

1 [Planning Code – Area Plan Impact Fee and Jobs-Housing Linkage Program Modifications.]

2

3 **Ordinance amending the San Francisco Planning Code sections related to Area Plan**
 4 **Impact Fees (Rincon Hill, Market and Octavia, Eastern Neighborhoods, and Balboa**
 5 **Park) and Jobs-Housing Linkage Fee to improve Planning Code readability and ease of**
 6 **application with regard to impact fees; to create consistent definitions and application**
 7 **across the Area Plan Impact Fee and Jobs-Housing Linkage Fee provisions; to better**
 8 **recognize and account for the impact of existing conditions of development sites**
 9 **affected by the Area Plan Impact Fees and the Jobs-Housing Linkage Fee; to promote**
 10 **adaptive re-use of existing buildings in the Eastern Neighborhoods; to clarify the**
 11 **impact fees associated with the Eastern Neighborhoods’ on-going “legitimization”**
 12 **program; and adopting findings, including Section 302, environmental findings, and**
 13 **findings of consistency with the General Plan and Planning Code Section 101.1.**

14 NOTE: Additions are *single-underline italics Times New Roman*;
 15 deletions are ~~*strike-through italics Times New Roman*~~.
 16 Board amendment additions are double-underlined;
 Board amendment deletions are ~~strike-through normal~~.

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

18 Section 1. Findings. The Board of Supervisors of the City and County of San
 19 Francisco hereby finds and declares as follows:

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

25

1 (b) On _____, 2009, the Planning Commission, in Resolution
2 No. _____ approved and recommended for adoption by the Board this legislation
3 and adopted findings that it is consistent, on balance, with the City's General Plan and eight
4 priority policies of Planning Code Section 101.1. The Board adopts these findings as its own.
5 A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No.
6 _____, and is incorporated by reference herein.

7 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
8 legislation will serve the public necessity, convenience, and welfare for the reasons set forth in
9 Planning Commission Resolution No. _____, and incorporates such reasons by
10 reference herein.

11 (d) This ordinance modifies, but does not increase, fees in the Jobs-Housing
12 Linkage Fee and the following Area Plans: Rincon Hill, Market and Octavia, Eastern
13 Neighborhoods, and Balboa Park. Support for those fees is found in the original Board of
14 Supervisor's files corresponding to the adoption of the Area Plans and the fees. Those
15 findings and, where applicable, studies can be found in Board of Supervisors File Nos.
16 _____.

17 In addition to modifying the original fees, this ordinance clarifies the City's policy for
18 charging fees on change of use, net addition of use, replacement of use, and/or legitimization
19 of uses. To the extent that the support for these modifications was not provided in the original
20 legislation adopting the Area Plans, the Planning Department has prepared staff reports on
21 this subject that establish the methodology for calculating fees for change of use and
22 legitimization of uses. Those staff reports are on file in Board of Supervisors File No.
23 _____

24 and are incorporated by reference herein. The Board of Supervisors has reviewed the staff
25 analysis and reports and, on that basis finds that the reports and prior findings and studies

1 done to support the imposition of the original Area Plan fees (together "reports") support the
2 current fees for change of use or legitimization of use. Specifically, the Board finds that the
3 reports: identify the purpose of the fees to mitigate impacts on development in the Area
4 Plans; identify the uses to which the fees are to be put; and establishes a reasonable
5 relationship between the uses of the fees and the need for that community-serving
6 infrastructure. Moreover, the Board finds that the current Area Plan fees are less than the cost
7 of mitigation and do not include the costs of remedying any existing deficiencies. The Board
8 also finds that the reports establish that the current Area Plan fees do not duplicate other city
9 requirements or fees.

10 Section 2. The San Francisco Planning Code is hereby amended by amending and
11 adding Sections 179.1, 401, 413.3, 413.5, 413.6, 413.8, 418, 418.2, 418.3, 418.5, 418.6,
12 418.7, 421.1, 421.3, 421.7, 422.3, 423.2, 423.3, 423.5, and 428 to read as follows:

13 **SEC. 179.1 LEGITIMIZATION OF USES LOCATED IN THE EASTERN**
14 **NEIGHBORHOODS.**

15 (a) Intent. As a result of the Eastern Neighborhoods Zoning Controls, certain land
16 uses that were previously permitted, particularly office and housing, are no longer permitted.
17 The purpose of this Section is to establish a time-limited program wherein existing uses that
18 have operated without the benefit of required permits may seek those permits. Uses that
19 could be "legitimized" under this Section are those uses which, under the current provisions of
20 this Code and without this Section, could not otherwise seek the required permits.

21 (b) Applicability.

22 (1) Geography. This Section shall apply only to property located in the Eastern
23 Neighborhoods Mixed Use Districts, the SLI District, or any PDR District which is located
24 within the boundaries of the Eastern Neighborhoods Project Area pursuant to Section 327.2(j).
25 This Section shall not apply to any Live/Work use as set forth in Section 233.

1 (2) Eligibility. Any use that is the subject of an application under this Section shall
2 be one that is determined by the Zoning Administrator as one which:

3 (A) exists as of the date of the application;

4 (B) would have been principally permitted or permitted with conditional use
5 authorization under provisions of the Planning Code that were effective on April 17, 2008;

6 (C) would not be permitted under current provisions of this Code;

7 (D) is a land use that either:

8 (1) has been regularly operating or functioning on a continuous basis for no less
9 than 2 years prior to the effective date of this Section; or

10 (2) has been functioning in the space since at least April 17, 2008, and is
11 associated with an organization, entity or enterprise which has been located in this space on a
12 continuous basis for no less than 2 years prior to the effective date of this Section;

13 (E) is not accessory to any other use; and

14 (F) is not discontinued and abandoned pursuant to the provisions of Section 183
15 that would otherwise apply to nonconforming uses.

16 (3) Sunset. All applications for a determination of eligibility under Subsection (d)
17 must be received by the Zoning Administrator within three years of the effective date of this
18 Section. If the Planning Department fails to timely issue notice pursuant to Subsection (c), the
19 Zoning Administrator may extend this termination date for an additional period of time not to
20 exceed the number of days that the Department delayed in issuing the notice.

21 (c) Notification of Program Availability. Within 90 days of the effective date of this
22 Section, the Planning Department shall cause notice to be mailed to all owners of property to
23 which this Section applies. Such notification shall consist of an explanation of this program
24 and application instructions and any other relevant information determined by the Zoning
25 Administrator.

1 (d) Application for Eligibility. An application under this Section may include multiple
2 tenancies and/or uses on a property; however, only one application may be made per parcel
3 for the duration of the program. Such application may not involve any expansion or
4 intensification of the use in question. Any proposed expansion or intensification must be made
5 under separate application and is subject to all current provisions of this Code.

6 Any application under this Subsection shall be accompanied by the following materials:

7 (1) Floor plans for the entire building along with specific demarcation of the space
8 proposed for legitimization;

9 (2) evidence supporting the findings required under Subsection (b)(2) above. Such
10 evidence may include but is not necessarily limited to the following: rental or lease
11 agreements, building or other permits, utility records, business licenses, or tax records; and

12 (3) notification materials, including a list of all property owners within 300 feet of the
13 subject property, as set forth in Section 306.3(a)(2) and, to the extent practical, a complete list
14 of all current occupants of the subject property.

15 (e) Determination of Eligibility. The Zoning Administrator shall determine
16 compliance with the criteria set forth in Subsection (b)(2), above, through a written decision.
17 No less than 30 days prior to making a determination, the Zoning Administrator shall mail and
18 post a notice of intent to render a determination as set forth below so that parties other than
19 the applicant are afforded the opportunity to present information which may have bearing on
20 the determination;

21 (1) By mailing notice to owners within 300 feet of the property in question as set
22 forth in Section 306.3(a)(2);

23 (2) by mailing notice to current tenants of the subject property using materials
24 submitted pursuant to Section (d)(3), above;

1 (3) by mailing notice to all individuals or neighborhood organizations having made
2 written request for notification for either (i) applications under this Section or (ii) specific
3 properties or areas; and

4 (4) by posting a notice on the subject property as set forth in Section 306.8.

5 (f) Application to Legitimize. Uses that are determined to be in compliance with the
6 criteria of Subsection (b)(2), above, shall be governed as set forth below. Unless specifically
7 stated by the Planning Commission in the case of a Conditional Use authorization, approval of
8 any application under this Subsection shall be deemed to authorize all aspects of the use and
9 portions of the structure housing the use under the Planning Code. Those portions of the use
10 or structure that do not comply with current provisions of this Code shall be deemed
11 nonconforming uses or noncomplying structures under Article 1.8 of this Code. Action under
12 this Subsection *shall* in no way shall affect the applicability of relevant portions of the Building
13 Code or other portions of the Municipal Code.

14 (1) Those uses which, under the provisions of this Code that were applicable on
15 April 17, 2008, would have either: (i) required Conditional Use authorization pursuant to
16 Section 303 or (ii) been principally permitted but required an allocation of office space of less
17 than 50,000 gross square feet under the Annual Limit pursuant to Section 321(b)(4), may
18 seek such authorization pursuant to all requirements of the applicable Section.

19 (2) Those uses which, under the provisions of this Code that were applicable on
20 April 17, 2008, were principally permitted may seek a building permit in order to legally
21 establish the use. Upon the Department's determination that the application is consistent with
22 the enabling Zoning Administrator's decision, the Planning Department shall approve such
23 permit.

24 (3) Those uses which, under the provisions of this Code that were applicable on
25 April 17, 2008, would have required an allocation of office space of 50,000 or more gross

1 square feet under the Annual Limit, may seek such authorization pursuant to the requirements
2 of Section 321; however, no application may be acted on by the Planning Commission until
3 the termination date of the application period set forth in Subsection (b)(3), above. After that
4 time, Planning Department staff shall take all reasonable steps to schedule pending eligible
5 applications for Planning Commission review based on the order in which a project's
6 determination of eligibility was issued. Nothing in this Section shall preclude the Director of
7 Planning, based on the demand for participation in this program, from limiting the number of
8 projects that appear before the Planning Commission in a given period of time.

9 (g) Fee amount. Any use authorized under Subsection (f) above shall, in addition to any
10 applicable application fees, pay for the area being legitimized the following impact fees:

11 (1) If the use is legitimizing as office, (as defined in Sec. 890.70)

12 (A) If the project is subject to the Transit Impact Development Fee (as described in Sec. 38
13 of the Administrative Code), a \$2.00/gross square foot Transit Impact Development Fee.

14 (B) If the project is subject to the Jobs-Housing Linkage Fee (as described in Sec. 313), an
15 \$8.50/gross square foot Jobs-Housing Linkage Fee.

16 (C) No Eastern Neighborhoods Impact Fees shall be charged

17 (2) If the use is legitimizing as Integrated PDR, (as defined in Sec. 890.49)

18 (A) If the project is subject to the Transit Impact Development Fee (as described in Sec. 38
19 of the Administrative Code), a \$2.00/gross square foot Transit Impact Development Fee.

20 (B) If the project is subject to the Jobs-Housing Linkage Fee (as described in Sec. 313), a
21 \$4.00/gross square foot Jobs-Housing Linkage Fee.

22 (C) No Eastern Neighborhoods Impact Fees shall be charged

23 (3) If the use is legitimizing as retail (as defined in Sec. 217) or entertainment (as defined in
24 Sec. 313.1.16)

1 (A) If the project is subject to the Transit Impact Development Fee (as described in Sec. 38
2 of the Administrative Code), a \$2.00/gross square foot Transit Impact Development Fee.

