

1 [Planning Code - Waiving Fees and Exempting Requirements, Authorizing Land Dedication or
 2 Construction of Off-Site Units, Establishing 180 Jones Street Affordable Housing Fund,
 Accepting a \$2,000,000 Gift, Authorizing Payment - 950-974 Market Street]

3
 4 **Ordinance waiving the Jobs-Housing Linkage Fee set forth in Planning Code, Section**
 5 **413 et seq., the Inclusionary Affordable Housing requirements set forth in Planning**
 6 **Code, Section 415 et seq., and the alternative water supply requirements set forth in**
 7 **Health Code, Article 12C; exempting 26,572 square feet from the calculation of gross**
 8 **floor area pursuant to Planning Code, Section 124, to allow the additional floor area,**
 9 **and exempting 26,572 square feet from Planning Code, Sections 123 and 128, to reduce**
 10 **any required transferable development rights by such amount, for a project located at**
 11 **950-974 Market Street, in exchange for either (1) the dedication of real property at 180**
 12 **Jones Street to the San Francisco Mayor's Office of Housing and Community**
 13 **Development at no cost and payment of approximately \$12,800,000 to the 180 Jones**
 14 **Street Affordable Housing Fund, or (2) the construction of a minimum of 60 and a**
 15 **maximum of 70 affordable studio or efficiency rental units at 180 Jones Street;**
 16 **establishing the 180 Jones Street Affordable Housing Fund; accepting a \$2,000,000 gift**
 17 **to the 180 Jones Street Affordable Housing Fund; authorizing actions in furtherance of**
 18 **this Ordinance; adopting findings regarding the Final Mitigated Negative Declaration**
 19 **under the California Environmental Quality Act; making findings under Planning Code,**
 20 **Section 302; and making findings of consistency with the General Plan, and the eight**
 21 **priority policies of Planning Code, Section 101.1.**

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 23 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 24 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 25 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.

Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Findings.

(a) It is the intention of the Board of Supervisors to (1) waive the requirements set forth in Planning Code Section 413 et seq. to pay the Jobs-Housing Linkage Fee, (2) waive the requirements set forth in Planning Code Section 415 et seq. to pay the Affordable Housing Fee or to provide on-site or off-site inclusionary housing units, (3) waive the alternative water supply requirements set forth in Health Code Article 12C, (4) exempt 26,572 square feet from the calculation of allowable gross floor area set forth in Planning Code Section 124 to permit additional floor area on the site, (5) exempt 26,572 square feet from the calculation of required transferable development rights (“TDR”) to reduce the TDR necessary for the project located at 950 Market Street, Assessor’s Block No. 0342, Lots No. 001, 002, 004, and 014 (“Project”), (6) authorize Mid-Market Center LLC (“Project Sponsor”) to either (A) dedicate the real property located at 180 Jones Street, Assessor’s Block No. 0343, Lot 14 (“Dedicated Property”) to the San Francisco Mayor’s Office of Housing and Community Development (“MOHCD”) at no cost and pay \$16.8 million, less the acquisition cost of the Dedicated Property (estimated to be \$4 million), to the 180 Jones Street Affordable Housing Fund (the “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 \$2 Million to the Fund, and (8) establish the Fund.

(b) The proposed waivers and exemptions, corresponding land dedication and establishment of and payment to the Fund or construction of Off-Site Units are necessary to implement construction of the Project and to facilitate potential development on the Dedicated Property of a 100% affordable residential development. The Project is a multi-family

1 residential and hotel development project with ground floor retail space located on a 34,262
2 square foot project site within the Downtown Plan Area and the Downtown/Civic Center
3 neighborhood and is located within the C-3-G (Downtown General) Zoning and 120-X Height
4 and Bulk District. The floor area ratio (FAR) limit as defined by Planning Code Section 124 for
5 the C-3-G District is 6.0:1. Under Sections 123 and 128 of the Planning Code, the FAR can be
6 increased to 9.0 to 1 with the purchase of TDR.

7 (c) The Project would provide approximately 242 dwelling units, a 232-room hotel, and
8 16,600 gross square feet of ground-floor commercial retail space. The Project applied to
9 provide 31 for sale on-site inclusionary affordable dwelling units (comprising thirteen percent
10 (13%) of the total number of units and 26,572 gross square feet of floor area) to comply with
11 the requirements of Section 415 et seq. The Project sponsor also sought a conditional use
12 permit to allow the additional square footage for the affordable units pursuant to Planning
13 Code Section 124(f).

