected by the City from the Eastern Neighborhoods Impact Fee is deposited.

3           (44)—"Eastern Neighborhoods Public Benefits Program." The program intended to  
4 implement the community improvements identified in the four Area Plans affiliated with the  
5 Eastern Neighborhoods (Central Waterfront, East SoMa, Mission, and Showplace  
6 Square/Potrero Hill), as articulated in the Eastern Neighborhoods Public Benefits Program  
7 Document, on file with the Clerk of the Board in File No. 081155.)

8           (45)—"Eastern Neighborhoods Program Area." The Eastern Neighborhoods Plan Area  
9 in Map 1 (Land Use Plan) of the Eastern Neighborhoods Area Plan of the San Francisco  
10 General Plan.

11           (46)—"Economic activity category." Under the TIDF, one of the following six categories  
12 of non-residential uses: Cultural/Institution/Education (CIE), Management, Information and  
13 Professional Services (MIPS), Medical and Health Services, Production/Distribution/Repair  
14 (PDR), Retail/Entertainment, and Visitor Services.

15           (47)—"Entertainment development project." Any new construction, addition, extension,  
16 conversion, or enlargement, or combination thereof, of an existing structure which includes  
17 any gross square feet of entertainment use.

18           (48)—"Entertainment use." Space within a structure or portion thereof intended or  
19 primarily suitable for the operation of a nighttime entertainment use as defined in Section  
20 102.17 of this Code, a movie theater use as defined in Sections 790.64 and 890.64 of this  
21 Code, an adult theater use as defined in Sections 790.36 and 890.36 of this Code, any other  
22 entertainment use as defined in Sections 790.38 and 890.37 of this Code, and,  
23 notwithstanding Section 790.38 of this Code, an amusement game arcade (mechanical  
24 amusement devices) use as defined in Sections 790.4 and 890.4 of this Code. Under this  
25 Article, "entertainment use" shall include all office and other uses accessory to the

1 entertainment use, but excluding retail uses and office uses not accessory to the  
2 entertainment use.

3 (49)—"First certificate of occupancy." Either a temporary certificate of occupancy or a  
4 Certificate of Final Completion and Occupancy as defined in San Francisco Building Code  
5 Section 109A, whichever is issued first.

6 (50)—"First construction document." As defined in Section 107A.13.1 of the San  
7 Francisco Building Code.

8 (51)—"Gross floor area." The total area of each floor within the building's exterior  
9 walls, as defined in Section 102.9(b)(12) of this Code.

10 (52) "Gross square feet of use." With respect to the TIDF, the total square feet of  
11 gross floor area in a building and/or space within or adjacent to a structure devoted to all uses  
12 covered by the TIDF, including any common areas exclusively serving such uses and not  
13 serving residential uses. Where a structure contains more than one use, areas common to  
14 two or more uses, such as lobbies, stairs, elevators, restrooms, and other ancillary spaces  
15 included in gross floor area that are not exclusively assigned to one uses shall be apportioned  
16 among the two or more uses in accordance with the relative amounts of gross floor area,  
17 excluding such space, in the structure or on any floor thereof directly assignable to each use.

18 (53)—"Gross square footage." The meaning set forth in Section 102.9 of this Code.

19 (54)—"Hotel development project." Any new construction, addition, extension,  
20 conversion, or enlargement, or combination thereof, of an existing structure which includes  
21 any gross square feet of hotel use.

22 (55)—"Hotel" or "Hotel use." Space within a structure or portion thereof intended or  
23 primarily suitable for rooms, or suites of two or more rooms, each of which may or may not  
24 feature a bathroom and cooking facility or kitchenette and is designed to be occupied by a  
25 visitor or visitors to the City who pays for accommodations on a daily or weekly basis but who

1 do not remain for more than 31 consecutive days. Under this Article "hotel use" shall include  
2 all office and other uses accessory to the renting of guest rooms, but excluding retail uses and  
3 office uses not accessory to the hotel use.

4 ~~(56)~~—"Household." Any person or persons who reside or intend to reside in the same  
5 housing unit.

6 ~~(57)~~—"Household of lower income." A household composed of one or more persons  
7 with a combined annual net income for all adult members which does not exceed the  
8 qualifying limit for a lower-income family of a size equivalent to the number of persons  
9 residing in such household, as set forth for the County of San Francisco in Title 25 of the  
10 California Code of Regulations Section 6932.

11 ~~(58)~~—"Household of median income." A household composed of one or more persons  
12 with a combined annual net income for all adult members which does not exceed the  
13 qualifying limit for a median-income family of a size equivalent to the number of persons  
14 residing in such household, as set forth for the County of San Francisco in Title 25 of the  
15 California Code of Regulations Section 6932.

16 ~~(59)~~—"Household of moderate income." A household composed of one or more  
17 persons with a combined annual net income for all adult members which does not exceed the  
18 qualifying limit for a moderate-income family of a size equivalent to the number of persons  
19 residing in such household, as set forth for the County of San Francisco in Title 25 of the  
20 California Code of Regulations Section 6932.

21 ~~(60)~~—"Housing developer." Any business entity building housing units which receives  
22 a payment from a sponsor for use in the construction of the housing units. A housing  
23 developer may be (a) the same business entity as the sponsor, (b) an entity in which the  
24 sponsor is a partner, joint venturor, or stockholder, or (c) an entity in which the sponsor has no  
25 control or ownership.

1           (61)—"Housing project." Any development which has residential units as defined in the  
2 Planning Code, including but not limited to dwellings, group housing, independent living units,  
3 and other forms of development which are intended to provide long-term housing to  
4 individuals and households. "Housing project" shall not include that portion of a development  
5 that qualifies as an Institutional Use under the Planning Code. "Housing project" for purposes  
6 of this Program shall also include the development of live/work units as defined by Section  
7 102.13 of this Code. Housing project for purposes of this Program shall mean all phases or  
8 elements of a multi-phase or multiple lot residential development.

9           (62)—"Housing unit" or "unit." A dwelling unit as defined in San Francisco Housing  
10 Code Section 401.

11           (63)—"Improvements Fund." The fund into which all revenues collected by the City for  
12 each Program Area's impact fees are deposited.

13           (64)—"In-Kind Agreement." An agreement acceptable in form and substance to the  
14 City Attorney and the Director of Planning, under which the project sponsor agrees to provide a  
15 specific set of community improvements, at a specific phase of construction, in lieu of contribution to  
16 the relevant Fund. between a project sponsor and the Planning Commission, subject to approval by  
17 the Planning Commission in its sole discretion, to provide a specific set of community improvements at  
18 a specific phase of construction in lieu of contribution to the relevant Improvements Fund. The In-Kind  
19 Agreement shall also mandate a covenant of the project sponsor to reimburse all City agencies for their  
20 administrative and staff costs in negotiating, drafting, and monitoring compliance with the In-Kind  
21 Agreement. The City shall also require the project sponsor to provide a letter of credit or other  
22 instrument acceptable in form and substance to the City Attorney and the Planning Department to  
23 secure the City's right to receive payment as described in the preceding sentence.

24           (65)—"Infrastructure." Open space and recreational facilities; public realms  
25 improvements such as pedestrian improvements and streetscape improvements; public transit

1 facilities; and community facilities such as libraries, child care facilities, and community  
2 centers.

3 (66)—"In lieu fee." A fee paid by a project sponsor in lieu of complying with a  
4 requirement of this Code and that is not a development impact fee governed by the Mitigation  
5 Fee Act.

6 (67)—"Interim Guidelines" shall mean the Office Housing Production Program Interim  
7 Guidelines adopted by the City Planning Commission on January 26, 1982, as amended.

8 (68)—"Licensed Child-care facility." A child-care facility which has been issued a valid  
9 license by the California Department of Social Services pursuant to California Health and  
10 Safety Code Sections 1596.80-1596.875, 1596.95-1597.09, or 1597.30-1597.61.

11 (69)—"Live/work project." A housing project containing more than one live/work unit.

12 (70)—"Live/work unit" shall be as defined in Section 102.13 of this Code.

13 (71)—"Long term housing." Housing intended for occupancy by a person or persons  
14 for 32 consecutive days or longer.

15 (72)—"Low income." For purposes of this Article, up to 80% of median family income  
16 for the San Francisco PMSA, as calculated and adjusted by the United States Department of  
17 Housing and Urban Development (HUD) on an annual basis, except that as applied to  
18 housing-related purposes such as the construction of affordable housing and the provision of  
19 rental subsidies with funds from the SOMA Stabilization Fund established in Section 418.7, it  
20 shall mean up to 60% of median family income for the San Francisco PMSA, as calculated  
21 and adjusted by HUD on an annual basis.

