

1 [Planning, Administrative, and Health Codes - Waiving Fees and Exempting Requirements,
2 Authorizing Land Dedication ~~or Construction of Off-Site Units~~, Establishing 180 Jones Street
3 Affordable Housing Fund, Accepting Gifts, Authorizing Payment - 950-974 Market Street
4 Project]

5 **Ordinance waiving the Jobs-Housing Linkage Fee set forth in Planning Code, Section**
6 **413 et seq., the Inclusionary Affordable Housing requirements set forth in Planning**
7 **Code, Section 415 et seq., and the alternative water supply requirements set forth in**
8 **Health Code, Article 12C; exempting 26,572 square feet from the calculation of gross**
9 **floor area pursuant to Planning Code, Section 124, to allow the additional floor area,**
10 **and exempting 26,572 square feet from Planning Code, Sections 123 and 128, to reduce**
11 **any required transferable development rights by such amount, for a project located at**
12 **950-974 Market Street in San Francisco, in exchange for either (1) the dedication of real**
13 **property at 180 Jones Street to the San Francisco Mayor's Office of Housing and**
14 **Community Development at no cost and payment of approximately**
15 **~~\$12,800,000~~11,250,000 to the 180 Jones Street Affordable Housing Fund, ~~or (2) the~~**
16 **~~construction of a minimum of 60 and a maximum of 70 affordable studio or efficiency~~**
17 **~~rental units at 180 Jones Street; establishing the 180 Jones Street Affordable Housing~~**
18 **~~Fund; accepting a \$2,000,000~~2,700,000 gift to the 180 Jones Street Affordable Housing**
19 **~~Fund; accepting a \$300,000 gift to the City, to create the Compton's District~~**
20 **~~Transgender, Lesbian, Gay and Bisexual (TLGB) Stabilization Fund, to support the~~**
21 **~~City's efforts to recognize and support historic and present-day TLGB communities in~~**
22 **~~the Tenderloin neighborhood; authorizing actions in furtherance of this Ordinance;~~**
23 **adopting findings regarding the Final Mitigated Negative Declaration under the**
24 **California Environmental Quality Act; making findings of public necessity,**
25 **convenience, and welfare under Planning Code, Section 302; and making findings of**

1 consistency with the General Plan, and the eight priority policies of Planning Code,
2 Section 101.1.

3
4 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
5 **Additions to Codes** are in *single-underline italics Times New Roman font*.
6 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
7 **Board amendment additions** are in double-underlined Arial font.
8 **Board amendment deletions** are in ~~strikethrough Arial font~~.
9 **Asterisks (* * * *)** indicate the omission of unchanged Code
10 subsections or parts of tables.

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

12 Section 1. Findings.

13 (a) It is the intention of the Board of Supervisors to (1) waive the requirements set forth
14 in Planning Code Section 413 et seq. to pay the Jobs-Housing Linkage Fee, (2) waive the
15 requirements set forth in Planning Code Section 415 et seq. to pay the Affordable Housing
16 Fee or to provide on-site or off-site inclusionary housing units, (3) waive the alternative water
17 supply requirements set forth in Health Code Article 12C, (4) exempt 26,572 square feet from
18 the calculation of allowable gross floor area set forth in Planning Code Section 124 to permit
19 additional floor area on the site, (5) exempt 26,572 square feet from the calculation of
20 required transferable development rights (“TDR”) to reduce the TDR necessary for the project
21 located at 950-974 Market Street, Assessor’s Block No. 0342, Lots No. 001, 002, 004, and
22 014 (“Project”), (6) authorize Mid-Market Center LLC (“Project Sponsor”) to either (A) dedicate
23 the real property located at 180 Jones Street, Assessor’s Block No. 0343, Lot 14 (“Dedicated
24 Property”) to the San Francisco Mayor’s Office of Housing and Community Development
25 (“MOHCD”) for \$10 and pay \$46.8 15.4 million, less the acquisition cost of the Dedicated
Property (estimated to be \$4.15 million), to the 180 Jones Street Affordable Housing Fund
(the “180 Jones Fund”) or (B) ~~construct a minimum of 60 and a maximum of 70 affordable
studio or efficiency units at the Dedicated Property (the “Off-Site Units”);~~ (7) accept a gift of

1 \$2.7 Mmllion to the 180 Jones Fund, and (8) establish the 180 Jones Fund; and (9) accept a
2 gift of \$300,000 to the City, to support the City's efforts to recognize and support historic and
3 present-day Transgender, Lesbian, Gay and Bisexual (TLGB) communities in the Tenderloin
4 neighborhood.