14 (d) The Project now proposes to provide land and funds to the City to construct off-site
15 affordable housing or to construct a minimum of 60 and a maximum of 70 off-site affordable
16 units, equivalent to not less than 25% of the number of on-site market-rate units. The
17 proposed Sections 413 and 415 waivers and Sections 123, 124 and 128 floor area
18 exemptions will enable the Project to be constructed without on-site inclusionary affordable
19 dwelling units, without the need to acquire an additional 26,572 gross square feet of
20 transferable development rights, and without the need to procure a conditional use permit for
21 the extra square footage as was otherwise required by Planning Code Section 124(f) for the
22 on-site affordable housing. This ordinance will allow the Project Sponsor to withdraw the
23 Section 124(f) conditional use application without forfeiting the Section 124 gross floor area
24 exemption proposed for the 26,572 gross square feet associated with the prior on-site
25 inclusionary affordable units. As set forth below, dedication to the City of the Dedicated

1 Property, establishment of the Fund and payment by the Project Sponsor to the Fund or
2 construction by the Project Sponsor of the Off-Site Units would allow the City to provide a
3 greater number of affordable housing units at a lower median income level than could
4 otherwise be provided on-site, if a 100% affordable residential development is approved at the
5 Dedicated Property.

6 (e) The Dedicated Property located at 180 Jones Street is 4,743 square foot in land
7 area and has an approximate acquisition cost of \$4 million. The Dedicated Property was
8 previously approved for construction of 37 one- and two-bedroom dwelling units and ground
9 floor commercial space and can accommodate approximately 30,818 square feet of above
10 ground development. The conveyance by the Project Sponsor of the Dedicated Property and
11 payment by the Project Sponsor to the Fund or construction by the Project Sponsor of the Off-
12 Site Units would allow the City to modify the previously approved plans to instead provide a
13 100% affordable rental residential housing development of approximately 60 to 70 efficiency
14 dwelling units affordable to low income households on the Dedicated Property, if such project
15 is approved at the Dedicated Property. This would be a significant increase in the City's stock
16 of affordable housing in the Downtown/Civic Center neighborhood, compared to the
17 previously contemplated 31 for sale on-site inclusionary affordable units affordable to
18 moderate income households at the Project site.

19 (f) On November 17, 2016, the Planning Commission conducted a duly noticed public
20 hearing on the ordinance, including the waiver of fee payments and requirements under
21 Planning Code Sections 413 et seq. and 415 et seq., waiver of Health Code Article 12C, and
22 the exemption of 26,572 gross square feet from the calculation of gross floor area as set forth
23 in Planning Code Section 124 and from the requirements to purchase TDR under Planning
24 Code Sections 123 and 128. The Planning Commission, in Resolution No. 19781, found that
25 the ordinance is, on balance, consistent with the City's General Plan and the eight priority

1 policies of Planning Code Section 101.1. A copy of the Planning Commission Motion is on
2 file with the Clerk of the Board of Supervisors in File No. 161066 and is incorporated herein by
3 reference. The Board adopts the Planning Commission findings as its own.

4 (g) Pursuant to Planning Code Section 302, this Board finds that this ordinance will
5 serve the public necessity, convenience, and general welfare for the reasons set forth in
6 Planning Commission Resolution No. 19781 and the Board incorporates such reasons herein
7 by reference.

8 (h) On November 17, 2016, the Planning Commission finalized, reviewed and
9 considered the Final Mitigated Negative Declaration (FMND) prepared for the Project located
10 at 950-974 Market Street and found that the contents of the FMND and the procedures
11 through which the FMND was prepared, publicized, and reviewed complied with the California
12 Environmental Quality Act, California Public Resources Code Sections 21000 et seq. (CEQA),
13 Title 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and
14 Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Planning
15 Commission adopted the FMND, CEQA findings and a Mitigation and Monitoring Reporting
16 Program (MMRP) in its Motion No. 19780. The CEQA findings and the MMRP contained in
17 Planning Commission Motion No. 19780 are incorporated herein by this reference thereto.
18 The proposed changes contained in this ordinance are not substantial changes to the Project
19 and there are no substantial changes in Project circumstances that would require major
20 revisions to the FMND due to the involvement of new significant environmental effects, nor is
21 there an increase in the severity of previously identified significant impacts, or any new
22 information of substantial importance that would change the conclusions set forth in the
23 FMND.