22 (73)—"Management, Information and Professional Services (MIPS). An economic  
23 activity category under the TIDF that includes, but is not limited to, office use; medical offices  
24 and clinics, as defined in Section 890.114 of this Code; business services, as defined in  
25

1 Section 890.111 of this Code; Integrated PDR, as defined in Section 890.49 of this Code, and  
2 Small Enterprise Workspaces, as defined in Section 227(t) of this Code.

3 (74)—"Market and Octavia Community Improvements Fund" The fund into which all  
4 fee reveue collected by the City from the Market and Octavia Community Improvements Fee  
5 is deposited.

6 (75)—"Market and Octavia Community Improvements Impact Fee." The fee collected  
7 by the City to mitigate impacts of new development in the Market and Octavia Program Area,  
8 as described in the findings in Section 421.1.

9 (76)—"Market and Octavia Community Improvements Program." The program  
10 intended to implement the community improvements identified in the Market and Octavia Area  
11 Plan, as articulated in the Market and Octavia Community Improvements Program Document  
12 on file with the Clerk of the Board in File No. 071157.)

13 (77)—"Market and Octavia Program Area." The Market and Octavia Plan Area in Map  
14 1 (Land Use Plan) of the Market and Octavia Area Plan of the San Francisco General Plan,  
15 which includes those districts zoned RTO, NCT, or any neighborhood specific NCT, a few  
16 parcels zoned RH-1 or RH-2, and those parcels within the Van Ness and Market Downtown  
17 Residential Special Use District (VMDRSUD).

18 (78)—"Market rate housing." Housing constructed in the principal project that is not  
19 subject to sales or rental restrictions.

20 (79)—"Maximum annual rent." The maximum rent that a housing developer may  
21 charge any tenant occupying an affordable unit for the calendar year. The maximum annual  
22 rent shall be 30 percent of the annual income for a lower-income household as set forth in  
23 Section 6932 on January 1st of each year for the following household sizes:

- 24 (A) For all one-bedroom units, for a household of two persons;
- 25 (B) For all two-bedroom units, for a household of three persons;

1 (C) For all three-bedroom units, for a household of four persons;

2 (D) For all four-bedroom units, for a household of five persons.

3 ~~(19)~~—"Maximum purchase price." The maximum purchase price that a household of  
4 moderate income can afford to pay for an owned unit based on an annual payment for all  
5 housing costs of 33 percent of the combined household annual net income, a 10 percent  
6 down payment, and available financing, for the following household sizes:

7 (A) For all one-bedroom units, for a household of two persons;

8 (B) For all two-bedroom units, for a household of three persons;

9 (C) For all three-bedroom units, for a household of four persons;

10 (D) For all four-bedroom units, for a household of five persons.

11 ~~(80)~~—"Medical and Health Services." An economic activity category under the TIDF  
12 that includes, but is not limited to, those non-residential uses defined in Sections 209.3(a) and  
13 217(a) of this Code; animal services, as defined in Section 224(a) and (b) of this Code; and  
14 social and charitable services, as defined in Sections 209.3(d) and 217(d) of this Code.

15 ~~(81)~~—"Middle Income Household." A household whose combined annual gross  
16 income for all members is between 120 percent and 150 percent of the local median income  
17 for the City and County of San Francisco, as calculated by the Mayor's Office of Housing  
18 using data from the United States Department of Housing and Urban Development (HUD) and  
19 adjusted for household size or, if data from HUD is unavailable, as calculated by the Mayor's  
20 Office of Housing using other publicly available and credible data and adjusted for household  
21 size.

22 ~~(82)~~—"MOCD." The Mayor's Office of Community Development.

23 ~~(83)~~—"MOH." The Mayor's Office of Housing.

24 ~~(84)~~—"MTA." The Municipal Transportation Agency.

25 ~~(85)~~—"MTA Director." The Director of MTA or his or her designee.



1           ~~(86)~~—"Municipal Railway; MUNI." The public transit system owned by the City and  
2 under the jurisdiction of the MTA.

3           ~~(87)~~—"Net addition." The total amount of gross floor area defined in Planning Code  
4 Section 102.9 to be occupied by a development project, less the gross floor area existing in  
5 any structure demolished or retained as part of the proposed development project that had  
6 been occupied by, or primarily serving, any residential, non-residential, or PDR use for five  
7 years prior to the Planning Commission or Planning Department approval of a development  
8 project subject to this Article, or for the life of the structure demolished or retained, whichever  
9 is shorter.

10          ~~(88)~~—"Net addition of occupiable square feet of commercial use." Occupied floor area,  
11 as defined in Section 102.10 of this Code, to be occupied by or primarily serving, non-  
12 residential use excluding common areas such as hallways, maintenance facilities and lobbies,  
13 less the occupied floor area in any structure demolished or rehabilitated as part of the  
14 proposed commercial development project which occupied floor area was used primarily and  
15 continuously for commercial use and was not accessory to any use other than residential use  
16 for at least five years prior to Planning Department approval of a residential development  
17 project subject to this Article, or for the life of the structure demolished or rehabilitated,  
18 whichever is shorter.

19          ~~(89)~~—"Net addition of gross square feet of entertainment space." Gross floor area as  
20 defined in Section 102.9 of this Code to be occupied by, or primarily serving, entertainment  
21 use, less the gross floor area in any structure demolished or rehabilitated as part of the  
22 proposed entertainment development project that was used primarily and continuously for  
23 entertainment, hotel, office, research and development, or retail use and was not accessory to  
24 any use other than entertainment, hotel, office, research and development, or retail use, for  
25 five years prior to Commission approval of an entertainment development project subject to

1 this Article, or for the life of the structure demolished or rehabilitated, whichever is shorter, so  
2 long as such space was subject to Section 413.1 et seq. of this Article or the Interim  
3 Guidelines.

4 ~~(90)~~—"Net addition of gross square feet of hotel space." Gross floor area as defined in  
5 Section 102.9 of this Code to be occupied by, or primarily serving, hotel use, less the gross  
6 floor area in any structure demolished or rehabilitated as part of the proposed hotel  
7 development project space used primarily and continuously for office or hotel use and not  
8 accessory to any use other than office or hotel use for five years prior to Commission approval  
9 of a hotel development project subject to this Article, or for the life of the structure demolished  
10 or rehabilitated, whichever is shorter.

11 ~~(91)~~—"Net addition of gross square feet of non-residential space." Gross floor area as  
12 defined in Section 102.9 of this Code to be occupied by, or primarily serving, any non-  
13 residential use, less the gross floor area in any structure demolished or rehabilitated as part of  
14 the proposed development project space used primarily and continuously for the same non-  
15 residential use within the same economic activity category. This space shall be accessory to  
16 any use other than that same non-residential use for five years prior to Commission approval  
17 of a development project subject to this Article, or for the life of the structure demolished or  
18 rehabilitated, whichever is shorter.

19 ~~(92)~~—"Net addition of gross square feet of residential space." Gross floor area as  
20 defined in Section 102.9 of this Code to be occupied by, or primarily serving, residential use,  
21 less the gross floor area in any structure demolished or rehabilitated as part of the proposed  
22 residential development project space used primarily and continuously for residential use and  
23 not accessory to any use other than residential use for five years prior to Planning  
24 Commission approval of a development project, subject to this Article, or for the life of the  
25 structure demolished or rehabilitated, whichever is shorter.

1           (93)—"Net addition of gross square feet of office space." Gross floor area as defined in  
2 Planning Code Section 102.9 to be occupied by, or primarily serving, office use, less the gross  
3 floor area in any structure demolished or rehabilitated as part of the proposed office  
4 development project space used primarily and continuously for office or hotel use and not  
5 accessory to any use other than office or hotel use for five years prior to Planning  
6 Commission approval of an office development project subject to this Article, or for the life of  
7 the structure demolished or rehabilitated, whichever is shorter.

8           (94)—"Net addition of gross square feet of research and development space." Gross  
9 floor area as defined in Section 102.9 of this Code to be occupied by, or primarily serving,  
10 research and development use, less the gross floor area in any structure demolished or  
11 rehabilitated as part of the proposed research and development project that was used  
12 primarily and continuously for entertainment, hotel, office, research and development, or retail  
13 use and was not accessory to any use other than entertainment, hotel, office, research and  
14 development, or retail use, for five years prior to Commission approval of a research and  
15 development project subject to this Article, or for the life of the structure demolished or  
16 rehabilitated, whichever is shorter.