5 (b) The proposed waivers and exemptions, corresponding land dedication and
6 establishment of and payment to the 180 Jones Fund ~~or construction of Off-Site Units~~ are
7 necessary to implement construction of the Project and to facilitate potential development on
8 the Dedicated Property of a 100% affordable residential development. The Project is a multi-
9 family residential and hotel development project with ground floor retail space located on a
10 34,262 square foot project site within the Downtown Plan Area and the Downtown/Civic
11 Center neighborhood and is located within the C-3-G (Downtown General) Zoning and 120-X
12 Height and Bulk District. The floor area ratio (FAR) limit as defined by Planning Code Section
13 124 for the C-3-G District is 6.0:1. Under Sections 123 and 128 of the Planning Code, the
14 FAR can be increased to 9.0 to 1 with the purchase of TDR.

15 (c) The Project would provide approximately 242 dwelling units, a 232-room hotel, and
16 16,600 gross square feet of ground-floor commercial retail space. The Project applied to
17 provide 31 for sale on-site inclusionary affordable dwelling units (comprising thirteen percent
18 (13%) of the total number of units and 26,572 gross square feet of floor area) to comply with
19 the requirements of Section 415 et seq. The Project sponsor also sought a conditional use
20 permit to allow the additional square footage for the affordable units pursuant to Planning
21 Code Section 124(f).

22 (d) The Project now proposes to provide land and funds to the City to construct off-site
23 affordable housing, equivalent to ~~or to construct~~ a minimum of 60 ~~and a maximum of 70~~ off-
24 site affordable units, equivaalent to not less than 25% of the number of on-site market-rate
25 units. The proposed Sections 413 and 415 waivers and Sections 123, 124 and 128 floor area

1 exemptions proposed in this ordinance will enable the Project to be constructed without on-
2 site inclusionary affordable dwelling units, without the need to acquire an additional 26,572
3 gross square feet of transferable development rights, and without the need to procure a
4 conditional use permit for the extra square footage as was otherwise required by Planning
5 Code Section 124(f) for the on-site affordable housing. This ordinance will allow the Project
6 Sponsor to withdraw the Section 124(f) conditional use application without forfeiting the
7 Section 124 gross floor area exemption proposed for the 26,572 gross square feet associated
8 with the prior on-site inclusionary affordable units. As set forth below, dedication to the City of
9 the Dedicated Property, establishment of the 180 Jones Fund and payment by the Project
10 Sponsor to the 180 Jones Fund ~~or construction by the Project Sponsor of the Off-Site Units~~
11 would allow the City to provide a greater number of affordable housing units at a lower median
12 income level than could otherwise be provided on-site, if a 100% affordable residential
13 development is approved at the Dedicated Property.

14 (e) The Dedicated Property located at 180 Jones Street is 4,743 square foot in land
15 area and has ~~an approximate~~ an acquisition cost of \$4.15 million. The Dedicated Property
16 was previously approved for construction of 37 one- and two-bedroom dwelling units and
17 ground floor commercial space and can accommodate approximately 30,818 square feet of
18 above ground development. The conveyance by the Project Sponsor of the Dedicated
19 Property and payment by the Project Sponsor to the 180 Jones Fund ~~or construction by the~~
20 ~~Project Sponsor of the Off-Site Units~~ would allow the City to modify the previously approved
21 plans to instead provide a 100% affordable rental residential housing development of
22 ~~approximately at minimum 60 to 70 efficiency dwelling unit affordable housing development~~
23 for ~~to~~ low income households on the Dedicated Property, if such project is approved at the
24 Dedicated Property. This would be a significant increase in the City's stock of affordable
25 housing in the Downtown/Civic Center neighborhood, compared to the previously

1 contemplated 31 for sale on-site inclusionary affordable units affordable to moderate income
2 households at the Project site.

