

1 [Administrative Code and Amending Ordinance No. 49-17 - Deferring Payments to and Use of
2 the 180 Jones Affordable Housing Fund]

3 **Ordinance amending Ordinance No. 49-17, as amended by Ordinance No. 209-17, to**
4 **change the timeline for the payments of a \$2,700,000 gift and \$9,750,000 from the**
5 **project sponsor of the project at 950-974 Market Street to the 180 Jones Street**
6 **Affordable Housing Fund; amending the Administrative Code regarding use of the 180**
7 **Jones Street Affordable Housing Fund; and authorizing actions in furtherance of this**
8 **Ordinance, as defined herein.**

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

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

17 Section 1. Background and Findings.

18 (a) On March 17, 2017, the City enacted Ordinance No. 49-17, which waived the
19 Planning Code's Jobs-Housing Linkage Fee (Section 413 *et seq.*), the Affordable Housing
20 requirements (Section 415 *et seq.*), and the alternative water supply requirements set forth in
21 Health Code Article 12C; exempted 26,572 square feet from the calculation of gross floor area
22 to allow the additional floor area, and exempted 26,572 square feet from Planning Code
23 Sections 123 and 128 to reduce any required transferable development rights by such
24 amount, for a project located at 950-974 Market Street (the "Project"), in exchange for the
25 dedication of real property at 180 Jones Street to the Mayor's Office of Housing and
Community Development ("MOHCD") at no cost and payment by Mid-Market Center LLC (the

1 "Project Sponsor") of approximately \$11.25 million to the 180 Jones Street Affordable Housing
2 Fund (the "180 Jones Fund"), according to a payment timeline. Under the payment timeline,
3 the first payment, of \$1.5 million, is due prior to issuance of the first construction document for
4 the Project, or July 1, 2017, whichever comes first. (Ordinance No. 49-17; Section 2(a)(1)(B).)
5 Ordinance No. 49-17 also established the 180 Jones Fund; accepted a \$2.7 million gift from
6 the Project Sponsor to the 180 Jones Fund; and accepted a \$300,000 gift from the Project
7 Sponsor to the City to support the City's efforts to recognize and support historic and present-
8 day Transgender, Lesbian, Gay, and Bisexual ("TLGB") communities in the Tenderloin
9 neighborhood.

10 (b) On November 3, 2017, the City enacted Ordinance No. 209-17, which amended
11 Ordinance No. 49-17 to change the payment timeline.

12 (c) The Project Sponsor has conveyed the Dedicated Land and paid \$1.5 million to the
13 180 Jones Fund under Section 2(a)(1)(A)-(B) of Ordinance No. 49-17. Section 2(a)(1)(C) of
14 Ordinance No. 49-17 provides that the Project Sponsor shall make a payment of \$13.9 million
15 to the 180 Jones Fund, less the acquisition cost of the Dedicated Land, prior to issuance of
16 the Project's first temporary certificate of occupancy. As the actual cost of the Dedicated Land
17 was \$4.15 million, the payment required under Section 2(a)(1)(C) is \$9.75 million. Sections
18 2(a)(1) and 5 of Ordinance No. 49-17 further authorize the Project Sponsor to pay a gift to the
19 City of \$2.7 million upon issuance of the Project's first temporary certificate of occupancy.
20 Given the foregoing, the Project Sponsor's total outstanding payment is \$12.45 million (the
21 "Outstanding Payment").

22 (d) On account of the challenges presented by the COVID-19 pandemic, the
23 completion of the Project has been delayed, and the Project Sponsor has requested to further
24 amend the payment timeline to facilitate completion of the Project and associated financing of
25 affordable housing located at 180 Jones Street ("180 Jones Affordable Housing Project").

1 MOHCD anticipates that construction of the 180 Jones Affordable Housing Project will
2 commence on or before December 31, 2022, depending on an allocation of tax-exempt bonds
3 by the California Debt Limit Allocation Committee and tax credits by the California Tax Credit
4 Allocation Committee.

5 (e) The Board of Supervisors now desires to amend the payment timeline for the
6 Project Sponsor to make the Outstanding Payment to the 180 Jones Fund to coincide with the
7 completion of the Project and anticipated commencement of the 180 Jones Affordable
8 Housing Project.