17           (95)—"Net addition of gross square feet of retail space." Gross floor area as defined in  
18 Section 102.9 of this Code to be occupied by, or primarily serving, retail use, less the gross  
19 floor area in any structure demolished or rehabilitated as part of the proposed retail  
20 development project that was used primarily and continuously for entertainment, hotel, office,  
21 research and development, or retail use and was not accessory to any use other than  
22 entertainment, hotel, office, research and development, or retail use, for five years prior to  
23 Planning Commission approval of a retail development project subject to this Article, or for the  
24 life of the structure demolished or rehabilitated, whichever is shorter.

1           (96)—"New development." Under the TIDF, any new construction, or addition to or  
2 conversion of an existing structure under a building or site permit issued on or after  
3 September 4, 2004 that results in 3,000 gross square feet or more of a use covered by the  
4 TIDF. In the case of mixed use development that includes residential development, the term  
5 "new development" shall refer to only the non-residential portion of such development.  
6 "Existing structure" shall include a structure for which a sponsor already paid a fee under the  
7 prior TIDF ordinance, as well as a structure for which no TIDF was paid.

8           (97)—"Nonprofit child-care provider." A child-care provider that is an organization  
9 organized and operated for nonprofit purposes within the provisions of California Revenue  
10 and Taxation Code Sections 23701--23710, inclusive, as demonstrated by a written  
11 determination from the California Franchise Tax Board exempting the organization from taxes  
12 under Revenue and Taxation Code Section 23701.

13           (98)—"Nonprofit organization." An organization organized and operated for nonprofit  
14 purposes within the provisions of California Revenue and Taxation Code Sections 23701--  
15 23710, inclusive, as demonstrated by a written determination from the California Franchise  
16 Tax Board exempting the organization from taxes under Revenue and Taxation Code Section  
17 23701.

18           (99)—"Non-Residential development project." Any new construction, addition,  
19 extension, conversion or enlargement, or combination thereof, of an existing structure that  
20 includes any occupied floor area of a non-residential use; provided, however, that for projects  
21 that solely comprise an addition to an existing structure that would add occupied floor area in  
22 an amount less than 20 percent of the occupied floor area of the existing structure, the  
23 provisions of this Article shall only apply to the new occupied square footage.  
24  
25

1           (100)—"Non-Residential space subject to the Balboa Park Impact Fee." Each net  
2 addition of gross square feet within the Project Area that contributes to a 20 percent increase  
3 in commercial capacity of an existing structure.

4           (101)—"Non-residential Space Subject to the Eastern Neighborhoods Infrastructure  
5 Impact Fee. Each net addition of net square feet within the Eastern Neighborhoods Project  
6 Area which contributes to a 20 percent increase in non-residential capacity of an existing  
7 structure.

8           (102)—"Non-residential use." Any structure or portion thereof intended for occupancy  
9 by retail, office, commercial, or other non-residential uses defined in Section 209.3, 209.8,  
10 217, 218, 219 of this Code, and 221; except that residential components of uses defined in  
11 Section 209.3(a)-(c) and (g)-(i) shall be defined as a "residential use" for purposes of this  
12 Article. For the purposes of this Article, non-residential use shall not include PDR and publicly  
13 owned and operated community facilities.

14           (103)—"Notice of Special Restrictions." A document recorded with the San Francisco  
15 Recorder's Office for any unit subject to this Program detailing the sale and resale or rental  
16 restrictions and any restrictions on purchaser or tenant income levels included as a Condition  
17 of Approval of the principal project relating to the unit.

18           (104)—"Office development project." Any new construction, addition, extension,  
19 conversion or enlargement, or combination thereof, of an existing structure which includes any  
20 gross floor area of office use

21           (105)—"Office use." Space within a structure or portion thereof intended or primarily  
22 suitable for occupancy by persons or entities which perform, provide for their own benefit, or  
23 provide to others at that location services including, but not limited to, the following:  
24 Professional; banking; insurance; management; consulting; technical; sales; and design; and  
25 the non-accessory office functions of manufacturing and warehousing businesses; all uses

1 encompassed within the definition of "office" in Section 219 of this Code; multimedia,  
2 software, development, web design, electronic commerce, and information technology; all  
3 uses encompassed within the definition of "administrative services" in Section 890.106 of this  
4 Code; and all "professional services" as proscribed in Section 890.108 of this Code excepting  
5 only those uses which are limited to the Chinatown Mixed Use District.

6 ~~(106)~~—"Off-site unit." A unit affordable to qualifying households constructed pursuant to  
7 this Ordinance on a site other than the site of the principal project.

8 ~~(107)~~—"On-site unit." A unit affordable to qualifying households constructed pursuant to  
9 this Article on the site of the principal project.

10 ~~(108)~~—"Owned unit." A unit affordable to qualifying households which is a  
11 condominium, stock cooperative, community apartment, or detached single-family home. The  
12 owner or owners of an owned unit must occupy the unit as their primary residence.

13 ~~(109)~~—"Owner." The record owner of the fee or a vendee in possession.

14 ~~(110)~~—"PDR use." Those uses contained in Sections 220, 222, 223, 224, 225, and 226  
15 of this Code.

16 ~~(111)~~—"Principal project." A housing development on which a requirement to provide  
17 affordable housing units is imposed.

18 ~~(112)~~—"Principal site." The total site proposed for development, including the portion of  
19 site proposed to be legally transferred to the City and County of San Francisco.

20 ~~(113)~~—"Procedures Manual." The City and County of San Francisco Affordable Housing  
21 Monitoring Procedures Manual issued by the San Francisco Department of City Planning, as  
22 amended.

23 ~~(114)~~—"Rent" or "rental." The total charges for rent, utilities, and related housing  
24 services to each household occupying an affordable unit.

1           (115)—"Rental unit." A unit affordable to qualifying households which is not a  
2 condominium, stock cooperative, or community apartment.

3           (116)—"Replacement." The total amount of gross floor area, as defined in Section 102.9  
4 of this Code, to be demolished and reconstructed by a development project, provided that the  
5 space demolished had been occupied by, or primarily serving, any residential, non-residential,  
6 or PDR use for five years prior to Planning Commission or Planning Department approval of  
7 the development project subject to this Article or for the life of the structure demolished or  
8 retained, whichever is shorter.

9           (117)—"Research and Development ("R&D") project." Any new construction, addition,  
10 extension, conversion, or enlargement, or combination thereof, of an existing structure which  
11 includes any gross square feet of R&D use.

12           (118)—"Research and development use." Space within any structure or portion thereof  
13 intended or primarily suitable for basic and applied research or systematic use of research  
14 knowledge for the production of materials, devices, systems, information or methods,  
15 including design, development and improvement of products and processing, including  
16 biotechnology, which involves the integration of natural and engineering sciences and  
17 advanced biological techniques using organisms, cells, and parts thereof for products and  
18 services, excluding laboratories which are defined as light manufacturing uses consistent with  
19 Section 226 of this Code.

20           "Residential development project subject to the Visitacion Valley Community Infrastructure  
21 Fee." Any new construction, addition, extension, conversion or enlargement, or combination thereof in  
22 Visitacion Valley, of an existing structure which includes any occupied floor area of residential use  
23 and which has twenty (20) residential units or more; provided, however, that for projects that solely  
24 comprise an addition to an existing structure which would add occupied floor area in an amount less  
25

1 than 20 percent of the occupied floor area of the existing structure, the provisions of this Section shall  
2 only apply to the new occupied square footage.

3 ~~(119)~~—"Residential Space Subject to the Balboa Park Impact Fee." Each net addition of  
4 gross square feet within the Balboa Park Project Area which results in a net new residential  
5 unit.

6 ~~(120)~~—"Residential Space Subject to the Eastern Neighborhoods Infrastructure Impact  
7 Fee." Each net addition of net square feet within the Eastern Neighborhoods Project Area  
8 which results in a net new residential unit.

9 ~~(121)~~—"Residential Space Subject to the Market and Octavia Community Infrastructure  
10 Impact Fee." Each net addition of occupiable square feet within the Market and Octavia  
11 Program Area which results in an additional residential unit or contributes to a 20 percent  
12 increase of residential space from the time that this ordinance is adopted within the Market  
13 and Octavia Community Improvements Fund.

14 ~~(122)~~—"Residential use." Any structure or portion thereof intended for occupancy by  
15 uses defined in Sections 209.1, 790.88, and 890.88 of this Code, as relevant for the subject  
16 zoning district, or containing group housing as defined in Section 209.2(a)-(c) of this Code and  
17 any residential components of institutional uses as defined in Section 209.3(a)-(c) and (g)-(i) of  
18 this Code.