3 (B) If the project is subject to the Jobs-Housing Linkage Fee (as described in Sec. 313), a
4 \$7.20/gross square foot Jobs-Housing Linkage Fee.

5 (C) No Eastern Neighborhoods Impact Fees shall be charged

6 (4) If the use is legitimized as any other use authorized under Subsection (f) above, the use
7 shall pay the Jobs-Housing Linkage Fee and Transit Impact Development Fee in the amount applicable
8 as of January 18, 2009.

9 (h) Fee payment. Any use authorized under Subsection (f) above shall pay all current fees
10 set forth in Article 3 and elsewhere in this Code. Fees may be paid when required by the applicable
11 Section Fees shall be paid upon issuance of the first construction permit (as defined in Sec. 401) or an
12 applicant may elect to participate in a deferred payment program, as specified below:

13 (1) Prior to issuance by DBI of the first construction permit, aAt least 20% of applicable
14 fees are due. annually following the issuance of the first site or building permit and Henceforth, at
15 least 20% of applicable fees are due by July 1st of each subsequent calendar year, such that final
16 payment must be made within ~~five~~ four years of receiving the first building or site permit.

17 (2) The applicant may elect to pay any outstanding balance at any time within these
18 ~~five~~ four years.

19 (3) A Notice of Special Restrictions shall be placed on the title of the property
20 specifying that additional payment is required. This Notice of Special Restrictions shall be
21 released when payment is complete.

22 (4) All outstanding fees will be adjusted annually based on the cost of living as
23 defined by the Controller's Office.

24 (5) The Department may assess an additional fee for time and materials spent
25 implementing this deferred fee program.

1 (6) Failure to comply with the terms of the program and associated NSR as
2 specified in this Subsection shall be deemed a violation of this Code and result in an
3 enforcement action by the Department, which may include, referral to the Bureau of
4 Delinquent Revenue and a lien on the subject property. Any enforcement action also may
5 result in additional charges or penalties to cover the City's costs in the enforcement action,
6 including, but not limited to City Attorney's fees.

7 **SEC. 401. DEFINITIONS.**

8 (a) In addition to the specific definitions set forth elsewhere in this Article, the following
9 definitions shall govern interpretation of this Article:

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

13 (2) "Affordable to a household." A purchase price that a household can afford to pay
14 based on an annual payment for all housing costs of 33 percent of the combined household
15 annual net income, a 10 percent down payment, and available financing, or a rent that a
16 household can afford to pay based on an annual payment for all housing costs of 30 percent
17 of the combined annual net income.

18 (3) "Affordable to qualifying households":

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

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

24 (ii) At or below the maximum purchase price.
25

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

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

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

6 (4) "Allowable average purchase price":

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

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

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

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

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

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

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

7 (5) "Allowable average annual rent":

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

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

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

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

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

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

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

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

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

9 (11) "Balboa Park Community Improvements Program." The program intended to
10 implement the community improvements identified in the Balboa Park Area Plan, as
11 articulated in the Balboa Park Community Improvements Program Document on file with the
12 Clerk of the Board *in File No. 090179*.

13 (12) "Balboa Park Impact Fee." The fee collected by the City to mitigate impacts of
14 new development in the Balboa Park Program Area, as described in the findings in Section
15 422.1.

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

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

24 (15) "Base service standard fee rate." The TIDF that would allow the City to recover
25 the estimated costs incurred by the Municipal Railway to meet the demand for public transit

1 resulting from new development in the economic activity categories for which the fee is
2 charged, after deducting government grants, fare revenue, and costs for non-vehicle
3 maintenance and general administration.

4 (16) "Board" or "Board of Supervisors." The Board of Supervisors of the City and
5 County of San Francisco.

6 (17) "Change of Use". A change of gross floor area from one category of use to another
7 category of use listed in the use table for the zoning district of the subject lot.

8 ~~(1817)~~ "Child-care facility." A child-care facility as defined in California Health and
9 Safety Code Section 1596.750.

10 ~~(1918)~~ "Child-care provider." A provider as defined in California Health and Safety Code
11 Section 1596.791.

12 ~~(2019)~~ "City" or "San Francisco." The City and County of San Francisco.

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

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

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

1 (~~2223~~) "Commission" or "Planning Commission." The San Francisco Planning
2 Commission.

3 (~~2324~~) "Community apartment." As defined in San Francisco Subdivision Code Section
4 1308(b).

5 (~~2425~~) "Community facilities." All uses as defined under Section 209.4(a) and 209.3(d)
6 of this Code.

7 (~~2526~~) "Condition of approval" or "Conditions of approval." A condition or set of written
8 conditions imposed by the Planning Commission or another permit-approving or issuing City
9 agency or appellate body to which a project applicant agrees to adhere and fulfill when it
10 receives approval for the construction of a development project subject to this Article .

11 (~~2627~~) "Condominium." As defined in California Civil Code Section 783.

12 (~~2728~~) "Cultural/Institution/Education (CIE)." An economic activity category subject to
13 the TIDF that includes, but is not limited to, schools, as defined in Sections 209.3(g), (h), and
14 (i) and 217(f)-(i) of this Code; child care facilities; museums and zoos; and community facilities
15 , as defined in Sections 209.4 and 221(a)-(c) of this Code.

16 (~~2829~~) "DBI." The San Francisco Department of Building Inspection, *or its successor*.

17 (~~2930~~) "Dedicated." Legally transferred to the City and County of San Francisco,
18 including all relevant legal documentation, at no cost to the City.

19 (~~3031~~) "Dedicated site." The portion of site proposed to be legally transferred at no cost
20 to the City and County of San Francisco under the requirements of this section.

21 (~~3132~~) "Department" or "Planning Department." The San Francisco Planning
22 Department or the Planning Department's designee, including the Mayor's Office of Housing
23 and other City agencies or departments.

24

25

1 (3233) "Designated affordable housing zones." For the purposes of implementing the
2 Eastern Neighborhoods Public Benefits Fund, shall mean the Mission NCT defined in Section
3 736 and the Mixed Use Residential District defined in Section 841.

4 (3334) "Development fee." Either a development impact fee or an in-lieu fee. It shall not
5 include a fee for service or any time and material charges charged for reviewing or processing
6 permit applications.

7 (3435) "Development Fee Collection Unit" or "Unit." The Development Fee Collection
8 Unit at DBI.

9 (3536) "Development impact fee." A fee imposed on a development project as a
10 condition of approval to mitigate the impacts of increased demand for public services, facilities
11 or housing caused by the development project that may or may not be an impact fee
12 governed by the California Mitigation Fee Act (California Government Code Section 66000 et
13 seq.).

14 (3637) "Development impact requirement." A requirement to provide physical
15 improvements, facilities or below market rate housing units imposed on a development project
16 as a condition of approval to mitigate the impacts of increased demand for public services,
17 facilities or housing caused by the development project that may or may not be governed by
18 the California Mitigation Fee Act (California Government Code Section 66000 et seq.).

19 (3738) "Development project." Any change of use within an existing structure, addition to an
20 existing structure, or new construction, which includes any occupied floor area. ~~A project that is subject~~
21 ~~to a development impact or in-lieu fee or development impact requirement.~~

22 (3839) "Development under the TIDF." Any new construction, or addition to or
23 conversion of an existing structure under a building or site permit issued on or after
24 September 4, 2004, that results in 3,000 gross square feet or more of a covered use. In the
25 case of mixed use development that includes residential development, the term "new

1 development" shall refer to only the non-residential portion of such development. "Existing
2 structure" shall include a structure for which a sponsor already paid a fee under the prior TIDF
3 ordinance, as well as a structure for which no TIDF was paid.

4 (3940) "Director." The Director of Planning or his or her designee.

5 (4041) "DPW." The Department of Public Works, or its successor.

6 (4142) "Eastern Neighborhoods Infrastructure Impact Fee." The fee collected by the
7 City to mitigate impacts of new development in the Eastern Neighborhoods Program Area, as
8 described in the Findings in Section 423.1

9 (4243) "Eastern Neighborhoods Public Benefits Fund." The fund into which all fee
10 revenue collected by the City from the Eastern Neighborhoods Impact Fee is deposited.

11 (4344) "Eastern Neighborhoods Public Benefits Program." The program intended to
12 implement the community improvements identified in the four Area Plans affiliated with the
13 Eastern Neighborhoods (Central Waterfront, East SoMa, Mission, and Showplace
14 Square/Potrero Hill), as articulated in the Eastern Neighborhoods Public Benefits Program
15 Document, on file with the Clerk of the Board in File No. 081155.)

16 (4445) "Eastern Neighborhoods Program Area." The Eastern Neighborhoods Plan Area
17 in Map 1 (Land Use Plan) of the Eastern Neighborhoods Area Plan of the San Francisco
18 General Plan.

19 (4546) "Economic activity category." Under the TIDF, one of the following six categories
20 of non-residential uses: Cultural/Institution/Education (CIE), Management, Information and
21 Professional Services (MIPS), Medical and Health Services, Production/Distribution/Repair
22 (PDR), Retail/Entertainment, and Visitor Services.

23 ~~(47) "Entertainment development project." Any new construction, addition, extension,~~
24 ~~conversion, or enlargement, or combination thereof, of an existing structure which includes any gross~~
25 ~~square feet of entertainment use.~~

1 (4648) "Entertainment use". Space within a structure or portion thereof intended or
2 primarily suitable for or accessory to the operation of uses defined in San Francisco Planning Code
3 Sections 102.17 (Nighttime Entertainment), 790.38 and 890.37 (Other Entertainment), 790.36 and
4 890.36 (Adult Entertainment), 790.64 and 890.64 (Movie Theater), and 790.4 and 890.4 (Amusement
5 Arcade) , regardless of the zoning district that the use is located in. ~~a nighttime entertainment use as~~
6 defined in San Francisco Planning Code Section 102.17, a movie theater use as defined in San
7 Francisco Planning Code Sections 790.64 and 890.64, an adult theater use as defined in San Francisco
8 Planning Code Section 191, any other entertainment use as defined in San Francisco Planning Code
9 Sections 790.38 and 890.37, and, notwithstanding San Francisco Planning Code Section 790.38, an
10 amusement game arcade (mechanical amusement devices) use as defined in San Francisco Planning
11 Code Sections 790.4 and 890.4. Under this Article, "entertainment use" shall include all office and
12 other uses accessory to the entertainment use, but excluding retail uses and office uses not accessory to
13 the entertainment use.

14 (4749) "First certificate of occupancy." Either a temporary certificate of occupancy or a
15 Certificate of Final Completion and Occupancy as defined in San Francisco Building Code
16 Section 109A, whichever is issued first.

17 (4850) "First construction document." As defined in Section 107A.13.1 of the San
18 Francisco Building Code.

19 (4951) "Gross floor area." The total area of each floor within the building's exterior
20 walls, as defined in Section 102.9(b)(12) of this Code.

21 (5052) "Gross square feet of use." The meaning set forth in Section 102.9 of this Code, with
22 the exception of the TIDF. With respect to the TIDF, the total square feet of gross floor area in a
23 building and/or space within or adjacent to a structure devoted to all uses covered by the
24 TIDF, including any common areas exclusively serving such uses and not serving residential
25 uses. Where a structure contains more than one use, areas common to two or more uses,

1 such as lobbies, stairs, elevators, restrooms, and other ancillary spaces included in gross floor
2 area that are not exclusively assigned to one uses shall be apportioned among the two or
3 more uses in accordance with the relative amounts of gross floor area, excluding such space,
4 in the structure or on any floor thereof directly assignable to each use.