3 (f) The Project Sponsor has offered a \$300,000 gift to MOHCD, to be paid prior to the
4 first construction document for the Project, for purposes of creating the Compton's District
5 TLGB Stabilization Fund, and help recognize and support historic and present-day TLGB
6 communities in the Tenderloin neighborhood.

7 (f) On November 17, 2016, the Planning Commission conducted a duly noticed public
8 hearing on the ordinance, including the waiver of fee payments and requirements under
9 Planning Code Sections 413 et seq. and 415 et seq., waiver of Health Code Article 12C, and
10 the exemption of 26,572 gross square feet from the calculation of gross floor area as set forth
11 in Planning Code Section 124 and from the requirements to purchase TDR under Planning
12 Code Sections 123 and 128. The Planning Commission, in Motion No. 19781, found that the
13 ordinance is, on balance, consistent with the City's General Plan and the eight priority policies
14 of Planning Code Section 101.1. A copy of the Planning Commission Motion is on file with
15 the Clerk of the Board of Supervisors in File No. 161066 and is incorporated herein by
16 reference. The Board adopts the Planning Commission findings as its own.

17 (g) Pursuant to Planning Code Section 302, this Board finds that this ordinance will
18 serve the public necessity, convenience, and general welfare for the reasons set forth in
19 Planning Commission Motion No. 19781 and the Board incorporates such reasons herein by
20 reference.

21 (h) On November 17, 2016, the Planning Commission finalized, reviewed and
22 considered the Final Mitigated Negative Declaration (FMND) prepared for the Project located
23 at 950-974 Market Street and found that the contents of the FMND and the procedures
24 through which the FMND was prepared, publicized, and reviewed complied with the California
25 Environmental Quality Act, California Public Resources Code Sections 21000 et seq. (CEQA),

1 Title 14 California Code of Regulations Sections 15000 et seq. (the “CEQA Guidelines”) and
2 Chapter 31 of the San Francisco Administrative Code (“Chapter 31”). The Planning
3 Commission adopted the FMND, CEQA findings and a Mitigation and Monitoring Reporting
4 Program (MMRP) in its Motion Nos. 19780 and 19783. The CEQA findings and the MMRP
5 contained in Planning Commission Motion No. 19783 are incorporated herein by this
6 reference thereto. The proposed changes contained in this ordinance are not substantial
7 changes to the Project and there are no substantial changes in Project circumstances that
8 would require major revisions to the FMND due to the involvement of new significant
9 environmental effects, nor is there an increase in the severity of previously identified
10 significant impacts, or any new information of substantial importance that would change the
11 conclusions set forth in the FMND.

12 (i) This ordinance does not constitute an approval of any new or revised project
13 located at 180 Jones Street. The Planning Commission adopted a mitigated negative
14 declaration, CEQA findings and a Mitigation and Monitoring Reporting Program in its Motion
15 No. 17838 for the previously approved 37-unit project at the Dedicated Property. The CEQA
16 findings and the MMRP contained in Planning Commission Motion No. 17838 are
17 incorporated herein by this reference thereto, as applicable to the land dedication ~~or Off-Site~~
18 ~~Units~~ authorized by this Ordinance. The City is not otherwise approving any changes to the
19 approved project at 180 Jones Street. If and when any revised project for the Dedicated
20 Property is undertaken by the City, or is submitted to the City for review, the City will conduct
21 any additional environmental review required by CEQA for that project.

22
23 Section 2. Planning Code Fee Waivers, Floor Area and TDR Exemption, and Land
24 Dedication and Payment to the 180 Jones Fund ~~or Construction of Off-Site Units~~.