19 ~~(123)~~—"Retail development project." Any new construction, addition, extension,  
20 conversion, or enlargement, or combination thereof, of an existing structure which includes  
21 any gross square feet of retail use.

22 ~~(124)~~—"Retail/entertainment." An economic activity category under the TIDF that  
23 includes, but is not limited to, a retail use; an entertainment use; massage establishments, as  
24 defined in Section 218.1 of this Code; laundering, and cleaning and pressing, as defined in  
25 Section 220 of this Code.



1           ~~(125)~~—"Retail use." Space within any structure or portion thereof intended or primarily  
2 suitable for occupancy by persons or entities which supply commodities to customers on the  
3 premises including, but not limited to, stores, shops, restaurants, bars, eating and drinking  
4 businesses, and the uses defined in Sections 218 and 220 through 225 of this Code, and also  
5 including all space accessory to such retail use.

6           ~~(126)~~—"Revenue services hours." The number of hours that the Municipal Railway  
7 provides service to the public with its entire fleet of buses, light rail (including streetcars), and  
8 cable cars.

9           ~~(127)~~—"Rincon Hill Community Improvements Fund." The fund into which all fee  
10 revenue collected by the City from the Rincon Hill Community Infrastructure Impact Fee is  
11 deposited.

12           ~~(128)~~—"Rincon Hill Community Infrastructure Impact Fee." The fee collected by the City  
13 to mitigate impacts of new development in the Rincon Hill Program Area, as described in the  
14 findings in Section 418.1.

15           ~~(129)~~—"Rincon Hill Program Area." Those districts identified as the Rincon Hill  
16 Downtown Residential (RH DTR) Districts in the Planning Code and on the Zoning Maps.

17           ~~(130)~~—"Section 6932." Section 6932 of Title 25 of the California Code of Regulations as  
18 such section applies to the County of San Francisco.

19           ~~(75)~~—"SOMA." The area bounded by Market Street to the north, Embarcadero to the  
20 east, King Street to the south, and South Van Ness and Division to the west.

21           ~~(131)~~—"SOMA Community Stabilization Fee." The fee collected by the City to mitigate  
22 impacts on the residents and businesses of SOMA of new development in the Rincon Hill  
23 Program Area, as described in the findings in Section 418.1.

24           ~~(132)~~—"SOMA Community Stabilization Fund." The fund into which all fee revenue  
25 collected by the City from the SOMA Community Stabilization Fee is deposited.

1           (133)—"Sponsor" or "project sponsor." An applicant seeking approval for construction of  
2 a development project subject to this Article, such applicant's successor and assigns, and/or  
3 any entity which controls or is under common control with such applicant.

4           (134)—"Stock cooperative." As defined in California Business and Professions Code  
5 Section 11003.2.

6           (135)—"Student housing." A building where 100 percent of the residential uses are  
7 affiliated with and operated by an accredited post-secondary educational institution. Typically,  
8 student housing is for rent, not for sale. This housing shall provide lodging or both meals and  
9 lodging, by prearrangement for one week or more at a time. This definition only applies in the  
10 Eastern Neighborhoods Mixed Use Districts.

11           (136)—"TIDF Study." The study commissioned by the San Francisco Planning  
12 Department and performed by Nelson/Nygaard Associates entitled "Transit Impact  
13 Development Fee Analysis – Final Report," dated May 2001, including all the Technical  
14 Memoranda supporting the Final Report and the Nelson/Nygaard update materials contained  
15 in Board of Supervisors File No. 040141.

16           (137)—"Total developable site area." That part of the site that can be feasibly  
17 developed as residential development, excluding land already substantially developed, parks,  
18 required open spaces, streets, alleys, walkways or other public infrastructure.

19           (138)—"Transit Impact Development Fee; TIDF." The development fee that is the  
20 subject of Section 411.1 et seq. of this Article.

21           (139)—"Treasurer." The Treasurer for the City and County of San Francisco.

22           (140)—"Trip generation rate." The total number of automobile and Municipal Railway  
23 trips generated for each 1,000 square feet of development in a particular economic activity  
24 category as established in the TIDF Study, or pursuant to the five-year review process  
25 established in Section 411.5 of this Article.

1           ~~(141)~~—"Use." The purpose for which land or a structure, or both, are legally designed,  
2 constructed, arranged, or intended, or for which they are legally occupied or maintained, let or  
3 leased.

4           ~~(142)~~—"Visitacion Valley." The area bounded by Carter Street and McLaren Park to the  
5 west, Mansell Street to the north, Route 101 between Mansell Street and Bayshore Boulevard  
6 to the northeast, Bayview Park to the north, Candlestick Park and Candlestick Point  
7 Recreation Area to the east, the San Francisco Bay to the southeast, and the San Francisco  
8 County line to the south.

9           ~~(143)~~—"Visitor services." An economic activity category under the TIDF that includes,  
10 but is not limited to, hotel use; motel use, as defined in Section 216(c) and (d); and time-share  
11 projects, as defined in Section 11003.5(a) of the California Business and Professions Code.

12           ~~(144)~~—"Waiver Agreement." An agreement acceptable in form and substance to the  
13 City Attorney and the Planning Department under which the City agrees to waive all or a  
14 portion of the Community Improvements Impact Fee.

15           **SEC. ~~420~~ formerly Section 318.10). VISITACION VALLEY COMMUNITY**  
16 **FACILITIES AND INFRASTRUCTURE FEE AND FUND.**

17           Sections 420.1 through 420.5, hereafter referred to as Section 420.1 et seq., set forth  
18 the requirements and procedures for the Visitacion Valley Community Facilities and  
19 Infrastructure Fee and Fund. The effective date of these requirements shall be either  
20 November 18, 2005, which is the date that the requirements originally became effective, or  
21 the date a subsequent modification, if any, became effective.

22           **SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT**  
23 **PROJECT REQUIREMENTS.**

24           (a) Waiver or Reduction Based on Absence of Reasonable Relationship.  
25

1 (1) The sponsor of any development project subject to a development fee or  
2 development impact requirement imposed by this Article may appeal to the Board of  
3 Supervisors for a reduction, adjustment, or waiver of the requirement based upon the absence  
4 of any reasonable relationship or nexus between the impact of development and either the  
5 amount of the fee charged or the on-site requirement.

6 (2) Any appeal authorized by this Section shall be made in writing and filed with the  
7 Clerk of the Board no later than 15 days after the date the Department or Commission takes  
8 final action on the project approval that assesses the requirement. The appeal shall set forth  
9 in detail the factual and legal basis for the claim of waiver, reduction, or adjustment.

10 (3) The Board of Supervisors shall consider the appeal at a public hearing within 60  
11 days after the filing of the appeal. The appellant shall bear the burden of presenting  
12 substantial evidence to support the appeal, including comparable technical information to  
13 support appellant's position. The decision of the Board shall be by a simple majority vote and  
14 shall be final.

15 (4) If a reduction, adjustment, or waiver is granted, any change in use within the  
16 project shall invalidate the waiver, adjustment, or reduction of the fee or inclusionary  
17 requirement. If the Board grants a reduction, adjustment or waiver, the Clerk of the Board  
18 shall promptly transmit the nature and extent of the reduction, adjustment or waiver to the  
19 Development Fee Collection Unit at DBI and the Unit shall modify the Project Development  
20 Fee Report to reflect the change.

21 (b) Waiver or Reduction, Based on Housing Affordability or Duplication of Fees.

22 (1) The Planning Commission shall give special consideration to offering reductions  
23 or waivers of the impact fee to housing projects on the grounds of affordability in cases in  
24 which the State of California, the Federal Government, MOH, the San Francisco  
25 Redevelopment Agency, or other public agency subsidies target new housing for households

1 at or below 50% of the Area Median Income as published by HUD, including units that qualify as  
2 replacement Section 8 units under the HOPE SF program. This waiver clause intends to provide a  
3 local 'match' for these deeply subsidized units and should be considered as such by relevant  
4 agencies. Specifically these units may be rental or ownership opportunities but they must be  
5 subsidized in a manner which maintains their affordability for a term no less than 55 years.  
6 Project sponsors must demonstrate to Department staff that a governmental agency will be  
7 enforcing the term of affordability and reviewing performance and service plans as necessary;  
8 usually this takes the form of a deed restriction.

9 (2) The Planning Department shall publish an annual schedule of specific values  
10 for waivers and reductions available under this subsection. Department staff shall apply these  
11 waivers based on the most recent schedule published at the time that fee payment is made.