9 Section 2. Ordinance No. 49-17 is hereby amended at Section 2, page 7, lines 12
10 through 25, and page 8, lines 1 through 14, to modify the Project Sponsor's payment timeline
11 by replacing the text of Section 2(a)(1) in its entirety with the following replacement language:

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 for the Project, the Project Sponsor shall convey in
16 fee simple absolute to the City or MOHCD, according to the land dedication provisions of the
17 City and County of San Francisco Inclusionary Affordable Housing Program Monitoring
18 Procedures Manual issued by the Department of City Planning ("Procedures Manual"), the
19 real property located at 180 Jones Street, at no cost to MOHCD. In addition, between
20 issuance of the first construction document and the first temporary certificate of occupancy for
21 the Project as set forth in more detail below, the Project Sponsor shall pay \$15.4 million, less
22 the acquisition cost of the Dedicated Property, to the 180 Jones Fund established by this
23 Ordinance, which real property and Fund shall be used by MOHCD to facilitate construction of
24 an affordable housing project of a minimum of 60 efficiency units at 180 Jones Street
25 affordable to low-income households. This \$15.4 million, comprised of the acquisition cost of

1 the Dedicated Land and payments to the 180 Jones Fund, is the equivalent payment of the
2 Project's Jobs-Housing Linkage Fee and an affordable housing percentage fee of 25% under
3 Planning Code Sections 415 et seq., the current affordable housing fee percentage applicable
4 to the Project, plus a gift to the City of \$2.7 million. The conveyance by the Project Sponsor of
5 the Dedicated Land to the City and payments to the 180 Jones Affordable Housing Fund shall
6 occur pursuant to the following schedule:

7 (A) Conveyance of Dedicated Land prior to issuance of the first construction
8 document for the Project.

9 (B) Payment of \$1.5 million prior to issuance of the first construction
10 document for the Project.

11 (C) Payment of \$9.75 million prior to issuance of the Project's first temporary
12 certificate of occupancy or, at the election of Project Sponsor (the "Outstanding Payment
13 Deferral Election"), prior to the earlier of the following: (i) 60 days after written notice to the
14 Project Sponsor from the Mayor's Office of Housing and Community Development ("MOHCD")
15 that the affordable housing project located at 180 Jones ("180 Jones Affordable Housing
16 Project") has received funding allocation from the California Debt Limit Allocation Committee
17 ("CDLAC"), California Tax Credit Allocation Committee ("TCAC"), or any other local, state, or
18 federal funding source sufficient to, along with the proceeds of the 180 Jones Fund, develop
19 and construct the 180 Jones Affordable Housing Project, or (ii) December 31, 2022. If Project
20 Sponsor makes the Outstanding Payment Deferral Election, interest shall accrue on the \$9.75
21 million payment for the period commencing on the date that the Project receives its first
22 temporary certificate of occupancy and ending on the date that the Project Sponsor satisfies
23 the Outstanding Payment Deferral Election payment obligation, with the rate of such interest
24 being calculated monthly by the Treasurer's Office as 1.25 times the Monthly Earned Income
25

1 Yield Rate for the City and County of San Francisco’s Pooled Funds, as posted on the
2 Treasurer’s website.

3 (D) Payment of a \$2.7 million gift prior to issuance of the Project’s first
4 temporary certificate of occupancy, or, at the election of the Project Sponsor (the “Outstanding
5 Gift Deferral Election”), prior to the earlier of the following: (i) 60 days after written notice to
6 the Project Sponsor from MOHCD that the 180 Jones Affordable Housing Project has
7 received funding allocation from CDLAC, TCAC, or any other local, state, or federal funding
8 source sufficient to, along with the proceeds of the 180 Jones Fund, construct the 180 Jones
9 Affordable Housing Project, or (ii) December 31, 2022. If Project Sponsor makes the
10 Outstanding Gift Deferral Election, interest shall accrue on the \$2.7 million gift for the period
11 commencing on the date that the Project receives its first temporary certificate of occupancy
12 and ending on the date that the Project Sponsor satisfies the Outstanding Gift Deferral
13 Election payment obligation, with the rate of such interest being calculated monthly by the
14 Treasurer’s Office as 1.25 times the Monthly Earned Income Yield Rate for the City and
15 County of San Francisco’s Pooled Funds, as posted on the Treasurer’s website.”