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

6 ~~(54) "Hotel development project." Any new construction, addition, extension, conversion, or~~
7 ~~enlargement, or combination thereof, of an existing structure which includes any gross square feet of~~
8 ~~hotel use.~~

9 (5155) "Hotel" or "Hotel use." Space within a structure or portion thereof intended or
10 primarily suitable for or accessory to the operation of uses defined in San Francisco Planning Code
11 Sections 790.46 and 890.46, regardless of the zoning district that the use is located in. ~~rooms, or suites~~
12 ~~of two or more rooms, each of which may or may not feature a bathroom and cooking facility or~~
13 ~~kitchenette and is designed to be occupied by a visitor or visitors to the City who pays for~~
14 ~~accommodations on a daily or weekly basis but who do not remain for more than 31 consecutive days.~~
15 ~~Under this ordinance, "hotel use" shall include all office and other uses accessory to the renting of~~
16 ~~guest rooms, but excluding retail uses and office uses not accessory to the hotel use.~~

17 (5256) "Household." Any person or persons who reside or intend to reside in the same
18 housing unit.

19 (5357) "Household of lower income." A household composed of one or more persons
20 with a combined annual net income for all adult members which does not exceed the
21 qualifying limit for a lower-income family of a size equivalent to the number of persons
22 residing in such household, as set forth for the County of San Francisco in Title 25 of the
23 California Code of Regulations Section 6932.

24 (5458) "Household of median income." A household composed of one or more persons
25 with a combined annual net income for all adult members which does not exceed the

1 qualifying limit for a median-income family of a size equivalent to the number of persons
2 residing in such household, as set forth for the County of San Francisco in Title 25 of the
3 California Code of Regulations Section 6932.

4 (~~5559~~) "Household of moderate income." A household composed of one or more
5 persons with a combined annual net income for all adult members which does not exceed the
6 qualifying limit for a moderate-income family of a size equivalent to the number of persons
7 residing in such household, as set forth for the County of San Francisco in Title 25 of the
8 California Code of Regulations Section 6932.

9 (~~5660~~) Housing developer." Any business entity building housing units which receives a
10 payment from a sponsor for use in the construction of the housing units. A housing developer
11 may be (a) the same business entity as the sponsor, (b) an entity in which the sponsor is a
12 partner, joint venturor, or stockholder, or (c) an entity in which the sponsor has no control or
13 ownership.

14 (~~5761~~) "Housing project." Any development which has residential units as defined in the
15 Planning Code, including but not limited to dwellings, group housing, independent living units,
16 and other forms of development which are intended to provide long-term housing to
17 individuals and households. "Housing project" shall not include that portion of a development
18 that qualifies as an Institutional Use under the Planning Code. "Housing project" for purposes
19 of this Program shall also include the development of live/work units as defined by Section
20 102.13 of this Code. Housing project for purposes of this Program shall mean all phases or
21 elements of a multi-phase or multiple lot residential development.

22 (~~5862~~) "Housing unit" or "unit." A dwelling unit as defined in San Francisco Housing
23 Code Section 401.

24 (~~5963~~) "Improvements Fund." The fund into which all revenues collected by the City for
25 each Program Area's impact fees are deposited.

1 (6064) "In-Kind Agreement." An agreement acceptable in form and substance to the
2 City Attorney and the Director of Planning, under which the project sponsor agrees to provide a
3 specific set of community improvements, at a specific phase of construction, in lieu of contribution to
4 the relevant Fund. ~~between a project sponsor and the Planning Commission, subject to approval by the~~
5 Planning Commission in its sole discretion, to provide a specific set of community improvements at a
6 specific phase of construction in lieu of contribution to the relevant Improvements Fund. The In-Kind
7 Agreement shall also mandate a covenant of the project sponsor to reimburse all City agencies for their
8 administrative and staff costs in negotiating, drafting, and monitoring compliance with the In-Kind
9 Agreement. The City shall also require the project sponsor to provide a letter of credit or other
10 instrument acceptable in form and substance to the City Attorney and the Planning Department to
11 secure the City's right to receive payment as described in the preceding sentence.

12 (6165) "Infrastructure." Open space and recreational facilities; public realms
13 improvements such as pedestrian improvements and streetscape improvements; public transit
14 facilities; and community facilities such as libraries, child care facilities, and community
15 centers.

16 (6266) "In lieu fee." A fee paid by a project sponsor in lieu of complying with a
17 requirement of this Code and that is not a development impact fee governed by the Mitigation
18 Fee Act.

19 (63) "Institutional use" shall mean space within a structure or portion thereof intended or
20 primarily suitable for or accessory to the operation of uses contained in San Francisco Planning Code
21 Section 217 and 890.50, regardless of the zoning district that the use is located in.

22 (64) "Integrated PDR use" shall mean space within a structure or portion thereof intended or
23 primarily suitable for or accessory to the operation of uses defined in San Francisco Planning Code
24 Section 890.49, regardless of the zoning district that the use is located in.

1 (~~6567~~) Interim Guidelines" shall mean the Office Housing Production Program Interim
2 Guidelines adopted by the City Planning Commission on January 26, 1982, as amended.

3 (~~6668~~) "Licensed Child-care facility." A child-care facility which has been issued a valid
4 license by the California Department of Social Services pursuant to California Health and
5 Safety Code Sections 1596.80-1596.875, 1596.95-1597.09, or 1597.30-1597.61.

6 (~~6769~~) "Live/work project." A housing project containing more than one live/work unit.

7 (~~6870~~) "Live/work unit" shall be as defined in Section 102.13 of this Code.

8 (~~6971~~) "Long term housing." Housing intended for occupancy by a person or persons
9 for 32 consecutive days or longer.

10 (~~7072~~) "Low income." For purposes of this Article, up to 80% of median family income
11 for the San Francisco PMSA, as calculated and adjusted by the United States Department of
12 Housing and Urban Development (HUD) on an annual basis, except that as applied to
13 housing-related purposes such as the construction of affordable housing and the provision of
14 rental subsidies with funds from the SOMA Stabilization Fund established in Section 418.7, it
15 shall mean up to 60% of median family income for the San Francisco PMSA, as calculated
16 and adjusted by HUD on an annual basis.

17 (~~7173~~) "Management, Information and Professional Services (MIPS). An economic
18 activity category under the TIDF that includes, but is not limited to, office use; medical offices
19 and clinics, as defined in Section 890.114 of this Code; business services, as defined in
20 Section 890.111 of this Code; Integrated PDR, as defined in Section 890.49 of this Code, and
21 Small Enterprise Workspaces, as defined in Section 227(t) of this Code.

22 (~~7274~~) "Market and Octavia Community Improvements Fund" The fund into which all
23 fee revenue collected by the City from the Market and Octavia Community Improvements
24 Impact Fee is deposited.

1 (~~7375~~) "Market and Octavia Community Improvements Impact Fee." The fee collected
2 by the City to mitigate impacts of new development in the Market and Octavia Program Area,
3 as described in the findings in Section 421.1.

4 (~~7476~~) "Market and Octavia Community Improvements Program." The program
5 intended to implement the community improvements identified in the Market and Octavia Area
6 Plan, as articulated in the Market and Octavia Community Improvements Program Document
7 on file with the Clerk of the Board in File No. 071157.)

8 (~~7577~~) "Market and Octavia Program Area." The Market and Octavia Plan Area in Map
9 1 (Land Use Plan) of the Market and Octavia Area Plan of the San Francisco General Plan,
10 which includes those districts zoned RTO, NCT, or any neighborhood specific NCT, a few
11 parcels zoned RH-1 or RH-2, and those parcels within the Van Ness and Market Downtown
12 Residential Special Use District (VMDRSUD).

13 (~~7678~~) "Market rate housing." Housing constructed in the principal project that is not
14 subject to sales or rental restrictions.

15 (~~7779~~) "Maximum annual rent." The maximum rent that a housing developer may
16 charge any tenant occupying an affordable unit for the calendar year. The maximum annual
17 rent shall be 30 percent of the annual income for a lower-income household as set forth in
18 Section 6932 on January 1st of each year for the following household sizes:

- 19 (A) For all one-bedroom units, for a household of two persons;
- 20 (B) For all two-bedroom units, for a household of three persons;
- 21 (C) For all three-bedroom units, for a household of four persons;
- 22 (D) For all four-bedroom units, for a household of five persons.

23 (~~7879~~) "Maximum purchase price." The maximum purchase price that a household of
24 moderate income can afford to pay for an owned unit based on an annual payment for all
25

1 housing costs of 33 percent of the combined household annual net income, a 10 percent
2 down payment, and available financing, for the following household sizes:

- 3 (A) For all one-bedroom units, for a household of two persons;
- 4 (B) For all two-bedroom units, for a household of three persons;
- 5 (C) For all three-bedroom units, for a household of four persons;
- 6 (D) For all four-bedroom units, for a household of five persons.

7 (~~7980~~) "Medical and Health Services." An economic activity category under the TIDF
8 that includes, but is not limited to, those non-residential uses defined in Sections 209.3(a) and
9 217(a) of this Code; animal services, as defined in Section 224(a) and (b) of this Code; and
10 social and charitable services, as defined in Sections 209.3(d) and 217(d) of this Code.

11 (~~8081~~) "Middle Income Household." A household whose combined annual gross
12 income for all members is between 120 percent and 150 percent of the local median income
13 for the City and County of San Francisco, as calculated by the Mayor's Office of Housing
14 using data from the United States Department of Housing and Urban Development (HUD) and
15 adjusted for household size or, if data from HUD is unavailable, as calculated by the Mayor's
16 Office of Housing using other publicly available and credible data and adjusted for household
17 size.

18 (~~82~~)—"~~MOCD.~~" ~~The Mayor's Office of Community Development.~~

19 (~~8183~~) "MOH." The Mayor's Office of Housing, or its successor.

20 (~~8284~~) "MTA." The Municipal Transportation Agency, or its successor.

21 (~~8385~~) "MTA Director." The Director of MTA or his or her designee.

22 (~~8486~~) "Municipal Railway; MUNI." The public transit system owned by the City and
23 under the jurisdiction of the MTA.

24 (~~8587~~) "Net addition." The total amount of gross floor area defined in Planning Code
25 Section 102.9 contained in ~~to be occupied by~~ a development project, less the gross floor area

1 ~~contained existing~~ in any structure demolished or retained as part of the proposed development
2 project ~~that had been occupied by, or primarily serving, any residential, non-residential, or PDR use~~
3 ~~for five years prior to the Planning Commission or Planning Department approval of a development~~
4 ~~project subject to this Article, or for the life of the structure demolished or retained, whichever is~~
5 ~~shorter.~~

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

14 (89) ~~—"Net addition of gross square feet of entertainment space." Gross floor area as defined in~~
15 ~~Section 102.9 of this Code to be occupied by, or primarily serving, entertainment use, less the gross~~
16 ~~floor area in any structure demolished or rehabilitated as part of the proposed entertainment~~
17 ~~development project that was used primarily and continuously for entertainment, hotel, office, research~~
18 ~~and development, or retail use and was not accessory to any use other than entertainment, hotel, office,~~
19 ~~research and development, or retail use, for five years prior to Commission approval of an~~
20 ~~entertainment development project subject to this Article, or for the life of the structure demolished or~~
21 ~~rehabilitated, whichever is shorter, so long as such space was subject to Section 413.1 et seq. of this~~
22 ~~Article or the Interim Guidelines.~~

23 (90) ~~—"Net addition of gross square feet of hotel space." Gross floor area as defined in Section~~
24 ~~102.9 of this Code to be occupied by, or primarily serving, hotel use, less the gross floor area in any~~
25 ~~structure demolished or rehabilitated as part of the proposed hotel development project space used~~

1 ~~primarily and continuously for office or hotel use and not accessory to any use other than office or~~
2 ~~hotel use for five years prior to Commission approval of a hotel development project subject to this~~
3 ~~Article, or for the life of the structure demolished or rehabilitated, whichever is shorter.~~

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

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

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

24 (94) ~~—Net addition of gross square feet of research and development space." Gross floor area~~
25 ~~as defined in Section 102.9 of this Code to be occupied by, or primarily serving, research and~~

1 ~~development use, less the gross floor area in any structure demolished or rehabilitated as part of the~~
2 ~~proposed research and development project that was used primarily and continuously for~~
3 ~~entertainment, hotel, office, research and development, or retail use and was not accessory to any use~~
4 ~~other than entertainment, hotel, office, research and development, or retail use, for five years prior to~~
5 ~~Commission approval of a research and development project subject to this Article, or for the life of the~~
6 ~~structure demolished or rehabilitated, whichever is shorter.~~

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

14 (8696) "New development." Under the TIDF, any new construction, or addition to or
15 conversion of an existing structure under a building or site permit issued on or after
16 September 4, 2004 that results in 3,000 gross square feet or more of a use covered by the
17 TIDF. In the case of mixed use development that includes residential development, the term
18 "new development" shall refer to only the non-residential portion of such development.
19 "Existing structure" shall include a structure for which a sponsor already paid a fee under the
20 prior TIDF ordinance, as well as a structure for which no TIDF was paid.