12 (3) Projects that meet the requirements of this subsection are eligible for a 100  
13 percent fee reduction until an alternative fee schedule is published by the Department. Ideally  
14 some contribution will be made to Community Improvement Programs for specific areas, as  
15 these units will place an equal demand on community improvements infrastructure. This  
16 waiver clause shall not be applied to units built as part of a developer's efforts to meet the  
17 requirements of the Inclusionary Affordable Housing Program, and Section 415 of this Code.

18 (4) The City shall make every effort not to assess duplicative fees on new  
19 development. In general, project sponsors are only eligible for fee waivers under this  
20 Subsection if a contribution to another fee program would result in a duplication of charges for  
21 a particular type of community infrastructure. The Department shall publish a schedule  
22 annually of all known opportunities for waivers and reductions under this clause, including the  
23 specific rate. Requirements under Section 135 and 138 of this Code do not qualify for a  
24 waiver or reduction. Should future fees pose a duplicative charge, such as a Citywide open  
25

1 space or childcare fee, the same methodology shall apply and the Department shall update  
2 the schedule of waivers or reductions accordingly.

3 **SEC. 420.1. FINDINGS.**

4 a. New Residential and Non-Residential Uses. The Visitacion Valley Fee Area (Fee Area)  
5 is located along the southeastern border of San Francisco and includes the area bounded by McLaren  
6 Park to the west, the San Mateo County line to the south, Mansell Street to the north, and Highway 101  
7 and Bayview Park to the east. The Fee Area includes the following planning areas: Executive Park,  
8 Schlage Lock, Visitacion Valley Redevelopment Area, and HOPE SF Sunnydale. Jointly these plans  
9 aim to strengthen neighborhood character, the neighborhood commercial district, and transit by  
10 increasing the housing and retail capacity in the area. This project goal will also help to meet ABAG's  
11 projected demand to provide housing in the Bay Area by encouraging the construction of higher density  
12 housing. The Plan builds on existing neighborhood character and establishes new standards for  
13 amenities necessary for a transit-oriented neighborhood.

14 (b) Need for Public Improvements to Accompany New Uses. The City anticipates an  
15 increase of at least 1,780 new housing units within the next 20 years, and over 225 new jobs, as  
16 described in the Visitacion Valley Nexus Stud on file with the Clerk of the Board in File No.

17 and incorporated by reference herein. This new development will have an impact on the  
18 Area's neighborhood infrastructure. New development will generate needs for a new Library, street  
19 improvements, transit improvements, community facilities, childcare and parks and recreation  
20 amenities, as described in the Visitacion Valley Nexus Study, on file with the Clerk of the Board.  
21 Various City agencies and related planning efforts intend to address existing deficiencies and new  
22 impacts through a comprehensive package of community improvements. This Program will enable the  
23 City and County of San Francisco to provide necessary public infrastructure to new residents while  
24 increasing neighborhood livability and investment in the district.

1           (c) Programmed Improvements. General public improvements and amenities needed to  
 2 meet the needs of both existing residents, as well as those needs generated by new development, have  
 3 been identified through the various community planning processes. The City developed generalized cost  
 4 estimates, based on similar project types implemented by the City in the relevant time period, to  
 5 provide reasonable approximations for the eventual cost of providing necessary community  
 6 improvements to respond to identified community needs. In some cases, design work, engineering, and  
 7 environmental review will be required and may alter the nature of the improvements, as well as the sum  
 8 total of the cost for these improvements.

9           (d) Visitacion Valley Impact Fee. Development impact fees are an effective approach to  
 10 mitigate impacts associated with growth in population. The proposed Visitacion Valley Impact Fee  
 11 would be dedicated to community improvements in the described fee Area; directing benefits of the fund  
 12 to those who pay into the fund by providing the necessary infrastructure improvements needed to serve  
 13 new development. The Planning Department has calculated the fee rate based on accepted professional  
 14 methods for the calculation of such fees, and described fully in the Visitacion Valley nexus study.

15           The proposed fee would cover less than the full impact of new development. The proposed fee  
 16 only covers a portion of impacts caused by new development and is not intended to remedy existing  
 17 deficiencies. Existing deficiency costs will be paid for by the public, the community, and other private  
 18 sources. Residential and non-residential impact fees are only one of many revenue sources necessary to  
 19 implement the community improvements outlined in the Plan.

	<u>Nexus</u>
	<u>Amount per sf</u>
<u>Library</u>	<u>17%</u>
<u>Transportation</u>	<u>28%</u>
<u>Parks &amp; Recreation</u>	<u>24%</u>
<u>Child Care</u>	<u>22%</u>

<u>Community Facilities</u>	<u>9%</u>
<u>Total per sf</u>	<u>\$4.21</u>

e. The Board of Supervisors has reviewed the record for this item including but not limited to the Nexus study, the Planning Department file, the recommendation of the Planning Commission, staff analysis, and public testimony and, on that basis finds that the study supports the requirements of the Visitacion Valley Community Facilities and Infrastructure Fee and Fund. Specifically, the Board finds that Nexus study and the record: identify the purpose of the fee to mitigate impacts on the demand for the identified community facilities and infrastructure; identify the use to which the fee is to be put as being to build a new library; and make improvements to the following community facilities and infrastructure: transportation, parks and recreation, childcare, and community facilities; and establishes a reasonable relationship between the use of the fee for the identified community facilities and infrastructure and the need for these facilities caused by the construction of new residential and non-residential development. Moreover, the Board finds that the fee is less than the cost of mitigation and does not include the costs of remedying any existing deficiencies. The Board also finds that the Nexus study establishes that the fee does not duplicate other city requirements or fees.

A. A number of large sites in Visitacion Valley are targeted for substantial changes of use. Currently there are three applications pending at the City's Planning Department to develop Executive Park, originally planned as an office complex, into a large housing development. In addition, the City has drafted plans for Schlage Lock, long an industrial site, to be transformed into a major mixed-use housing development. Together, these sites would represent over 2,000 new units of housing in areas previously contemplated for office and industrial activities.

For the past thirty years, Executive Park has been the subject of several proposals and development plans. The first Executive Park Development Plan, developed in 1978, considered a development of 833,000 square feet of office space, 174,000 square feet of hotel/meeting space, and 75,000 square feet of retail space. Building permits were issued for the construction of four office



1 ~~buildings and a restaurant under this plan. Three of the office buildings were constructed by 1985, for~~  
2 ~~a total of about 320,000 square feet of office space and 2,500 square feet of retail space. The fourth~~  
3 ~~office building and the restaurant have yet to be constructed.~~

4 ~~In 1983, a revised development plan was proposed to amend the previous 1978 Development~~  
5 ~~Plan by adding additional office space and hotel space, and by adding residential use. Overall, and~~  
6 ~~including the four office buildings and the restaurant previously approved, the 1984 Development Plan~~  
7 ~~Amendment called for 1,644,000 square feet of office space, 234,000 square feet of hotel space, 50,000~~  
8 ~~square feet of retail/restaurant spaces, and 600 residential units.~~

9 ~~A 1992 Development Plan added 25,000 square feet of health club space, 10,000 square feet of~~  
10 ~~childcare space, and an additional 10,000 square feet of restaurant space. Following this approval,~~  
11 ~~building permits were issued for the construction of five residential buildings, containing about 287~~  
12 ~~units. Only two of the residential buildings, containing 128 units, have been constructed.~~

13 ~~At present, Executive Park consists of three office buildings containing 320,000 square feet of~~  
14 ~~office space and 2,500 square feet of retail space, and two residential buildings containing 128~~  
15 ~~residential units. Since 2003, three project sponsors have filed applications to develop over 1,300 new~~  
16 ~~units of housing, totaling 1,709,000 square feet of residential use. To accommodate these projects, the~~  
17 ~~Planning Commission has forwarded a General Plan Amendment to the Board of Supervisors that~~  
18 ~~would allow for an additional 499 residential units while eliminating 1,324,000 square feet of office~~  
19 ~~space, 10,000 square feet of retail space, and 25,000 square feet of health club use. In addition, the~~  
20 ~~General Plan Amendment would reduce the allowable square footage of childcare use from 13,240~~  
21 ~~square feet to 10,000 square feet.~~

22 ~~At the Schlage Lock site, this company operated a large industrial plant for the better part of a~~  
23 ~~century, providing jobs for area residents and serving as a key part of the community. Ingersoll Rand,~~  
24 ~~the parent company of Schlage Lock, closed the plant in 1999, indicating a wish to sell the property.~~  
25 ~~Since that time, the site has remained vacant and under-utilized.~~

In 2002, the City sponsored a series of community planning workshops to formulate a community plan for the re-use of the 20-acre site. The community planning workshops, involving several hundred residents of Visitacion Valley and surrounding neighborhoods, produced a written report, "The Visitacion Valley Schlage Lock Community Planning Workshop: Strategic Concept Plan and Workshop Summary." This plan calls for a mix of housing, open space, community-oriented retail and community-oriented institutional uses. The plan contemplates 740 new units of housing on the residential portions of the site. Using a planning standard of 1,000 square feet per unit, the projected square footage of new residential development at the site is 740,000 square feet.