24 (i) This ordinance does not constitute an approval of any new or revised project
25 located at 180 Jones Street. The Planning Commission adopted a mitigated negative

1 declaration, CEQA findings and a Mitigation and Monitoring Reporting Program in its Motion
2 No. 17838 for the previously approved 37-unit project at the Dedicated Property. The CEQA
3 findings and the MMRP contained in Planning Commission Motion No. 17838 are
4 incorporated herein by this reference thereto, as applicable to the land dedication or Off-Site
5 Units authorized by this Ordinance. The City is not otherwise approving any changes to the
6 approved project at 180 Jones Street. If and when any revised project for the Dedicated
7 Property is undertaken by the City, or is submitted to the City for review, the City will conduct
8 any additional environmental review required by CEQA for that project.

9 Section 2. Planning Code Fee Waivers, Floor Area and TDR Exemption, and Land
10 Dedication and Payment to the Fund or Construction of Off-Site Units.

11 (a) Waiver of Jobs-Housing Linkage Fee and Inclusionary Affordable Housing
12 Requirements and Payment to Fund. Notwithstanding the requirement to pay the Jobs-
13 Housing Linkage Fee pursuant to Planning Code Section 413 et seq. and the Affordable
14 Housing Fee or provide on-site or off-site inclusionary affordable housing alternatives to the
15 Affordable Housing Fee pursuant to Planning Code Section 415 et seq. (Inclusionary Housing
16 Program), the requirements set forth in Planning Code Section 413 et seq. to pay the Jobs-
17 Housing Linkage Fee associated with the Project's hotel and retail uses and the requirements
18 set forth in Planning Code Section 415 et seq. to pay to either pay the Affordable Housing Fee
19 or provide on-site or off-site inclusionary affordable housing alternatives to the Affordable
20 Housing Fee payment for the Project are hereby waived in their entirety.

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

22 (1) Dedicate a site to the City to be used for affordable housing and to pay money to
23 the Fund. In lieu of paying the Jobs-Housing Linkage Fee and the Affordable Housing Fee or
24 providing on-site or off-site inclusionary affordable housing units, prior to issuance of a site or
25 building permit for the Project, the Project Sponsor shall convey in fee simple absolute to

1 MOHCD, according to the land dedication provisions of the City and County of San Francisco
2 Inclusionary Affordable Housing Program Monitoring Procedures Manual issued by the San
3 Francisco Department of City Planning (“Procedures Manual”), the real property located at
4 180 Jones Street, at no cost to MOHCD. In addition, between issuance of the first
5 construction document and the first temporary certificate of occupancy for the Project as set
6 forth in more detail below, the Project Sponsor shall pay \$18.8 Million, less the acquisition
7 cost of the Dedicated Property, to the 180 Jones Affordable Housing Fund established by this
8 Ordinance, which real property and Fund shall be used by MOHCD to facilitate construction of
9 an affordable housing project of approximately 60 to 70 efficiency dwelling units at 180 Jones
10 Street affordable to low income households. This \$18.8 Million, comprised of the acquisition
11 cost of the Dedicated Land and payments to the 180 Jones Affordable Housing Fund is the
12 equivalent payment of the Project’s Jobs-Housing Linkage Fee and an affordable housing
13 percentage fee of 25% under Planning Code Sections 415 et seq., the current affordable
14 housing fee percentage applicable to the Project, plus a gift to the City of approximately \$2
15 Million. The conveyance by the Project Sponsor of the Dedicated Land to the City and
16 payments to the 180 Jones Affordable Housing Fund shall occur pursuant to the following
17 schedule:

- 18 A. Conveyance of Dedicated Land: prior to issuance of a site or building permit for the
19 Project;
- 20 B. Payment of \$1.5 million: prior to issuance of the first construction document for the
21 Project, or July 1, 2017, whichever comes first;
- 22 C. Payment of \$17.3 million, less the acquisition cost of the Dedicated Land, prior to
23 issuance of the Project’s first temporary certificate of occupancy; or
- 24 (2) Construct a minimum of 60 and a maximum of 70 affordable studio or efficiency
25 units at the Dedicated Property, after such project undergoes any required environmental