21 (8797) "Nonprofit child-care provider." A child-care provider that is an organization
22 organized and operated for nonprofit purposes within the provisions of California Revenue
23 and Taxation Code Sections 23701--23710, inclusive, as demonstrated by a written
24 determination from the California Franchise Tax Board exempting the organization from taxes
25 under Revenue and Taxation Code Section 23701.

1 (8898) "Nonprofit organization." An organization organized and operated for nonprofit
2 purposes within the provisions of California Revenue and Taxation Code Sections 23701--
3 23710, inclusive, as demonstrated by a written determination from the California Franchise
4 Tax Board exempting the organization from taxes under Revenue and Taxation Code Section
5 23701.

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

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

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

18 (89102) "Non-residential use." Space within aAny structure or portion thereof intended or
19 primarily suitable for or accessory to occupancy by retail, office, commercial, or other non-
20 residential uses defined in Section 209.3, 209.8, 217, 218, 219, and 221 of this Code,
21 regardless of the zoning district that the use is located in,~~and 221~~; except that residential
22 components of uses defined in Section 209.3(a)-(c) and (g)-(i) shall be defined as a
23 "residential use" for purposes of this Article. For the purposes of this Article, non-residential
24 use shall not include PDR and publicly owned and operated community facilities.
25

1 (90103) "Notice of Special Restrictions." A document recorded with the San Francisco
2 Recorder's Office for any unit subject to this Program detailing the sale and resale or rental
3 restrictions and any restrictions on purchaser or tenant income levels included as a Condition
4 of Approval of the principal project relating to the unit.

5 ~~(104) "Office development project." Any new construction, addition, extension, conversion or~~
6 ~~enlargement, or combination thereof, of an existing structure which includes any gross floor area of~~
7 ~~office use~~

8 (91105) "Office use." Space within a structure or portion thereof intended or primarily
9 suitable for or accessory to the operation of uses defined in San Francisco Planning Code Section
10 890.70, regardless of the zoning district that the use is located in.~~occupancy by persons or entities~~
11 ~~which perform, provide for their own benefit, or provide to others at that location services including,~~
12 ~~but not limited to, the following: Professional; banking; insurance; management; consulting; technical;~~
13 ~~sales; and design; and the non-accessory office functions of manufacturing and warehousing~~
14 ~~businesses; all uses encompassed within the definition of "office" in Section 219 of this Code;~~
15 ~~multimedia, software, development, web design, electronic commerce, and information technology; all~~
16 ~~uses encompassed within the definition of "administrative services" in Section 890.106 of this Code;~~
17 ~~and all "professional services" as proscribed in Section 890.108 of this Code excepting only those uses~~
18 ~~which are limited to the Chinatown Mixed Use District.~~

19 (92106) "Off-site unit." A unit affordable to qualifying households constructed pursuant
20 to this Ordinance on a site other than the site of the principal project.

21 (93107) "On-site unit." A unit affordable to qualifying households constructed pursuant
22 to this Article on the site of the principal project.

23 (94108) "Owned unit." A unit affordable to qualifying households which is a
24 condominium, stock cooperative, community apartment, or detached single-family home. The
25 owner or owners of an owned unit must occupy the unit as their primary residence.

1 (95109) "Owner." The record owner of the fee or a vendee in possession.

2 (96110) "PDR use." Space within any structure or portion thereof intended or primarily
3 suitable for or accessory to the operation of uses defined in San Francisco Planning Code~~Those uses~~
4 ~~contained in~~ Sections 220, 222, 223, 224, 225, ~~and 226, 227(a), 227(b), and 227(p)~~, regardless of
5 the zoning district that the use is located in~~of this Code.~~

6 (97111) "Principal project." A housing development on which a requirement to provide
7 affordable housing units is imposed.

8 (98112) "Principal site." The total site proposed for development, including the portion
9 of site proposed to be legally transferred to the City and County of San Francisco.

10 (99113) "Procedures Manual." The City and County of San Francisco Affordable
11 Housing Monitoring Procedures Manual issued by the San Francisco Department of City
12 Planning, as amended.

13 (100114) "Rent" or "rental." The total charges for rent, utilities, and related housing
14 services to each household occupying an affordable unit.

15 (101115) "Rental unit." A unit affordable to qualifying households which is not a
16 condominium, stock cooperative, or community apartment.

17 (102116) "Replacement of use." The total amount of gross floor area, as defined in
18 Section 102.9 of this Code, to be demolished and reconstructed by a development project,
19 ~~provided that the demolished had been occupied by any residential, non-residential, or PDR use for~~
20 ~~five years prior to Planning Commission or Planning Department approval of the development project~~
21 ~~subject to this Article or for the life of the structure demolished or retained, whichever is shorter.~~

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

1 (~~103H8~~) "Research and development use." Space within any structure or portion
2 thereof intended or primarily suitable for or accessory to the operation of uses defined in San
3 Francisco Planning Code Section 890.52, regardless of the zoning district that the use is located
4 in basic and applied research or systematic use of research knowledge for the production of materials,
5 devices, systems, information or methods, including design, development and improvement of products
6 and processing, including biotechnology, which involves the integration of natural and engineering
7 sciences and advanced biological techniques using organisms, cells, and parts thereof for products and
8 services, excluding laboratories which are defined as light manufacturing uses consistent with Section
9 226 of this Code.

10 (~~119~~)—"Residential Space Subject to the Balboa Park Impact Fee." Each net addition of gross
11 square feet within the Balboa Park Project Area which results in a net new residential unit.

12 (~~120~~)—"Residential Space Subject to the Eastern Neighborhoods Infrastructure Impact Fee."
13 Each net addition of net square feet within the Eastern Neighborhoods Project Area which results in a
14 net new residential unit.

15 (~~121~~)—"Residential Space Subject to the Market and Octavia Community Infrastructure Impact
16 Fee." Each net addition of occupiable square feet within the Market and Octavia Program Area which
17 results in an additional residential unit or contributes to a 20 percent increase of residential space
18 from the time that this ordinance is adopted within the Market and Octavia Community Improvements
19 Fund.

20 (~~104I22~~) "Residential use." Space within aAny structure or portion thereof intended or
21 primarily suitable for or accessory to occupancy by uses defined in San Francisco Planning Code
22 Sections 209.1, 790.88, and 890.88 of this Code, as relevant for the subject zoning district, or
23 containing group housing as defined in Section 209.2(a)-(c) of this Code and any residential
24 components of institutional uses as defined in Section 209.3(a)-(c) and (g)-(i) of this Code.

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

4 (105+24) "Retail/entertainment." An economic activity category under the TIDF that
5 includes, but is not limited to, a retail use; an entertainment use; massage establishments, as
6 defined in Section 218.1 of this Code; laundering, and cleaning and pressing, as defined in
7 Section 220 of this Code.

8 (106+25) "Retail use." Space within any structure or portion thereof intended or
9 primarily suitable for or accessory to the operation of uses contained in San Francisco Planning Code
10 Section 218, regardless of the zoning district that the use is located in. ~~occupancy by persons or entities~~
11 ~~which supply commodities to customers on the premises including, but not limited to, stores, shops,~~
12 ~~restaurants, bars, eating and drinking businesses, and the uses defined in Sections 218 and 220 through~~
13 ~~225 of this Code, and also including all space accessory to such retail use.~~

14 (107+26) "Revenue services hours." The number of hours that the Municipal Railway
15 provides service to the public with its entire fleet of buses, light rail (including streetcars), and
16 cable cars.

17 (108+27) "Rincon Hill Community Improvements Fund." The fund into which all fee
18 revenue collected by the City from the Rincon Hill Community Infrastructure Impact Fee is
19 deposited.

20 (109+28) "Rincon Hill Community Infrastructure Impact Fee." The fee collected by the
21 City to mitigate impacts of new development in the Rincon Hill Program Area, as described in
22 the findings in Section 418.1.

23 (110+29) "Rincon Hill Program Area." Those districts identified as the Rincon Hill
24 Downtown Residential (RH DTR) Districts in the Planning Code and on the Zoning Maps.

1 (~~111130~~) "Section 6932." Section 6932 of Title 25 of the California Code of Regulations
2 as such section applies to the County of San Francisco.

3 (~~112~~) *"Small Enterprise Workspace use" shall mean space within a structure or portion*
4 *thereof intended or primarily suitable for or accessory to the operation of uses as defined in San*
5 *Francisco Planning Code Section 227(t), regardless of the zoning district that the use is located in.*

6 (~~11375~~) "SOMA." The area bounded by Market Street to the north, Embarcadero to the
7 east, King Street to the south, and South Van Ness and Division to the west.

8 (~~114131~~) "SOMA Community Stabilization Fee." The fee collected by the City to
9 mitigate impacts on the residents and businesses of SOMA of new development in the Rincon
10 Hill Program Area, as described in the findings in Section 418.1.

11 (~~115132~~) "SOMA Community Stabilization Fund." The fund into which all fee revenue
12 collected by the City from the SOMA Community Stabilization Fee is deposited.

13 (~~116133~~) "Sponsor" or "project sponsor." An applicant seeking approval for
14 construction of a development project subject to this Article, such applicant's successor and
15 assigns, and/or any entity which controls or is under common control with such applicant.

16 (~~117134~~) "Stock cooperative." As defined in California Business and Professions Code
17 Section 11003.2.

18 (~~118135~~) "Student housing." A building where 100 percent of the residential uses are
19 affiliated with and operated by an accredited post-secondary educational institution. Typically,
20 student housing is for rent, not for sale. This housing shall provide lodging or both meals and
21 lodging, by prearrangement for one week or more at a time. This definition only applies in the
22 Eastern Neighborhoods Mixed Use Districts.

23 (~~119138~~) "TIDE; Transit Impact Development Fee; ~~TIDE~~." The development fee that is
24 the subject of Section 411.1 et seq. of this Article.

25

1 (~~120136~~) "TIDF Study." The study commissioned by the San Francisco Planning
2 Department and performed by Nelson/Nygaard Associates entitled "Transit Impact
3 Development Fee Analysis – Final Report," dated May 2001, including all the Technical
4 Memoranda supporting the Final Report and the Nelson/Nygaard update materials contained
5 in Board of Supervisors File No. 040141.