*Projected New Visitacion Valley  
Residential Development*

<i>Signature Properties (Executive Park)</i>	<i>433 units</i>	<i>615,000 square feet</i>
	—	
<i>Top Vision (Executive Park)</i>	<i>410 units</i>	<i>618,000 square feet</i>
	—	
<i>Yerby (Executive Park)</i>	<i>496 units</i>	<i>476,000 square feet</i>
	—	
<i>Schlage Lock</i>	<i>740 units</i>	<i>740,000 square feet</i>
	—	

Total—	2,079 units—	2,449,000 square feet—
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In its environmental review of the Signature Properties application, the San Francisco Planning Department estimates 3,340 new residents at the three Executive Park sites. For the Schlage Lock site, a planning standard of 2.2 new residents per unit is applied to the development, or 1,628 new residents. Together, therefore, these four proposals are expected to introduce 4,968 new residents to the neighborhood.

According to the 2000 Census, there are currently 16,482 residents in Visitacion Valley. With the 4,968 new residents expected through the above projects, the new Visitacion Valley population would be 21,450 residents. Therefore, 23.2% of all Visitacion Valley residents would be new residents at these four project sites.

B. San Francisco's growing population and severe housing crisis requires the development of new housing. To respond to this need for housing, the City is considering granting Conditional Use Authorization, re-zonings, and/or General Plan Amendments for a number of large development sites in Visitacion Valley. These areas are currently occupied primarily by office or industrial uses with minimal community facilities and infrastructure to support a significant residential population. In addition, very few residents currently reside in these areas. New residential development in these areas will impact Visitacion Valley's community facilities and infrastructure and will generate a substantial need for community improvements as the neighborhood's population grows as a result of new residential development. Substantial new investments in community infrastructure, including active recreational spaces, community facilities, and other public services are necessary to mitigate the impacts of new development at these sites.

The amendments to the General Plan, Planning Code and/or Zoning Maps that are necessary to facilitate residential developments at these sites will permit a substantial amount of new residents. More than 2,050 new units representing approximately 5,000 new residents would be anticipated in the

1 ~~Visitacion Valley neighborhood, resulting in a 30% increase in the neighborhood's residential~~  
2 ~~population. The new development will have a profound impact on the neighborhood's dated~~  
3 ~~infrastructure. A comprehensive program of community facilities and public infrastructure is necessary~~  
4 ~~to mitigate the impacts of the proposed new development and to provide these basic community~~  
5 ~~improvements to the neighborhood's growing residential population.~~

6 ~~As a result of this new development, property tax revenue is projected to increase. These~~  
7 ~~revenues will fund improvements and expansions to general City services, including Police, Fire,~~  
8 ~~Emergency, and other services needed to partially meet the increased demand associated with new~~  
9 ~~development. Local impacts on the need for community facilities and infrastructure will be heightened~~  
10 ~~in Visitacion Valley, compared to those typically funded by City government through property tax~~  
11 ~~revenues. The relative cost of capital improvements, along with the reduced role of State and federal~~  
12 ~~funding sources, increases the necessity for development impact fees to cover these costs. General~~  
13 ~~property tax revenues will not be adequate to fully fund the costs of the community facilities and~~  
14 ~~infrastructure necessary to mitigate the impacts of new development in the Visitacion Valley~~  
15 ~~neighborhood.~~

16 ~~Development impact fees are a more cost-effective, realistic way to implement mitigations to a~~  
17 ~~local neighborhood associated with particular developments' impacts. As important, the proposed~~  
18 ~~Visitacion Valley Community Facilities and Infrastructure Fee would be dedicated to the Visitacion~~  
19 ~~Valley area, directing benefits of the fund directly to those who pay into the fund.~~

20 ~~While this fee will increase the overall burden on new development in the neighborhood, the~~  
21 ~~burden is typically reflected in a reduced sale price for developable land, or passed on to the~~  
22 ~~buyers/renters of housing in the neighborhood and thus is borne primarily by those who have caused~~  
23 ~~the impact and who will ultimately enjoy the benefits of the community improvements it pays for.~~

24 ~~The purpose of the Visitacion Valley Community Facilities and Infrastructure Fee is to provide~~  
25 ~~specific improvements, including active recreational spaces, pedestrian and streetscape improvements,~~

1 ~~and other facilities and services. The Visitacion Valley Community Facilities and Infrastructure Fee~~  
2 ~~will create the necessary financial mechanism to fund these improvements in proportion to the need~~  
3 ~~generated by new development.~~

4 ~~The capital improvements that the fee would fund are clearly described in the ordinance. The~~  
5 ~~fee would be solely used to fund the acquisition, design, and construction of community facilities in the~~  
6 ~~Visitacion Valley neighborhood. The proposed fees only cover impacts caused by new development and~~  
7 ~~are not intended to remedy already existing deficiencies; those costs will be paid for by other sources.~~

8 ~~The City has existing plans for the community facility and infrastructure projects to be funded~~  
9 ~~through this fee. The San Francisco Public Library has an account established, initial funds~~  
10 ~~appropriated, and adopted plans and a preliminary construction schedule for the Visitacion Valley~~  
11 ~~Branch Library. The San Francisco Department of Recreation and Parks has accounts established,~~  
12 ~~initial funds appropriated, and adopted plans and a preliminary construction schedule for the~~  
13 ~~Visitacion Valley projects identified herein. The Department of Public Works, in coordination with the~~  
14 ~~Planning Department, has an account established and adopted plans and a preliminary construction~~  
15 ~~schedule for the Leland Avenue street improvements. It is anticipated that the remaining community~~  
16 ~~facility and infrastructure projects would be at a similar stage of development in terms of having~~  
17 ~~accounts established and plans adopted as the projects listed above when the final developments~~  
18 ~~covered by this ordinance are to apply for City permits.~~

19 ~~C. — In order to enable the City and County of San Francisco to create a unified, attractive,~~  
20 ~~and safe residential Visitacion Valley neighborhood, and to mitigate the impacts of potential new large~~  
21 ~~developments on community amenities, it is necessary to upgrade existing streets and streetscaping and~~  
22 ~~to develop neighborhood public services, active recreational spaces, and community facilities. To fund~~  
23 ~~such community infrastructure and amenities, new residential development in the neighborhood shall~~  
24 ~~be assessed development impact fees proportionate to the increased demand or such infrastructure and~~

1 amenities created by the new housing. The City will use the proceeds of the fee to develop community  
2 facilities and infrastructure within Visitacion Valley that provides direct benefits to the new housing.

3 ~~The development of community facilities and infrastructure in the Visitacion Valley  
4 neighborhood will provide a benefit to new residents beyond the provision of services. It is anticipated  
5 that new residents will realize an increase in property values due to the enhanced neighborhood  
6 amenities financed with the proceeds of the fee. A Visitacion Valley Community Facilities and  
7 Infrastructure Fee shall be established for new residential development within Visitacion Valley as set  
8 forth herein.~~

9 ~~The proposed improvements described below are necessary to serve the new population at the  
10 anticipated densities. Cost estimates are based on an assessment of the potential cost to the City of  
11 providing the specific improvements. Developer contributions are based upon the percentage of new  
12 residents expected in Visitacion Valley at these four project sites, or 23.2%, with the exception of  
13 improvements necessary to mitigate impacts that are created entirely by the developers. In these cases,  
14 developer contributions are set at 100%.~~

15 ~~The proposed Visitacion Valley Community Facilities and Infrastructure Fee would fund  
16 mitigations of the impacts of new development on:~~

- 17 ~~• Active Recreational Spaces: development of neighborhood playground, pool, and outdoor  
18 education center~~
- 19 ~~• Library Facilities: construction of a new neighborhood library~~
- 20 ~~• Community Facilities: development of community spaces available for public uses~~
- 21 ~~• Streetscape Improvements: Blanken Avenue sidewalk widening and lighting improvements;  
22 Leland Avenue streetscape improvements~~

23 ~~Active Recreational Space: The San Francisco Recreation and Park Department has provided a  
24 cost estimate of necessary improvements to the Kelloch Velasco Playground (\$2,222,500), the Coffman  
25~~