16 Section 3. Ordinance No. 49-17 is hereby amended at Section 5, page 11, lines 15
17 through 19, by replacing the text of the first paragraph in its entirety with the following
18 replacement language:

19 “The Project Sponsor has offered a gift of \$2.7 million to the City, to be paid in
20 accordance with Section 2(a)(1)(D). This gift would be given to the 180 Jones Fund, to assist
21 in providing affordable housing at 180 Jones Street. The Board of Supervisors hereby
22 authorizes MOHCD to accept the gift of \$2.7 million from the Project Sponsor, and to expend
23 it consistent with the purposes, procedures, and requirements of the 180 Jones Fund.”

24 Section 4. Except as stated in Sections 2 and 3 above, this ordinance does not
25 otherwise change the terms of Ordinance No. 49-17 as amended by Ordinance No. 209-17.

1 Section 5. Article XIII of Chapter 10 of the Administrative Code is hereby amended by
2 revising Section 10.100-375, to read as follows:

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

4 * * * *

5 (b) **Use of Fund.** The fund is to be used exclusively by the Mayor’s Office of
6 Housing and Community Development (MOHCD), or its successor, for the purpose of
7 supporting *development and* construction of affordable housing units at 180 Jones Street
8 (Assessor’s Block 0343, Lot 14); *and supportive services, operating subsidies, and/or rental*
9 *assistance for tenants at said affordable housing units.* If, however, the City fails to approve a
10 revised project at 180 Jones Street within five years of the last payment to the Fund
11 authorized by the 950-974 Market Street Ordinance, *as amended by the ordinance in Board File*
12 *No. 210534,* the money in the Fund shall be deposited into the Citywide Affordable Housing
13 Fund as established in Administrative Code Section 10.100-49, or its successor fund.

14 * * * *

15 Section 6. Effective Date; Retroactivity.

16 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
17 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
18 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
19 Mayor’s veto of the ordinance.

20 (b) Upon its effective date, this ordinance shall be retroactive to May 1, 2021.

21 Section 7. Scope of Codified Provisions of Ordinance.

22 As to Section 5 of this ordinance, the Board of Supervisors intends to amend only
23 those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation
24 marks, charts, diagrams, or any other constituent parts of the Municipal Code that are
25 explicitly shown in this ordinance as additions, deletions, Board amendment additions, and

1 Board amendment deletions in accordance with the “Note” that appears under the official title
2 of the ordinance.

3 Section 8. Authorization of Actions in Furtherance of this Ordinance.

4 The Mayor, Clerk of the Board of Supervisors, the Director of Property, MOHCD, the
5 Director of the Planning Department, and the Director of the Department of Building
6 Inspection are hereby authorized and directed to take any and all actions which they or the
7 City Attorney may deem necessary or advisable in order to effectuate the purpose and intent
8 of this ordinance (including, without limitation, receipt of payment to the 180 Jones Fund and
9 confirmation of satisfaction of the conditions to the effectiveness of Ordinance No. 49-17, as
10 amended by Ordinance No. 209-17 and this ordinance).

11 Section 9. Directions to Clerk.

12 The Clerk of the Board of Supervisors is hereby directed to place a copy of this
13 ordinance in File No. 161066 for Ordinance No. 49-17 and File No. 170835 for Ordinance No.
14 209-17, and to make a notation cross-referencing this ordinance where Ordinance No. 49-17
15 and Ordinance No. 209-17 appear on the Board of Supervisors website as legislation passed.

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

19 By: /s/ KEITH NAGAYAMA
20 KEITH NAGAYAMA
21 Deputy City Attorney
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25



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 210534

Date Passed: July 27, 2021

Ordinance amending Ordinance No. 49-17, as amended by Ordinance No. 209-17, to change the timeline for the payments of a \$2,700,000 gift and \$9,750,000 from the project sponsor of the project at 950-974 Market Street to the 180 Jones Street Affordable Housing Fund; amending the Administrative Code regarding use of the 180 Jones Street Affordable Housing Fund; and authorizing actions in furtherance of this Ordinance, as defined herein.

July 14, 2021 Budget and Finance Committee - RECOMMENDED

July 20, 2021 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

July 27, 2021 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 210534

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/27/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

8/4/21

Date Approved