6 (~~121137~~) "Total developable site area." That part of the site that can be feasibly
7 developed as residential development, excluding land already substantially developed, parks,
8 required open spaces, streets, alleys, walkways or other public infrastructure.

9 (~~122139~~) "Treasurer." The Treasurer for the City and County of San Francisco.

10 (~~123140~~) "Trip generation rate." The total number of automobile and Municipal Railway
11 trips generated for each 1,000 square feet of development in a particular economic activity
12 category as established in the TIDF Study, or pursuant to the five-year review process
13 established in Section 411.5 of this Article.

14 (~~124141~~) "Use." The purpose for which land or a structure, or both, are legally
15 designed, constructed, arranged, or intended, or for which they are legally occupied or
16 maintained, let or leased.

17 (~~125142~~) "Visitacion Valley." The area bounded by Carter Street and McLaren Park to
18 the west, Mansell Street to the north, Route 101 between Mansell Street and Bayshore
19 Boulevard to the northeast, Bayview Park to the north, Candlestick Park and Candlestick
20 Point Recreation Area to the east, the San Francisco Bay to the southeast, and the San
21 Francisco County line to the south.

22 (~~126143~~) "Visitor services." An economic activity category under the TIDF that includes,
23 but is not limited to, hotel use; motel use, as defined in Section 216(c) and (d); and time-share
24 projects, as defined in Section 11003.5(a) of the California Business and Professions Code.

25

1 (~~127144~~) "Waiver Agreement." An agreement acceptable in form and substance to the
2 City Attorney and the Planning Department under which the City agrees to waive all or a
3 portion of the Community Improvements Impact Fee.

4 **SEC. 413.3. APPLICATION.**

5 (a) ~~Where an environmental evaluation application for the development project is filed on~~
6 ~~or after January 1, 1999, With the exception of uses listed below in subsection (b),~~ Section 413.1 et
7 seq. shall apply to any development project the following:

8 (1) That increases by 25,000 or more gross square feet the total amount of any combination of
9 the following uses: entertainment, hotel, Integrated PDR, office, research and development, retail, and/or
10 Small Enterprise Workspace, and

11 (2) Whose environmental evaluation application for the development project was filed on or
12 after January 1, 1999.

13 ~~(1) — Any entertainment development project proposing the net addition of 25,000 or more~~
14 ~~square feet of entertainment space;~~

15 ~~(2) — Any hotel development project proposing the net addition of 25,000 or more square feet~~
16 ~~of hotel space;~~

17 ~~(3) — Any office development project proposing the net addition of 25,000 or more square feet~~
18 ~~of office space;~~

19 ~~(4) — Any research and development project proposing the net addition of 25,000 or more~~
20 ~~square feet of research and development space; and~~

21 ~~(5) — Any retail development project proposing the net addition of 25,000 or more square feet~~
22 ~~of retail space, except as provided by Subsection (b)(8) below.~~

23 (b) Section 413.1 et seq. shall not apply to:

24 (1) Any development project other than a development project described in
25 Subsection (a) of this Section, including those portions of a development project consisting of

1 the net addition of square feet of any type of space not described in Subsection (a) of this
2 Section;

3 (2) Those portions of a development project described in Subsection (a) of this
4 Section located on property owned by the United States or any of its agencies or leased by
5 the United States or any of its agencies for a period in excess of 50 years, with the exception
6 of such property not used exclusively for a governmental purpose;

7 (3) Those portions of a development project described in Subsection (a) of this
8 Section located on property owned by the State of California or any of its agencies, with the
9 exception of such property not used exclusively for a governmental or educational purpose;

10 (4) Those portions of a development project described in Subsection (a) of this
11 Section located on property under the jurisdiction of the San Francisco Redevelopment
12 Agency or the Port of San Francisco where the application of Section 413.1 et seq. is
13 prohibited by California or local law;

14 (5) Any office development project approved by the Commission prior to August 18,
15 1985 that was not subject to the Interim Guidelines; or

16 (6) Any office development project approved by the Commission prior to August 18,
17 1985 that was subject to the Interim Guidelines. If the action of the Commission affecting such
18 office development project is thereafter modified, superseded, vacated, or reversed by the
19 Board of Appeals, the Board of Supervisors, or by court action in a manner affecting the
20 amount of housing required under the Interim Guidelines, the permit application on remand to
21 the Commission shall remain subject to the Interim Guidelines.

22 (7) Any major phase or development project in Mission Bay North or South to the
23 extent application of Section 413.1 et seq. would be inconsistent with the Mission Bay North
24 Redevelopment Plan and Interagency Cooperation Agreement or the Mission Bay South
25 Redevelopment Plan and Interagency Cooperation Agreement, as applicable.

1 (8) Any of the following free-standing uses. For purposes of this Section, the term "free-
2 standing" shall mean an independent building or structure used exclusively by a single use and any
3 accessory uses, and that is not part of a larger development project on the same environmental
4 evaluation application.

5 (A) free-standing retail use, encompassed in the definition of "pharmacy" as
6 proscribed in Section 790.48(b) of this Code and which does not exceed more than 50,000
7 square feet of retail or other space; or

8 (B) any free-standing retail use encompassed in the definition of "general grocery"
9 proscribed in Section 790.102(a) of this Code, and which does not exceed more than 75,000
10 square feet of retail or other space; or

11 (C) any mixed-use space consisting of residential space and pharmacy retail space
12 not exceeding 50,000 square feet, or general grocery retail space not exceeding 75,000
13 square feet. ~~For purposes of this Section, the term "free-standing" shall mean an independent~~
14 ~~building or structure used exclusively by a single use and any accessory uses, and that is not part of a~~
15 ~~larger development project on the same environmental evaluation application.~~

16 **SEC. 413.5. COMPLIANCE BY PAYMENT TO HOUSING DEVELOPER.**

17 (a) With the written approval of the Director of MOH, the project sponsor may ~~If the~~
18 ~~sponsor~~ elects to pay a sum or contribute land of value at least equivalent to the in-lieu fee to
19 one or more housing developers to meet the requirements of Section 413.1 et seq. If the
20 sponsor elects this option and the Director of MOH approves it, the housing developer or
21 developers shall be required to construct at least the number of housing units determined by
22 the following formulas for each type of space proposed as part of the development project and
23 subject to Section 413.1 et seq.:

24	25
Net Addition Gross Sq. Ft.	× .000140 = Housing Units

1	Entertainment Space	
2	Net Addition Gross Sq. Ft.	× .000110 = Housing Units
3	Hotel Space	
4	Net Addition Gross Sq. Ft.	× .000270 = Housing Units
5	Office Space	
6	Net Addition Gross Sq. Ft.	× .000200 = Housing Units
7	R&D Space	
8	Net Addition Gross sq. Ft.	× .000140 = Housing Units
9	Retail Space	

11

12 The housing units required to be constructed under the above formula must be

13 affordable to qualifying households continuously for 50 years. If the sponsor elects to

14 contribute to more than one distinct housing development under this Section, the sponsor

15 shall not receive credit for its monetary contribution to any one development in excess of the

16 amount of the in-lieu fee, as adjusted under Section 413.6, multiplied by the number of units in

17 such housing development.

18 (b) Prior to the issuance by DBI of the first site or building permit for a development

19 project subject to Section 413.1 et seq. the sponsor shall submit to the Department, with a

20 copy to MOH:

21 (1) A written housing development plan identifying the housing project or projects to

22 receive funds or land from the sponsor and the proposed mechanism for enforcing the

23 requirement that the housing units constructed will be affordable to qualifying households for

24 50 years; and

25

1 (2) A certification that the sponsor has made a binding commitment to contribute an
2 amount of money or land of value at least equivalent to the amount of the in-lieu fee that
3 would otherwise be required under Section 413.6 to one or more housing developers and that
4 the housing developer or developers shall use such funds or lands to develop the housing
5 subject to this Section.

6 (3) A self-contained appraisal report as defined by the Uniform Standards of
7 Professional Appraisal Practice prepared by an M.A.I. appraiser of the fair market value of any
8 land to be contributed by the sponsor to a housing developer. The date of value of the
9 appraisal shall be the date on which the sponsor submits the housing development plan and
10 certification to the Department.

11 If the sponsor fails to comply with these requirements within one year of the final
12 determination or revised final determination, it shall be deemed to have elected to pay the in-
13 lieu fee under Section 413.6, and any deferral surcharge, in order to comply with Section
14 413.1 et seq. In the event that the sponsor fails to pay the in-lieu fee within the time required
15 by Section 413.6, DBI shall deny any and all site or building permits or certificates of
16 occupancy for the development project until the such payment has been made or land
17 contributed, and the Development Fee Collection Unit at DBI shall immediately initiate lien
18 proceedings against the sponsor's property pursuant to Section 408 of this Article and Section
19 107A.13 of the San Francisco Building Code to recover the fee.

20 (c) Within 30 days after the sponsor has submitted a written housing development
21 project plan and, if necessary, an appraisal to the Department and MOH under Subsection(b)
22 of this Section, the Department shall notify the sponsor in writing of its initial determination as
23 to whether the plan and appraisal are in compliance with this Section, publish the initial
24 determination in the next Commission calendar, and cause a public notice to be published in
25 an official newspaper of general circulation stating that such housing development plan has

1 been received and stating the Department's initial determination. In making the initial
2 determination for an application where the sponsor elects to contribute land to a housing
3 developer, the Department shall consult with the Director of Property and include within its
4 initial determination a finding as to the fair market value of the land proposed for contribution
5 to a housing developer. Within 10 days after such written notification and published notice, the
6 sponsor or any other person may request a hearing before the Commission to contest such
7 initial determination. If the Department receives no request for a hearing within such 10-day
8 period, the determination of the Department shall become a final determination. Upon receipt
9 of any timely request for hearing, the Department shall schedule a hearing before the
10 Commission within 30 days. The scope of the hearing shall be limited to the compliance of the
11 housing development plan and appraisal with this Section, and shall not include a challenge to
12 the amount of the housing requirement imposed on the development project by the
13 Department or the Commission. At the hearing, the Commission may either make such
14 revisions to the Department's initial determination as it may deem just, or confirm the
15 Department's initial determination. The Commission's determination shall then become a final
16 determination, and the Department shall provide written notice of the final determination to the
17 sponsor, MOH, and to any person who timely requested a hearing of the Department's
18 determination. The Department shall also provide written notice to MOH that the housing units
19 to be constructed pursuant to such plan are subject to Section 413.1 et seq..

20 (d) Prior to the issuance by DBI of the first construction document for a
21 development project subject to this Section, the sponsor must:

22 (1) Provide written evidence to the Department that it has paid in full the sum or
23 transferred title of the land required by Subsection (a) of this Section to one or more housing
24 developers;

25

1 (2) Notify the Department that construction of the housing units has commenced,
2 evidenced by:

3 (A) The City's issuance of site and building permits for the entire housing
4 development project,

5 (B) Written authorization from the housing developer and the construction lender
6 that construction may proceed,

7 (C) An executed construction contract between the housing developer and a general
8 contractor, and

9 (D) The issuance of a performance bond enforceable by the construction lender for
10 100 percent of the replacement cost of the housing project; and

11 (3) Provide evidence satisfactory to the Department that the units required to be
12 constructed will be affordable to qualifying households for 50 years through an enforcement
13 mechanism approved by the Department pursuant to Subsections (b) through (d) of this
14 Section.