1 review and if such project is approved by the City. In lieu of paying the Jobs-Housing Linkage
2 Fee and the Affordable Housing Fee or providing on-site or off-site inclusionary affordable
3 housing units, the Project Sponsor shall provide evidence to the City that it has acquired fee
4 simple title to the Dedicated Property prior to issuance of the Project's first construction
5 document. The Project Sponsor shall ensure that the off-site units are constructed, completed,
6 ready for occupancy, and marketed no later than three years after the City approves such
7 project at the Dedicated Property. It is the intent of the Board of Supervisors that the
8 affordable units at the Dedicated Property be comparable in overall quality of construction to
9 the market rate units in the Project, and the interior features in the affordable units be
10 consistent with the "Quality Standards for Off Site Affordable Housing Units" found in the
11 Procedures Manual.

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

19 (c) TDR Exemption. Notwithstanding the provisions of Planning Code Sections 123
20 and 128, the Project shall be exempt from any applicable requirement to purchase TDR solely
21 for 26,572 square feet of floor area to increase the allowable density on-site. The Project
22 shall be permitted to increase density on-site by 26,572 square feet of floor area without the
23 need to purchase TDR for this amount. The Project shall be otherwise required to comply
24 with Planning Code Sections 123 and 128, and shall purchase TDR for any other necessary
25 increase in density on-site.

1 Section 3. The Administrative Code Chapter 10, Article XIII is hereby amended by
2 adding Section 10.100-___, to read as follows:

3 **SEC. 10.100- . 180 JONES STREET AFFORDABLE HOUSING FUND.**

4 (a) Establishment of Fund. The 180 Jones Street Affordable Housing Fund is established as a
5 category four fund to receive fee revenue dedicated to affordable housing and other contributions to the
6 fund. The fund receives money from:

7 (1) A \$1.8 million of Planning Code Sections 413 et seq. (Jobs-Housing Linkage
8 Program) Jobs-Housing Linkage Fee payment that the Board of Supervisors waived for the 950-974
9 Market Street project. This payment is addressed in an ordinance concerning the waiver of the Jobs-
10 Housing Linkage Fee and Inclusionary Housing Requirements, and authorizing other exemptions as
11 well as a land dedication (the “950-974 Market Street Ordinance”), which is on file with the Clerk of
12 the Board of Supervisors in File No. 161066.

13 (2) An \$11 million payment of Planning Code Sections 415 et seq. (Inclusionary
14 Housing Program) affordable housing fees that the Board of Supervisors waived for the 950-974
15 Market project in the 950-974 Market Street Ordinance, on file with the Clerk of the Board of
16 Supervisors in File No. 161066.

17 (3) A \$2 million gift from from the Project Sponsor of the 950-957 Market Street
18 Project, as authorized in the 950-957 Market Street Ordinance, on file with the Clerk of the Board of
19 Supervisors in File No. 161066.

20 (b) Use of Fund. The fund is to be used exclusively by the Mayor's Office of Housing and
21 Community Development (MOHCD), or its successor, for the purpose of supporting construction of
22 affordable housing units at 180 Jones Street (Assessor’s Block 0343, Lot 14). If, however, the City fails
23 to approve a revised project at 180 Jones Street after five years of the last payment to the Fund
24 authorized by the 950-972 Market Street Ordinance, the money in this Fund shall be deposited into the
25

1 Citywide Affordable Housing Fund as established in Administrative Code Section 10.100-49, or its
2 successor fund.

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

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

12
13 Section 4. Health Code Article 12C Waiver.

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

17
18 Section 5. Authorizing Acceptance and Expenditure of Gift.

19 The Project Sponsor has offered a gift of \$2 million to the City, to be paid prior to the
20 Project's first temporary certificate of occupancy. This gift would be given to the Fund, to
21 assist in providing affordable housing at 180 Jones Street. The Board of Supervisors hereby
22 authorizes MOHCD to accept the gift of \$2 million from the Project Sponsor, and to expend it
23 consistent with the purposes, procedures and requirements of the Fund.

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

11
12 Section 7. Effective Date. This ordinance shall become effective 30 days after
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
15 of Supervisors overrides the Mayor's veto of the ordinance.

16
17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

19 By: _____
20 ANDREA RUIZ-ESQUIDE
21 Deputy City Attorney

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