1 (a) Waiver of Jobs-Housing Linkage Fee and Inclusionary Affordable Housing
2 Requirements and Payment to 180 Jones Fund. Notwithstanding the requirement to pay the
3 Jobs-Housing Linkage Fee pursuant to Planning Code Section 413 et seq. and the Affordable
4 Housing Fee or provide on-site or off-site inclusionary affordable housing alternatives to the
5 Affordable Housing Fee pursuant to Planning Code Section 415 et seq. (Inclusionary Housing
6 Program), the requirements set forth in Planning Code Section 413 et seq. to pay the Jobs-
7 Housing Linkage Fee associated with the Project's hotel and retail uses and the requirements
8 set forth in Planning Code Section 415 et seq. to pay to either pay the Affordable Housing Fee
9 or provide on-site or off-site inclusionary affordable housing alternatives to the Affordable
10 Housing Fee payment for the Project are hereby waived in their entirety.

11 Instead, the Project Sponsor shall be permitted to either:

12 (1) Dedicate a site to the City to be used for affordable housing and to pay money to
13 the 180 Jones Fund. In lieu of paying the Jobs-Housing Linkage Fee and the Affordable
14 Housing Fee or providing on-site or off-site inclusionary affordable housing units, prior to
15 issuance of the first construction document ~~a site or building permit~~ for the Project, the Project
16 Sponsor shall convey in fee simple absolute to the City or MOHCD, according to the land
17 dedication provisions of the City and County of San Francisco Inclusionary Affordable
18 Housing Program Monitoring Procedures Manual issued by the San Francisco Department of
19 City Planning ("Procedures Manual"), the real property located at 180 Jones Street, at no cost
20 to MOHCD. In addition, between issuance of the first construction document and the first
21 temporary certificate of occupancy for the Project as set forth in more detail below, the Project
22 Sponsor shall pay ~~\$18.8~~15.4 ~~M~~Million, less the acquisition cost of the Dedicated Property, to
23 the 180 Jones Affordable Housing Fund established by this Ordinance, which real property
24 and Fund shall be used by MOHCD to facilitate construction of an affordable housing project
25 of ~~approximately at minimum~~ 60 to 70 efficiency dwelling units at 180 Jones Street affordable

1 to low income households. This ~~\$18.8~~15.4 ~~M~~million, comprised of the acquisition cost of the
2 Dedicated Land and payments to the ~~180 Jones Affordable Housing~~ Fund is the equivalent
3 payment of the Project's Jobs-Housing Linkage Fee and an affordable housing percentage
4 fee of 25% under Planning Code Sections 415 et seq., the current affordable housing fee
5 percentage applicable to the Project, plus a gift to the City of ~~approximately \$2.7~~ Million,
6 payable at the first temporary certificate of occupancy, as set forth in Section 5. The
7 conveyance by the Project Sponsor of the Dedicated Land to the City and payments to the
8 180 Jones ~~Affordable Housing~~ Fund shall occur pursuant to the following schedule:

9 A. (A) Conveyance of Dedicated Land: prior to issuance of the first construction
10 document ~~a site or building permit~~ for the Project;

11 B. (B) Payment of \$1.5 million: prior to issuance of the first construction
12 document for the Project, or July 1, 2017, whichever comes first;

13 C. (C) Payment of ~~\$47.3~~ 13.9 million, less the acquisition cost of the Dedicated
14 Land, prior to issuance of the Project's first temporary certificate of occupancy; ~~or,~~

15 ~~(2) Construct a minimum of 60 and a maximum of 70 affordable studio or efficiency~~
16 ~~units at the Dedicated Property, after such project undergoes any required environmental~~
17 ~~review and if such project is approved by the City. In lieu of paying the Jobs-Housing Linkage~~
18 ~~Fee and the Affordable Housing Fee or providing on-site or off-site inclusionary affordable~~
19 ~~housing units, the Project Sponsor shall provide evidence to the City that it has acquired fee~~
20 ~~simple title to the Dedicated Property prior to issuance of the Project's first construction~~
21 ~~document. The Project Sponsor shall ensure that the off-site units are constructed, completed,~~
22 ~~ready for occupancy, and marketed no later than three years after the City approves such~~
23 ~~project at the Dedicated Property. It is the intent of the Board of Supervisors that the~~
24 ~~affordable units at the Dedicated Property be comparable in overall quality of construction to~~
25 ~~the market rate units in the Project, and the interior features in the affordable units be~~