15 (e) Where the sponsor elects to pay a sum or contribute land of value equivalent to
16 the in-lieu fee to one or more housing developers, the sponsor's responsibility for completing
17 construction of and maintaining the affordability of housing units constructed ceases from and
18 after the date on which:

19 (1) The conditions of (1) through (3) of Subsection (d) of this Section have been
20 met; and

21 (2) A mechanism has been approved by the Director to enforce the requirement that
22 the housing units constructed will be affordable to qualifying households continuously for 50
23 years.

24 (g) If the project sponsor fails to comply with these requirements prior to issuance of
25 the first certificate of occupancy by DBI, it shall be deemed to have elected to pay the in-lieu

1 fee under Section 413.6 and the deferral surcharge in order to comply with Section 413.1 et
 2 seq. DBI shall deny any and all certificates of occupancy for the development project until
 3 such payment has been made.

4 **SEC. 413.6. COMPLIANCE BY PAYMENT OF IN-LIEU FEE.**

5 ~~(a) — (1) Commencing on January 1, 2002, the amount of the fee which may be paid by the~~
 6 ~~sponsor of a development project subject to Section 413.1 et seq. in lieu of developing and providing~~
 7 ~~the housing required by Section 413.5 shall be determined by the following formulas for each type of~~
 8 ~~space proposed as part of the development project and subject to Section 413.1 et seq.:~~

Net Addition Gross Sq. Ft. Entertainment Space	× x	\$13.95 = Total Fee
Net Addition Gross Sq. Ft. Hotel Space	× x	\$11.21 = Total Fee
Net Addition Gross Sq. Ft. Office Space	× x	\$14.96 = Total Fee
Net Addition Gross Sq. Ft. R & D Space	× x	\$9.97 = Total Fee
Net Addition Gross Sq. Ft. Retail Space	× x	\$13.95 = Total Fee

16 ~~(2) — Commencing on January 1, 2009, the amount of the fee which may be paid by the sponsor of a~~
 17 ~~development project subject to Section 413.1 et seq. in lieu of developing and providing the housing~~
 18 ~~required by Section 413.5 shall be determined by the following formulas for each type of space~~
 19 ~~proposed as part of the development project and subject to Section 413.1 et seq.:~~

Net Addition Gross Sq. Ft. IPDR or S.E.W. Space	× x	\$15.69 = Total Fee
--	----------------	--------------------------------

22 ~~(A) — Integrated PDR or IPDR, is defined in Section 890.49 of this Code,~~
 23 ~~(B) — Small Enterprise Workspaces or S.E.W., is defined in Section 227(t) of this Code.~~

24 (a) The amount of the fee which may be paid by the sponsor of a development project subject to
 25 this Section in lieu of developing and providing the housing required by Section 413.5 shall be

determined by the following formulas for each type of space proposed as part of the development project and subject to this ordinance.

(1) For applicable projects (as defined in Section 413.3), any net addition shall pay per the Fee Schedule in Table 413.6A, and

(2) For applicable projects (as defined in Section 413.3), any replacement or change of use shall pay per the Fee Schedule in Table 413.6B.

TABLE 413.6A

FEE SCHEDULE FOR NET ADDITIONS OF GROSS SQUARE FEET

TABLE INSET:

<u>Use</u>	<u>Fee per Gross Square Foot</u>
<u>Entertainment</u>	<u>\$18.62</u>
<u>Hotel</u>	<u>\$14.95</u>
<u>Integrated PDR</u>	<u>\$15.69</u>
<u>Institutional</u>	<u>\$0.00</u>
<u>Office</u>	<u>\$19.96</u>
<u>PDR</u>	<u>\$0.00</u>
<u>Research & Development</u>	<u>\$13.30</u>
<u>Residential</u>	<u>\$0.00</u>
<u>Retail</u>	<u>\$18.62</u>
<u>Small Enterprise Workspace</u>	<u>\$15.69</u>

TABLE 413.6B

FEE SCHEDULE FOR REPLACEMENT OF USE OR CHANGE OF USE

TABLE INSET:

<u>Previous Use</u>	<u>New Use</u>	<u>Fee per Gross Square Foot</u>
<u>Entertainment, Hotel,</u>	<u>Entertainment, Hotel,</u>	<u>\$0.00</u>

1 2 3 4	<u>Integrated PDR, Office, Research & Development, Retail, or Small Enterprise Workspace</u>	<u>Integrated PDR, Office, Retail, or Small Enterprise Workspace</u>	
5 6 7 8 9	<u>PDR which received its First Certificate of Occupancy on or before April 1, 2010</u>	<u>Entertainment, Hotel, Integrated PDR, Office, Research & Development, Retail, or Small Enterprise Workspace</u>	<u>Use Fee from Table 313.6A minus \$14.09</u>
10 11 12 13 14	<u>Institutional which received its First Certificate of Occupancy on or before April 1, 2010</u>	<u>Entertainment, Hotel, Integrated PDR, Office, Research & Development, Retail, or Small Enterprise Workspace</u>	<u>\$0.00</u>
15 16 17 18	<u>Institutional or PDR which received its First Certificate of Occupancy on or before April 1, 2010</u>	<u>Institutional, PDR, Research & Development, Residential</u>	<u>\$0.00</u>
19 20 21	<u>Institutional or PDR which received its First Certificate of Occupancy after April 1, 2010</u>	<u>Any</u>	<u>Use Fee from Table 313.6A</u>
22 23 24 25	<u>Residential</u>	<u>Entertainment, Hotel, Integrated PDR, Office, PDR, Research & Development, Retail, or</u>	<u>Use Fee from Table 313.6A</u>

	<u>Small Enterprise</u>	
	<u>Workspace</u>	

(b) No later than July 1 of each year, MOH shall adjust the in-lieu fee payment option and provide a report on its adjustment to the Board of Supervisors. MOH shall provide notice of any fee adjustment on its website at least 30 days prior to the adjustment taking effect. MOH is authorized to develop an appropriate methodology for indexing the fee, based on adjustments in the costs of constructing housing and in the price of housing in San Francisco consistent with the indexing for the Residential Inclusionary Affordable Housing Program in lieu fee set out in Section 415.6. The method of indexing shall be published in the Procedures Manual for the Residential Inclusionary Affordable Housing Program. In making a determination as to the amount of the fee to be paid, the Department shall credit to the sponsor any excess Interim Guideline credits or excess credits which the sponsor elects to apply against its housing requirement.

(c) Any in-lieu fee required under this Section is due and payable to the Development Fee Collection Unit at DBI prior to issuance of the first construction document, with an option for the project sponsor to defer payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be deposited into the Citywide Affordable Housing Fund in accordance with Section 107A.13.3 of the San Francisco Building Code.

SEC. 413.8. COMPLIANCE BY COMBINATION OF PAYMENT TO HOUSING DEVELOPER AND PAYMENT OF IN-LIEU FEE.

With the written approval of the Director of MOH, the ~~The~~ sponsor of a development project subject to Section 413.1 et seq. may elect to satisfy its housing requirement by a combination of paying money or contributing land to one or more housing developers under Section 413.5 and paying a partial amount of the in-lieu fee to the Development Fee Collection Unit at DBI

1 under Section 413.6. In the case of such election, the sponsor must pay a sum such that each
2 gross square foot of net addition of each type of space subject to Section 413.1 et seq. is
3 accounted for in either the payment of a sum or contribution of land to one or more housing
4 developers or the payment of a fee to the Development Fee Collection Unit. The housing units
5 constructed by a housing developer must conform to all requirements of Section 413.1 et
6 seq., including, but not limited to, the proportion that must be affordable to qualifying
7 households as set forth in Section 413.5. All of the requirements of Sections 413.5 and 413.6
8 shall apply, including the requirements with respect to the timing of issuance of site and
9 building permits and certificates of occupancy for the development project and payment of the
10 in-lieu fee.

11 **SEC. 418 (formerly Section 318). RINCON HILL COMMUNITY IMPROVEMENTS**
12 **FUND AND SOMA COMMUNITY STABILIZATION FUND ~~IN DTR DISTRICTS.~~**

13 Sections 418.~~12~~ through 418.7, hereafter referred to as Section 418.1 et seq., set forth
14 the requirements and procedures for the Rincon Hill Community Improvements Fund and the
15 SOMA Community Stabilization Fund. The effective date of these requirements is either
16 August 19, 2005, which is the date that the requirements originally became effective, or the
17 date a subsequent modification, if any, became effective.

18 **SEC. 418.2. DEFINITIONS. See Section 401 of this Article.**

19 **SEC. 418.3. APPLICATION.**

20 (a) Application. Section 418.1 et seq. shall apply to any development project located
21 in the Rincon Hill Community Improvements Program Area

22 ~~(b) Amount of Fees.~~

23 ~~(1) The Rincon Hill Community Infrastructure Impact Fee shall be \$11.00 per net addition~~
24 ~~of occupiable square feet of residential use in any development project with a residential use in any~~
25 ~~development project with a residential use located within the Program Area; and~~

(b) Projects subject to the Rincon Hill Community Infrastructure Impact Fee. The Rincon Hill Community Infrastructure Impact Fee is applicable to any development project in the Rincon Hill Program Area which results in:

- (1) At least one net new residential unit,
- (2) Additional space in an existing residential unit of more than 800 gross square feet,
- (3) At least one net new group housing facility or residential care facility,
- (4) Additional space in an existing group housing or residential care facility of more than 800 gross square feet.

(c) Fee Calculation for the Rincon Hill Community Infrastructure Impact Fee. For development projects for which the Rincon Hill Community Infrastructure Impact Fee is applicable:

- (1) Any net addition of gross square feet shall pay per the Fee Schedule in Table 418.3A, and
- (2) Any replacement of gross square feet or change of use shall pay per the Fee Schedule in Table 418.3B.

TABLE 418.3A
RINCON HILL COMMUNIUTY INFRASTRUCTURE IMPACT FEE SCHEDULE FOR NET
ADDITIONS OF GROSS SQUARE FEET IN THE RINCON HILL PROGRAM AREA

TABLE INSET:

<u>Residential</u>
<u>\$8.60/gsf</u>

TABLE 418.3B
RINCON HILL COMMUNIUTY INFRASTRUCTURE IMPACT FEE SCHEDULE FOR
REPLACEMENT OF USE OR CHANGE OF USE IN THE RINCON HILL PROGRAM AREA

TABLE INSET:

<u>Residential to</u>	<u>Non-Residential to</u>	<u>PDR to</u>
-----------------------	---------------------------	---------------

1	<u>Residential or Non-</u>	<u>Residential</u>	<u>Residential</u>
2	<u>residential; Non-</u>		
3	<u>residential to Non-</u>		
4	<u>residential; or PDR</u>		
5	<u>to Non-Residential</u>		
6	<u>\$0</u>	<u>\$5.00/gsf</u>	<u>\$6.80/gsf</u>

7 (d2) Projects Subject to and Fee Calculation for the SOMA Community Stabilization Fee:

8 The SOMA Community Stabilization Fee shall be ~~\$10.95~~~~\$14.00~~ per net addition of
9 ~~gross~~~~occupiable~~ square feet of residential use in any development project with a residential use
10 within the Program Area.