1 ~~Pool (\$10,600,000), and the Visitacion Valley Greenway Educational Center for the Sciences and Arts~~  
2 ~~at Tioga Avenue (\$2,054,000). The total developer contribution is deemed to be \$3,451,348.~~

3 ~~Library Facilities: The San Francisco Public Library has provided a cost estimate for the~~  
4 ~~construction of the Visitacion Valley Branch Library (\$9,350,000). The total developer contribution is~~  
5 ~~deemed to be \$2,169,200.~~

6 ~~Community Facilities: In the Rincón Hill Plan adopted by the Board of Supervisors, the San~~  
7 ~~Francisco Planning Department determined a need of community facilities space at 2.29 square feet for~~  
8 ~~every new resident. Based upon the 4,968 new residents projected for Visitacion Valley from residential~~  
9 ~~development in large opportunity sites, there would be a need for 11,376 square feet of new community~~  
10 ~~center space.~~

11 ~~For a comparable land cost, the San Francisco Public Library acquired its current development~~  
12 ~~site on Leland Avenue for \$135 per square foot. For comparable improvement costs, the San Francisco~~  
13 ~~Planning Department estimated a cost of \$400 per square foot to build a new community center in~~  
14 ~~Rincón Hill. Taken together, the cost to build a new community center in Visitacion Valley for the new~~  
15 ~~residents is estimated to be \$6,086,160, a cost to be entirely borne by the developers.~~

16 ~~Streetscape Improvements: DPW and San Francisco Public Utilities Commission estimate the~~  
17 ~~cost to upgrade the Blanken Avenue tunnel to make it more accessible for pedestrians, to be \$152,755.~~  
18 ~~This estimate includes widening the sidewalk and improving the lighting in the tunnel. Because these~~  
19 ~~improvements are necessary to accommodate new pedestrian traffic and to minimize automobile use~~  
20 ~~in the new developments, this cost is to be entirely borne by the developers.~~

21 ~~DPW and the Planning Department have provided a cost estimate for improvements to Leland~~  
22 ~~Avenue, the commercial core of Visitacion Valley (\$2,621,730). The total developer contribution is~~  
23 ~~deemed to be \$608,241.~~

24 ~~Total Developer Contribution: The total developer contribution for Visitacion Valley~~  
25 ~~community facilities and infrastructure improvements is \$12,467,704. At an estimated 2,449,000 square~~

1 ~~feet of new residential development, the developer contribution is \$5.09 per square foot. The Visitacion~~  
2 ~~Valley Community Facilities and Infrastructure Fee shall be established at \$4.58 per square foot, or~~  
3 ~~90% of the estimated costs of the community improvements. By charging developers less than the~~  
4 ~~maximum amount of the justified impact fee, the City avoids any need to refund money to developers if~~  
5 ~~fees collected exceed costs.~~

6 ~~D. The Board of Supervisors finds that the Fees imposed in Section 420.1 et seq. as impact~~  
7 ~~fees to fund specific improvements, including active recreational spaces, pedestrian and streetscape~~  
8 ~~improvements, and other facilities and services, are proportionate to the need generated by residential~~  
9 ~~development projects in Visitacion Valley. It shall be the policy of the Board of Supervisors that no~~  
10 ~~additional development impact fees specific to Visitacion Valley will be imposed to fund the specific~~  
11 ~~improvements described above. It is the policy of the Board of Supervisors that any future changes to~~  
12 ~~citywide impact fees or other exactions will apply equally to Visitacion Valley as to other areas of the~~  
13 ~~City, unless otherwise excepted by the Board.~~

14 **SEC. 420.2. DEFINITIONS.** See Section 401 of this Article.

15 **SEC. 420.3. APPLICATION.**

16 (a) Application: Section 420.1 et seq. shall apply to all residential development  
17 projects that:

- 18 (1) are located in Visitacion Valley; and  
19 (2) have both not filed an application or a building permit, site permit, conditional  
20 use, planned unit development, environmental evaluation, Zoning Map amendment or  
21 General Plan amendment prior to September 1, 2003, and have filed an application for a  
22 building permit, site permit, conditional use, planned unit development, environmental  
23 evaluation, Zoning Map amendment or General Plan amendment on or after September 1,  
24 2003.



1 (b) Amount of Fee. The Visitacion Valley Community Facilities and Infrastructure  
2 Fee ("Fee") shall be ~~\$4,124.58~~ for each net addition of ~~occupiable~~ gross square feet of  
3 residential use within a development project subject to this Section.

4 (c) Credits for In-Kind Improvements: Option for In-Kind Provision of Community  
5 Infrastructure and Fee Credits. Project sponsors may propose to directly provide community  
6 improvements to the City. In such a case, the City may enter into an In-Kind Improvements Agreement  
7 with the sponsor and issue a fee waiver for the Visitacion Valley Community Facilities and  
8 Infrastructure Fee from the Planning Commission, subject to the following rules and requirements:

9 (1) Approval criteria. The City shall not enter into an In-Kind Agreement unless the  
10 proposed in-kind improvements meet an identified community need and where they substitute for  
11 improvements that could be provided by the Visitacion Valley Community Facilities and Infrastructure  
12 Fund. The City may reject in-kind improvements if they are not consistent with the priorities identified  
13 in the Visitacion Valley Community Facilities and Infrastructure Fee Program, by the Interagency Plan  
14 Implementation Committee (see Section 36 of the Administrative Code), or other prioritization  
15 processes related to Visitacion Valley community improvements programming. No physical  
16 improvement or provision of space otherwise required by the Planning Code or any other City Code  
17 shall be eligible for consideration as part of this In-Kind Improvements Agreement.

18 (2) Valuation. The Director of Planning shall determine the appropriate value of the  
19 proposed in-kind improvements. For the purposes of calculating the total value, the project sponsor  
20 shall provide the Planning Department with a cost estimate for the proposed in-kind improvement(s)  
21 from two independent sources or, if relevant, real estate appraisers. If the City has completed a  
22 detailed site-specific cost estimate for a planned improvement this may serve as one of the cost  
23 estimates provided it is indexed to current cost of construction.

24 (3) Content of the In-Kind Improvements Agreement. The In-Kind Improvements Agreement  
25 shall include at least the following items:

1           (i) A description of the type and timeline of the proposed in-kind improvements.

2           (ii) The appropriate value of the proposed in-kind improvement, as determined in subsection  
3 (2) above.

4           (iii) The legal remedies in the case of failure by the project sponsor to provide the in-kind  
5 improvements according to the specified timeline and terms in the agreement. Such remedies shall  
6 include the method by which the City will calculate accrued interest.

7           (4) Approval Process. The Planning Commission must approve the material terms of an In-  
8 Kind Agreement. Prior to the parties executing the Agreement, the City Attorney must approve the  
9 agreement as to form and to substance. The Director of Planning is authorized to execute the  
10 Agreement on behalf of the City. If the Planning Commission approves the In-Kind Agreement, it shall  
11 waive the amount of the Visitacion Valley Community Facilities and Infrastructure Fee by the value of  
12 the proposed In-Kind Improvements Agreement as determined by the Director of Planning. No credit  
13 shall be made for land value unless ownership of the land is transferred to the City or a permanent  
14 public easement is granted, the acceptance of which is at the sole discretion of the City. The maximum  
15 value of the In-Kind Improvements Agreement shall not exceed the required Visitacion Valley  
16 Community Facilities and Infrastructure Fee.

17           (5) Administrative Costs. Project sponsors that pursue an In-Kind Improvements Agreement  
18 will be billed time and materials for any administrative costs that the Planning Department or any  
19 other City entity incurs in negotiating, drafting, and monitoring compliance with the In-Kind  
20 Improvements Agreement.