1 consistent with the “Quality Standards for Off Site Affordable Housing Units” found in the
2 ~~Procedures Manual.~~

3 (b) Exemption From Floor Area Ratio Calculations. Notwithstanding the provisions of
4 Planning Code Section 124, floor area in the Project equivalent to 26,572 square feet is
5 hereby exempt from the calculation of gross floor area pursuant to Planning Code Section
6 124. This Section 124 floor area exemption shall not reduce the Project’s development
7 impact fee obligations by any amount under Article 4 of the Planning Code and the Project
8 shall pay any applicable development impact fees set forth in Planning Code Article 4 on the
9 total floor area of the Project.

10 (c) TDR Exemption. Notwithstanding the provisions of Planning Code Sections 123
11 and 128, the Project shall be exempt from any applicable requirement to purchase TDR solely
12 for 26,572 square feet of floor area to increase the allowable density on-site. The Project
13 shall be permitted to increase density on-site by 26,572 square feet of floor area without the
14 need to purchase TDR for this amount. The Project shall be otherwise required to comply
15 with Planning Code Sections 123 and 128, and shall purchase TDR for any other necessary
16 increase in density on-site.

17 (d) These waivers and exemptions are contingent upon the Project Sponsor conveying
18 the Dedicated Property to the City and paying the agreed-upon payments, as set forth above.

19
20 Section 3. The Administrative Code Chapter 10, Article XIII is hereby amended by
21 adding Section 10.100-375, to read as follows:

22 **SEC. 10.100-375. 180 JONES STREET AFFORDABLE HOUSING FUND.**

23 (a) Establishment of Fund. The 180 Jones Street Affordable Housing Fund is established as a
24 category four fund to receive fee revenue dedicated to affordable housing and other contributions to the
25 fund. Monies in the fund shall include: ~~The fund receives money from:~~

1 (1) A payment of \$1.8-0.4 million in lieu of the Jobs-Housing Linkage Fee
2 otherwise required under of Planning Code Sections 413 et seq. (Jobs-Housing Linkage Program)
3 Jobs-Housing Linkage Fee payment that the but waived by Board of Supervisors waived for the
4 950-974 Market Street project. This payment is addressed in an ordinance concerning the waiver of
5 the Jobs-Housing Linkage Fee and Inclusionary Housing Requirements, and authorizing other
6 exemptions as well as a land dedication (the “950-974 Market Street Ordinance”), which is on file with
7 the Clerk of the Board of Supervisors in File No. 161066.

8 (2) A payment of \$11-10.85 million in lieu of affordable housing fees otherwise
9 required under of Planning Code Sections 415 et seq. (Inclusionary Housing Program) affordable
10 housing fees that the but waived by Board of Supervisors waived for the 950-974 Market Street
11 project in the 950-974 Market Street Ordinance, on file with the Clerk of the Board of Supervisors in
12 File No. 161066.

13 (3) A gift of \$2.7 million gift from from the Project Sponsor of the 950-95774 Market
14 Street Project, as authorized in the 950-95774 Market Street Ordinance, on file with the Clerk of the
15 Board of Supervisors in File No. 161066.

16 (4) Any other monies donated or appropriated to the fund.

17 (b) Use of Fund. The fund is to be used exclusively by the Mayor's Office of Housing and
18 Community Development (MOHCD), or its successor, for the purpose of supporting construction of
19 affordable housing units at 180 Jones Street (Assessor's Block 0343, Lot 14). If, however, the City fails
20 to approve a revised project at 180 Jones Street after within five years of the last payment to the Fund
21 authorized by the 950-9724 Market Street Ordinance, the money in this the Fund shall be deposited
22 into the Citywide Affordable Housing Fund as established in Administrative Code Section 10.100-49,
23 or its successor fund.