11 ~~The Community Infrastructure Impact Fee shall be revised effective January 1st of the year~~
12 ~~following the effective date of Section 418.1 et seq. and on January 1st each year thereafter by the~~
13 ~~percentage increase or decrease in the construction cost of providing these improvements.~~

14 (ee) Option for In-Kind Provision of Community Infrastructure and Fee Credits. Project
15 sponsors may propose to directly provide community improvements to the City. In such a case, the City
16 may enter into an In-Kind Improvements Agreement with the sponsor and issue a fee waiver for the
17 Rincon Hill Community Infrastructure Impact Fee from the Planning Commission, subject to the
18 following rules and requirements:

19 (1) Approval criteria. The City shall not enter into an In-Kind Agreement unless the
20 proposed in-kind improvements meet an identified community need and where they substitute for
21 improvements that could be provided by the Rincon Hill Community Improvements Fund (as described
22 in Section 418.5). The City may reject in-kind improvements if they are not consistent with the priorities
23 identified in the Rincon Hill Area Plan, by the Interagency Plan Implementation Committee (see
24 Section 36 of the Administrative Code), or other prioritization processes related to Rincon Hill
25

1 community improvements programming. No physical improvement or provision of space otherwise
2 required by the Planning Code or any other City Code shall be eligible for consideration as part of this
3 In-Kind Improvements Agreement.

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

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

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

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

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

18 (4) Approval Process. The Planning Commission must approve the material terms of an In-Kind
19 Agreement. Prior to the parties executing the Agreement, the City Attorney must approve the
20 agreement as to form and to substance. The Director of Planning is authorized to execute the
21 Agreement on behalf of the City. If the Planning Commission approves the In-Kind Agreement, it shall
22 waive the amount of the Rincon Hill Community Infrastructure Impact Fee by the value of the proposed
23 In-Kind Improvements Agreement as determined by the Director of Planning. No credit shall be made
24 for land value unless ownership of the land is transferred to the City or a permanent public easement is
25 granted, the acceptance of which is at the sole discretion of the City. The maximum value of the In-Kind

1 Improvements Agreement shall not exceed the required Rincon Hill Community Infrastructure Impact
2 Fee.

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

7 ~~The Planning Commission may reduce the Community Infrastructure Impact Fee for specific~~
8 ~~residential development projects in cases where the Director has recommended approval and the~~
9 ~~project sponsor has entered into an In-Kind Improvements Agreement with the City. In-kind community~~
10 ~~improvements may only be accepted if they are improvements prioritized in the Rincon Hill Plan, meet~~
11 ~~identified community needs, and serve as a substitute for improvements funded by impact fee revenue~~
12 ~~such as street improvements, transit improvements, and community facilities. Open space or~~
13 ~~streetscape improvements proposed to satisfy the usable open space requirements of Section 135 are~~
14 ~~not eligible as in-kind improvements. No proposal for in-kind community improvements shall be~~
15 ~~accepted that does not conform to the criteria above. Project sponsors that pursue In-Kind Community~~
16 ~~Agreements with the City will be charged time and materials for any additional administrative costs~~
17 ~~that the Department or any other City agency incurs in processing the request.~~

18 ~~(1) The Rincon Hill Community Infrastructure Impact Fee may be reduced by the total~~
19 ~~dollar value of the community improvements provided through an In-Kind Improvements Agreement~~
20 ~~recommended by the Director and approved by the Commission. For the purposes of calculating the~~
21 ~~total dollar value, the project sponsor shall provide the Department with a cost estimate for the~~
22 ~~proposed in-kind community improvement(s) from two independent sources or, if relevant, real estate~~
23 ~~appraisers. If the City has completed a detailed site-specific cost estimate for a planned improvement,~~
24 ~~this may serve as one of the cost estimates provided it is indexed to current cost of construction. Based~~
25 ~~on these estimates, the Director shall determine the appropriate value of the in-kind improvements and~~

1 ~~the Commission shall reduce the Rincon Hill Community Infrastructure Impact Fee otherwise due by~~
2 ~~an equal amount. No credit shall be made for land value unless ownership of the land is transferred to~~
3 ~~the City or a permanent public easement is granted, the acceptance of which is at the sole discretion of~~
4 ~~the City.~~

5 ~~(2) All In-Kind Improvement Agreements shall require the project sponsor to reimburse all~~
6 ~~City agencies for their administrative and staff costs in negotiating, drafting, and monitoring~~
7 ~~compliance with the In-Kind Improvements Agreement.~~

8 (fd) Option for Financing of In-Kind Community Improvements or payment of the
9 Rincon Hill Community Infrastructure Impact Fee via a Mello-Roos Community Facilities
10 District ("CFD").

11 Applicants may finance In-Kind Community Improvements (subject to subsection (f) above) or
12 payment of the Rincon Hill Community Infrastructure Impact Fee (subject to subsection (c)
13 above) through the formation of a CFD. Applicants who do so shall be responsible for any
14 additional time and materials costs associated with annexation or formation of the CFD,
15 including, Planning Department staff, City Attorney time, and other costs associated with
16 annexation or formation of the CFD. These costs shall be paid in addition to the In-Kind
17 Community Improvements obligation and billed no later than expenditure of CFD bond funds
18 promptly following satisfaction of the In-Kind Agreement or payment of the Rincon Hill
19 Community Infrastructure Impact Fee. In the case of failure by the project sponsor to provide
20 Community Facilities Districts funds to the City according to the specified timeline and terms in the
21 agreement, the project sponsor shall be responsible for paying to the City the full Fee described in (c)
22 above plus interest (accrued since the date of first site permit) at a rate not less than that earned by the
23 City's investment pool over such period as calculated by the City Controller.

24 (ge) Timing of Fee Payments. The Rincon Hill Community Infrastructure Impact Fee
25 and SOMA Stabilization Fee is due and payable to the Development Fee Collection Unit at

1 DBI prior to issuance of the first construction document, with an option for the project sponsor
2 to defer payment to prior to issuance of the first certificate of occupancy upon agreeing to pay
3 a deferral surcharge that would be paid into the appropriate fund in accordance with Section
4 107A.13.3 of the San Francisco Building Code.

5 (hf) Waiver or Reduction.

6 Development projects may be eligible for a waiver or reduction of impact fees, per Section 406 of this
7 Article. In the event that the Board of Supervisors grants a waiver or reduction under Section
8 406408 of this Article, it shall be the policy of the Board of Supervisors that it shall adjust the
9 percentage of inclusionary housing in lieu fees in Section 827(b)(5)(C) of this Code such that
10 a greater percentage of the in lieu fees will be spent in SOMA with the result that the waiver or
11 reduction under this Section shall not reduce the overall funding to the SOMA community.

12 **SEC. 418.5. RINCON HILL COMMUNITY IMPROVEMENTS FUND.**

13 (a) There is hereby established a separate fund set aside for a special purpose
14 entitled the Rincon Hill Community Improvements Fund ("Fund"). All monies collected by the
15 Development Fee Collection Unit at DBI pursuant to Section 418.3(e) shall be deposited in a
16 special fund maintained by the Controller. The receipts in the Fund are hereby appropriated in
17 accordance with law to be used solely to fund public infrastructure subject to the conditions of
18 this Section.

19 (b) Fund Expenditure.

20 (1) All monies deposited in the Fund shall be used solely to design, engineer,
21 acquire, and develop neighborhood open spaces, streetscape improvements, *public library*
22 *resources and facilities*, a community center, and other improvements that result in new
23 publicly-accessible facilities within the Rincon Hill Downtown Residential (DTR) District or
24 within 250 feet of the District, *except that funds used for "public library resources and facilities"*
25 *may be used to augment services, resources, materials, equipment or facilities at a public library*

1 outside of the Rincon Hill DTR District or within 250 feet of the District, provided that such library is
2 conveniently located such that it will demonstrably serve the increased population of the Rincon Hill
3 district. These improvements shall be consistent with the Rincon Hill Public Open Space
4 System as described in Map 5 of the Rincon Hill Area Plan of the General Plan, and any
5 Rincon Hill Improvements Plan that is approved by the Board of Supervisors in the future,
6 except that monies from the Fund may be used by the Planning Commission to commission
7 economic analyses for the purpose of revising the fee pursuant to Section 418.3 above, to
8 complete a nexus study to demonstrate the relationship between residential development and
9 the need for public facilities if this is deemed necessary, or to commission landscape
10 architectural or other planning, design and engineering services in support of the proposed
11 public improvements, provided they do not exceed a total of \$500,000~~\$250,000~~.

12 (2) Notwithstanding Subsection (b)(1) above, \$6 million of the Fund shall be
13 transferred to the SOMA Stabilization Fund described in Section 418.7 to be used exclusively
14 for the following expenditures: SOMA Open Space Facilities Development and Improvement;
15 Community Facilities Development and Improvement; SOMA Pedestrian Safety Planning,
16 Traffic Calming, and Streetscape Improvement; and Development of new affordable housing
17 in SOMA. The Board of Supervisors finds that it is in the best interest of the City that the
18 Rincon Hill Community Improvements be built. The Board of Supervisors further finds that the
19 City will be able to build sufficient community improvements for the Rincon Hill Plan Area with
20 the remainder of the money in the Rincon Hill Community Improvements Fund. In the event
21 that the Department demonstrates to the Board that the City is unable to build the
22 contemplated community improvements for the Plan Area, it shall be City policy to designate
23 funds from the general fund received from real estate transfer taxes and property taxes on
24 new development generated under the Rincon Hill Plan Area Plan approved in this ordinance
25

1 sufficient to finance the rest of the community improvements proposed for the Rincon Hill Plan
2 Area.

3 (3) No portion of the Fund may be used, by way of loan or otherwise, to pay any
4 administrative, general overhead, or similar expense of any public entity, except for the purposes
5 of administering this fund. Administration of this fund includes maintenance of the Fund, time and
6 materials associated with processing and approving fee payments and expenditures from the Fund
7 (including necessary hearings), reporting or informational requests related to the Fund, and
8 coordination between public agencies regarding determining and evaluating appropriate expenditures
9 of the Fund, but shall not include design, engineering, real estate, or planning activities related to
10 projects using Fund expenditures. Expenditures related to administration of the fund shall not exceed
11 4% of the aggregate value of fee payments subject to Section 318.3, including any in-kind agreements.
12 All interest earned on this account shall be credited to the Rincon Hill Community Improvements Fund.

13 (c) The Controller's Office shall file an annual report with the Board of Supervisors
14 beginning one year after the effective date of Section 418.1 et seq., which report shall set
15 forth the amount of money collected in the Fund. The Fund shall be administered by the
16 Planning Commission.

17 (d) A public hearing shall be held by both the Planning and Recreation and Parks
18 Commissions to elicit public comment on proposals for the acquisition of property using
19 monies in the Fund or through agreements for financing In-Kind Community Improvements via
20 a Mello-Roos Community Facilities District that will ultimately be maintained by the
21 Department of Recreation and Parks. Notice of public hearings shall be published in an official
22 newspaper at least 20 days prior to the date of the hearing, which notice shall set forth the
23 time, place, and purpose of the hearing. The hearing may be continued to a later date by a
24 majority vote of the members of both Commissions present at the hearing. At a joint public
25 hearing, a quorum of the Planning and Recreation and Parks Commissions may vote to

1 allocate the monies in the Fund for acquisition of property for park use and/or for development
2 of property for park use, or to approve projects proposed in connection with an agreement for
3 In-Kind or CFD Improvements.

4 (e) The Planning Commission shall work with other City agencies and commissions,
5 specifically the Department of Recreation and Parks, DPW, and the Metropolitan
6 Transportation Agency, to develop agreements related to the administration of the
7 development of new public facilities within public rights-of-way or on any acquired property
8 designed for park use, using such monies as have been allocated for that purpose at a
9 hearing of the Planning Commission.

10 (f) The Director shall have the authority to prescribe rules and regulations
11 governing the Fund, which are consistent with Section 418.1 et seq..