21           (1) ~~Credit for On-Site Community Facilities: In its review of a proposed residential~~  
22 ~~development project subject to Section 420.1 et seq., the Planning Commission and Board of~~  
23 ~~Supervisors shall apply the planning standard of 2.29 square feet of community facilities space for each~~  
24 ~~new resident projected at the residential development project to calculate the residential development~~  
25 ~~project's allocation of community facilities space. The project sponsor shall receive a credit against the~~

1 ~~Fee of \$535 per square foot of community facilities space provided on site within the boundaries of the~~  
2 ~~residential development project, provided that such credit shall not exceed \$2.24 multiplied by the net~~  
3 ~~addition of occupiable square feet of residential use in the residential development project. To qualify~~  
4 ~~for a credit, the community facilities shall be open and available to the general public on the same~~  
5 ~~terms and conditions as to residents of the residential development project in which the community~~  
6 ~~facilities are located.~~

7 ~~(2) Credit for Improvements to Blanken Avenue: The Commission may reduce the Fee~~  
8 ~~described in this Section for specific residential development proposals in cases where the Ssponsor~~  
9 ~~has entered into an agreement with the City, in form acceptable to the City Attorneys' Office, to provide~~  
10 ~~in-kind improvements to Blanken Avenue. For the purposes of calculating the total value of the in-kind~~  
11 ~~community improvements, the project Sponsor shall provide the Department with a cost estimate for the~~  
12 ~~proposed in-kind improvements from two independent contractors. Based on these estimates, the~~  
13 ~~Director of Planning shall determine their appropriate value and the Commission may reduce the Fee~~  
14 ~~assessed to that project proportionally. The Commission may not reduce the fee by an amount greater~~  
15 ~~than the amount that would be the Sponsor's contribution toward the Blanken Avenue improvements if~~  
16 ~~the Sponsor were to pay the Fee.~~

17 (d) Timing and Payment of Fee. Any fee required by Section 420.1 et seq. shall be  
18 paid to the Development Fee Collection Unit at DBI prior to issuance of the first construction  
19 document, with an option for the project sponsor to defer payment to prior to issuance of the  
20 first certificate of occupancy upon agreeing to pay a deferral surcharge that would be  
21 deposited into the Visitacion Valley Community Facilities and Infrastructure Fund in  
22 accordance with Section 402 of this Article and Section 107A.13 of the San Francisco Building  
23 Code.

24 SEC. 420.4. IMPOSITION OF REQUIREMENTS.  
25

1 (a) Determination of Requirements. The Department shall determine the  
2 applicability of Section 420.1 et seq. to any development project requiring a building or site  
3 permit and, if Section 420.1 et seq. is applicable, the net addition of ~~occupiable~~ gross square  
4 feet of residential use subject to its requirements, and shall impose the fee requirements as a  
5 condition of approval for issuance of the building or site permit. The project sponsor shall  
6 supply any information necessary to assist the Department in this determination.

7 (b) Notice to Development Fee Collection Unit of Requirements. Prior to issuance  
8 of the building or site permit for a development project subject to Section 420 et seq., the  
9 Department shall notify the Development Fee Collection Unit at DBI of its final determination  
10 of any fee requirements, including any fee credits for in-kind improvements, in addition to the  
11 other information required by Section 402(b) of this Article.

12 (c) Development Fee Collection Unit Notice to Department. The Development Fee  
13 Collection Unit at DBI shall provide notice in writing or electronically to the Department prior to  
14 issuing the first certificate of occupancy for any development project subject to Section 420.1  
15 et seq. that has elected to satisfy its fee requirement with credits-in-kind improvements. If the  
16 Department notifies the Unit at such time that the sponsor has not satisfied the in-kind  
17 improvements requirements of Section 420.3, the Director of DBI shall deny any and all  
18 certificates of occupancy until the subject project is brought into compliance.

19 (d) Process for Revisions of Determination of Requirements. In the event that the  
20 Department or the Commission takes action affecting any development project subject to  
21 Section 420.1 et seq. and such action is subsequently modified, superseded, vacated, or  
22 reversed by the Department or the Commission, Board of Appeals, the Board of Supervisors,  
23 or by court action, the procedures of Section 402(c) of this Article shall be followed.

24 SEC. 420.4.LIEN PROCEEDINGS. If, for any reason, the fee imposed under Section  
25 420.3 remains unpaid following issuance of the certificate of occupancy, the Development Fee

1 Collection Unit at DBI shall institute lien proceedings to make the entire unpaid balance of the  
2 fee, plus interest and any deferral surcharge, a lien against all parcels used for the  
3 development project in accordance with Section 408 of this Article and Section 107A.13.215  
4 of the San Francisco Building Code.

5 SEC. 420.5. VISITACION VALLEY COMMUNITY FACILITIES AND  
6 INFRASTRUCTURE FUND.

7 (a) There is hereby established a separate fund set aside for a special purpose  
8 entitled the Visitacion Valley Community Facilities and Infrastructure Fund ("Fund"). All  
9 monies collected by DBI pursuant to Section 420.3(b) shall be deposited in the Fund which  
10 shall be maintained by the Controller.

11 (b) The receipts in the Fund are, subject to the budgetary and fiscal provisions of  
12 the Charter, to be used solely to fund community facilities and infrastructure in Visitacion  
13 Valley, including but not limited to capital improvements to library facilities, playgrounds,  
14 recreational facilities, open space, childcare, and transportation, and major streets.

15 (c) No portion of the Fund may be used, by way of loan or otherwise, to pay any  
16 administrative, general overhead, or similar expense of any public entity, except for the  
17 administration of this fund in an amount not to exceed 4% of the total annual revenue.

18 (d) The Controller shall not release any monies from the Fund without prior approval  
19 of the Board of Supervisors for an expenditure. City Agencies responsible for the construction  
20 or improvement of public infrastructure subject to this ordinance, including but not limited to  
21 the San Francisco Public Library, DPW, MTA, DCYFS, and the Department of Recreation and  
22 Parks, shall request funds from the Board of Supervisors as necessary. Before approving any  
23 expenditures, the Board of Supervisors shall determine the relative impact from the residential  
24 development on public infrastructure in Visitacion Valley described in Section 420.56(b) and  
25

1 shall insure that the expenditures are consistent with mitigating the impacts from the  
2 development.

3 (e) The Controller's Office shall file an annual report with the Board of Supervisors  
4 beginning one year after the effective date of Section 418.1 et seq., which report shall set  
5 forth the amount of money collected in the Fund.

6  
7 APPROVED AS TO FORM:  
8 DENNIS J. HERRERA, City Attorney

9 By:

  
10 Susan Cleveland-Knowles  
11 Deputy City Attorney  
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**LEGISLATIVE DIGEST**

[Planning Code –The Visitacion Valley Community Facilities and Infrastructure Fee and Fund]

**Ordinance amending Planning Code Sections 420.1 through 420.5 to update the Visitacion Valley Community Facilities and Infrastructure Fee and Fund and to conform the program with other Area Plan fee programs; making conforming changes to Sections 401 (definitions) and 406 (waiver); and making findings, including environmental findings.**

Existing Law

The Board adopted the Visitacion Valley Community Facilities and Infrastructure Fee and Fund in November 2005 (the "Program"). The fee of \$4.58 applies to all residential developments of 20 units or more in the Visitacion Valley area to mitigate impacts from development on recreational space, library facilities, community facilities, streetscape improvements. The fee was imposed on each net addition of "occupiable" square feet. The Program allowed credit for in-kind improvements, but only for on-site community facilities and improvements to Blanken Avenue. The Program did not permit fees to be used for administrative costs.

Amendments to Current Law

The proposed legislation would update the findings supporting the Program. In addition, subsequent to the adoption of the Program, the Board adopted other, similar fees in Area Plans such as Balboa Park, Market and Octavia and the Eastern Neighborhoods. In recent amendments the Board adopted legislation moving all of the area plan fees into a new Article IV of the Planning Code, and in the process removed many inconsistencies in the fee programs. Some inconsistencies still remain. For example, while other fee programs apply to residential and commercial developments of almost any size, this Program continues to apply only to residential developments and only to developments of 20 units or more. The legislation does harmonize the Program by including a new process for in-kind improvements that allows in-kind improvements for any portion of the fee with the approval of the Planning Commission and allows for up to 4% of the fee proceeds to be used for administration of the Program. The legislation also changes the calculation of the fee from a calculation based on "occupiable square feet" to "gross square feet" that is the method used by the other fee programs. Due to the different method of calculation, the fee is reduced to \$4.12 per gross square foot.

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

October 6, 2010

File No. 101247

Bill Wycko  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Mr. Wycko:

On September 28, 2010, Supervisor Maxwell introduced the following proposed legislation:

**File No. 101247**

Ordinance amending the San Francisco Planning Code by amending Sections 420.1 through 420.5 to update the Visitacion Valley Community Facilities and Infrastructure Fee and Fund and to conform the program with other Area Plan fee programs; making conforming changes to Sections 401 (definitions) and 406 (waiver, reduction, or adjustment of development project requirements); and making findings, including environmental findings.

The legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Somera".

By: Alisa Somera, Committee Clerk  
Land Use & Economic Development Committee

Attachment

c: Nannie Turrell, Major Environmental Analysis  
Brett Bollinger, Major Environmental Analysis

*Exempt from CEQA per  
CEQA Guidelines,  
Section 15273, Rates,  
Tolls, Fares and Charges.*

*Nannie R. Swell  
October 6, 2010*