24 (c) Exceptions to Fund Category. The Director of MOHCD shall approve all expenditures
25 from the fund.

1 (d) Administration of Fund. The MOHCD shall administer the fund and shall report annually
2 to the Board of Supervisors on the current status of the fund, the amounts approved for disbursement,
3 and the number and types of housing units assisted. The MOHCD shall have the authority to prescribe
4 rules and regulations governing the fund. Except as provided in subsection (b), any Any
5 unexpended funds remaining after 10 years from the effective date of the ordinance identified in
6 subsections (a)(1) and (a)(2) shall be deposited into the Citywide Affordable Housing Fund as
7 established in Administrative Code Section 10.100-49 or its successor fund.

8
9 Section 4. Health Code Article 12C Waiver.

10 The requirements set forth in Article 12C of the Health Code for projects that obtain a
11 site or building permit after November 1, 2016, to provide an alternative water source
12 (graywater) are hereby waived in their entirety for the Project.

13
14 Section 5. Authorizing Acceptance and Expenditure of Gifts.

15 The Project Sponsor has offered a gift of \$2.7 million to the City, to be paid prior to the
16 Project's first temporary certificate of occupancy. This gift would be given to the 180 Jones
17 Fund, to assist in providing affordable housing at 180 Jones Street. The Board of Supervisors
18 hereby authorizes MOHCD to accept the gift of \$2.7 million from the Project Sponsor, and to
19 expend it consistent with the purposes, procedures and requirements of the 180 Jones Fund.

20 In addition, the Project Sponsor has offered a gift of \$300,000 to the City, acting
21 through MOHCD, for purposes of creating the Compton's District TLGB Stabilization Fund, to
22 help recognize and support historic and present-day TLGB communities in the Tenderloin
23 neighborhood. This gift is to be paid prior to issuance of the first construction document for
24 the Project. The Board of Supervisors hereby accepts the \$300,000 gift from the Project
25 Sponsor. It is the intent of the Board of Supervisors that one third of this gift be used to

1 support the creation of a Compton’s TLGB Cultural Heritage District in the Tenderloin and
2 South of Market neighborhoods; one third be used to support the creation of an transgender-
3 focused community facility in the Tenderloin neighborhood; and another third by to support
4 one or more transgender-focused commercial or nonprofit storefront establishments in the
5 Tenderloin neighborhood. MOHCD shall work with the Supervisor for District 6, members of
6 the community knowledgeable about transgender issues in the Tenderloin, and the Human
7 Rights Commission to help set funding priorities. Expenditures for staffing, loans, grants and
8 property acquisitions and maintenance shall be approved by resolution of the Board of
9 Supervisors.

10
11 Section 6. The Mayor, Clerk of the Board of Supervisors, the Property Director of
12 Property and MOHCD are hereby authorized and directed to take any and all actions which
13 they or the City Attorney may deem necessary or advisable in order to effectuate the purpose
14 and intent of this ordinance (including, without limitation, the filing of the ordinance in the
15 Official Records of the City and County of San Francisco; acceptance of the land dedication;
16 establishment of the 180 Jones Fund and receipt of payments to the 180 Jones Fund; and
17 confirmation of satisfaction of the conditions to the effectiveness of the Planning Code
18 Sections 413 and 415 and Health Code Article 12C waivers and land dedication or Off-Site
19 Unit construction hereunder; and execution and delivery of any evidence of the same, which
20 shall be conclusive as to the satisfaction of the conditions upon signature by any such City
21 official or his or her designee).

22 Section 7. Effective Date. This ordinance shall become effective 30 days after
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
25 of Supervisors overrides the Mayor’s veto of the ordinance.

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

By: _____
ANDREA RUIZ-ESQUIDE
Deputy City Attorney

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