12 **SEC. 418.6. DIRECTOR OF PLANNING'S EVALUATION.**

13 Within 18 months following the effective date of Section 418.1 et seq., the Director of
14 Planning and the Director of ~~MOHMOCD~~ shall report to the Planning Commission, the Board
15 of Supervisors, and the Mayor on the status of compliance with Section 418.1 et seq., the
16 efficacy of Section 418.1 et seq. in funding infrastructure and stabilization programs in the
17 Rincon Hill Program Area and in SoMa, and the impact of the Program on property values in
18 the vicinity of the Program Project Area.

19 **SEC. 418.7. STUDIES.**

20 (a) No later than July 1, 2010, and every five years thereafter, the Director of
21 Planning shall complete a study to determine the demand for infrastructure to serve
22 residential development projects in the Rincon Hill Downtown Residential District ~~downtown~~
23 ~~residential areas~~ and, based on the study, recommend to the Board of Supervisors changes in
24 the requirements for the Rincon Hill Community Infrastructure Impact Fee ~~community improvement~~

1 ~~impact fees~~ imposed on residential development in Section 418.1 et seq. if necessary to help
2 meet that demand.

3 (b) No later than July 1, 2010, and every five years thereafter, the Director of
4 ~~MOHMOCD~~ or his or her designee shall complete a study to determine the demand for
5 stabilization programs in the SOMA area and, based on the study, recommend to the Board of
6 Supervisors changes in the requirements for ~~the SOMA Community Stabilization Fee Rincón Hill~~
7 ~~community stabilization impact fees~~ imposed on residential development in Section 418.1 et seq.
8 if necessary to help meet that demand.

9 **SEC. 421.1. FINDINGS.**

10 A. Market and Octavia Plan Objectives. The Market and Octavia Area Plan
11 embodies the community's vision of a better neighborhood, which achieves multiple objectives
12 including creating a healthy, vibrant transit-oriented neighborhood. The Planning Department
13 coordinated development of the Area Plan objectives around the tenants of the Better
14 Neighborhood Planning process and within the larger framework of the General Plan.

15 The Market and Octavia Plan Area encompasses a variety of districts, most of which
16 are primarily residential or neighborhood commercial. The Area Plan calls for a maintenance
17 of the well-established neighborhood character in these districts with a shift to a more transit-
18 oriented type of districts. A transit-oriented district, be it neighborhood commercial or
19 residential in character, generates a unique type of infrastructure needs.

20 The overall objective of the Market and Octavia planning effort is to encourage
21 balanced growth in a centrally located section of the City that is ideal for transit oriented
22 development. The Area Plan calls for an increase in housing and retail capacity simultaneous
23 to infrastructure improvements in an effort to maintain and strengthen neighborhood
24 character.

1 B. Need for New Housing and Retail. New residential construction in San Francisco
2 is necessary to accommodate a growing population. The population of California has grown
3 by more than 11 percent since 1990 and is expected to continue increasing. The San
4 Francisco Bay Area is growing at a rate similar to the rest of the state.

5 The City should encourage new housing production in a manner that enhances existing
6 neighborhoods and creates new high-density residential and mixed-use neighborhoods. One
7 solution to the housing crisis is to encourage the construction of higher density housing in
8 areas of the City best able to accommodate such housing. Areas like the Plan Area can better
9 accommodate growth because of easy access to public transit, proximity to downtown,
10 convenience of neighborhood shops to meet daily needs, and the availability of development
11 opportunity sites. San Francisco's land constraints, as described in Section 418.1(A), limit
12 new housing construction to areas of the City not previously designated as residential areas,
13 infill sites, or areas that can absorb increased density.

14 The Market and Octavia Plan Area presents opportunity for infill development on
15 various sites, including parcels along Octavia Boulevard known as "the Central Freeway
16 parcels," some parcels along Market Street, and the SoMa West portions of the Plan Area.
17 These sites are compelling opportunities because new housing can be built within easy
18 walking distance of the downtown and Civic Center employment centers and City and regional
19 transit centers, while maintaining the comfortable residential character and reinforcing the
20 unique and exciting neighborhood qualities.

21 To respond to the identified need for housing, repair the fabric of the neighborhood,
22 and support transit-oriented development, the Market and Octavia Plan Area is zoned for the
23 appropriate residential and ~~commercial~~ non-residential uses. The Planning Department is
24 adding a Van Ness Market Downtown Residential Special Use District (VNMDR-SUD) in the
25 Plan Area and establishing a Residential Transit-oriented (RTO) district and several

1 Neighborhood Commercial Transit (NCT) districts. New zoning controls encourage housing
2 and ~~commercial~~ non-residential development appropriate to each district.

3 The plan builds on existing neighborhood character and establishes new standards for
4 amenities necessary for a transit-oriented neighborhood. A transit-oriented neighborhood
5 requires a full range of neighborhood serving businesses. New retail and office space will
6 provide both neighborhood- and City-serving businesses.

7 San Francisco is experiencing a severe shortage of housing available to people at all
8 income levels, especially to those with the lowest incomes while seeing a sharp increase in
9 housing prices. The Association of Bay Area Governments' (ABAG) Regional Housing Needs
10 Determination (RHND) forecasts that San Francisco must produce 2,716 new units of housing
11 annually to meet projected needs. At least 5,639 of these new units should be available to
12 moderate income households. New affordable units are funded through a variety of sources,
13 including inclusionary housing and in lieu fees leveraged by new market rate residential
14 development pursuant to Sections 413 and 415. The Planning Department projects that
15 approximately 1,400 new units of affordable housing will be developed as a result of the plan.
16 New ~~D~~development ~~R~~requires new ~~C~~community ~~I~~nfrastructure.

17 The purpose for new development in the Plan Area is established above (Section
18 421.1(A)). New construction should not diminish the City's open space, jeopardize the City's
19 Transit First Policy, or place undue burden on the City's service systems. The new residential
20 and non-residential construction should preserve the existing neighborhood services and
21 character, as well as increase the level of service for all modes necessary to support transit-
22 oriented development. New development in the area will create additional impact on the local
23 infrastructure, thus generating a substantial need for community improvements as the
24 district's population and workforce grows.

1 The amendments to the General Plan, Planning Code, and Zoning Maps that
2 correspond to Section 421.1 et seq. will permit an increased amount of new residential and
3 ~~commercial~~ non-residential development. The Planning Department anticipates an increase of
4 5,960 units within the next 20 years, and an increase of 9,875 residents, as published in the
5 environmental impact report. This new development will have an extraordinary impact on the
6 Plan Area's infrastructure. As described more fully in the Market and Octavia Plan Final
7 Environmental Impact Report, on file with the Clerk of the Board in File No. 071157, and the
8 Market and Octavia Community Improvements Program Document, San Francisco Planning
9 Department on file with the Clerk of the Board in File No. 071157, new development will
10 generate substantial new pedestrian, vehicle, bicycle, and transit trips which will impact the
11 area. The transition to a new type of district is tantamount to the development of new
12 subdivisions, or the transition of a district type, in terms of the need for new infrastructure.

13 The Market and Octavia Area Plan proposes to mitigate these impacts by providing
14 extensive pedestrian, transit, traffic-calming and other streetscape improvements that will
15 encourage residents to make as many daily trips as possible on foot, by bicycle or on transit;
16 by creating new open space, greening, and recreational facilities that will provide necessary
17 public spaces; and by establishing a range of other services and programming that will meet
18 the needs of community members. A comprehensive program of new public infrastructure is
19 necessary to lessen the impacts of the proposed new development and to provide the basic
20 community improvements to the area's new community members. The Market and Octavia
21 Community Improvements Program Document provides a more detailed description of
22 proposed ~~C~~community Improvements.

23 In order to enable San Francisco to provide necessary public services to new
24 residents; to maintain and improve the Market and Octavia Plan Area character; and to
25 increase neighborhood livability and investment in the district, it is necessary to upgrade

1 existing streets and streetscaping; acquire and develop neighborhood parks, recreation
2 facilities and other community facilities to serve the new residents and workers.

3 While the open space requirements imposed on individual developments address
4 minimum needs for private open space and access to light and air, such open space does not
5 provide the necessary public social and recreational opportunities as attractive public facilities
6 such as sidewalks, parks and other community facilities that are essential urban infrastructure,
7 nor does it contribute to the overall transformation of the district into a safe and enjoyable
8 transit-oriented neighborhood.

9 C. Program Scope. The purpose of the proposed Market and Octavia Community
10 *Infrastructure Improvements* Impact Fees is to provide specific public improvements, including
11 community open spaces, pedestrian and streetscape improvements and other facilities and
12 services. These improvements are described in the Market and Octavia Area Plan and
13 Neighborhood Plan and the accompanying ordinances, and are necessary to meet
14 established City standards for the provision of such facilities. The Market and Octavia
15 Community Improvements Fund and Community *Infrastructure Improvements* Impact Fee will
16 create the necessary financial mechanism to fund these improvements in proportion to the
17 need generated by new development.

18 National and international transportation studies (such as the Dutch Pedestrian Safety
19 Research Review. T. Hummel, SWOV Institute for Road Safety Research (Holland), and
20 University of North Carolina Highway Safety Research Center for the U.S. Department of
21 Transportation, 1999 on file with the Clerk of the Board have demonstrated that pedestrian,
22 traffic-calming and streetscape improvements of the type proposed for the Market and Octavia
23 Plan Area result in safer, more attractive pedestrian conditions. These types of improvements
24 are essential to making pedestrian activity a viable choice, thereby helping to mitigate traffic
25

1 impacts associated with excess automobile trips that could otherwise be generated by new
2 development.

3 The proposed Market and Octavia Community *Infrastructure Improvements* Impact Fee is
4 necessary to maintain progress towards relevant state and national service standards, as well
5 as local standards in the Goals and Objectives of the General Plan for open space and
6 streetscape improvements as discussed in Section 418.1(F). Additionally the fee contributes
7 to library resources and childcare facilities standards discussed below:

8 Library Resources: New residents in Plan Area will generate a substantial new need for
9 library services. The San Francisco Public Library does not anticipate adequate demand for a
10 new branch library in the Market and Octavia Plan Area at this time. However, the increase in
11 population in Plan Area will create additional demand at other libraries, primarily the Main
12 Library and the Eureka Valley Branch Library. The Market and Octavia Community
13 *Infrastructure Improvements* Impact Fee includes funding for library services equal to \$69.00 per
14 new resident, which is consistent with the service standards used by the San Francisco Public
15 Library for allocating resources to neighborhood branch libraries. Child Care Facilities: New
16 households in the Plan Area will generate a need for additional childcare facilities. Childcare
17 services are integral to the financial and social success of families. Nationwide, research and
18 policies are strengthening the link between childcare and residential growth, many Bay Area
19 counties are leading in efforts to finance new childcare through new development. San Mateo
20 has conducted detailed research linking housing to childcare needs. Santa Clara County has
21 developed exemplary projects that provide childcare facilities in proximity to transit stations,
22 and Santa Cruz has levied a fee on residential development to fund childcare. Similarly many
23 research efforts have illustrated that adequate childcare services are crucial in supporting a
24 healthy local economy, see research conducted by Louise Stoney, Mildred Warner, PPIC,
25 County of San Mateo, CA on file with the Clerk of the Board. *The Mayor's Office of Community*

1 Development's MOCD's Project Connect Report identified childcare as an important community
2 service in neighboring communities. Project connect did not survey the entire Market and
3 Octavia Plan Area, it focused on low income communities, including Market and Octavia's
4 neighbors in the Mission, Western Addition, and the Tenderloin. The Department of Children
5 Youth and Their Families projects new residents of Market and Octavia will generate demand
6 for an additional 435 childcare spaces, of those 287 will be serviced through new child care
7 development centers.

8 D. Programmed Improvements and Costs. Community improvements to mitigate
9 the impact of new development in the Market and Octavia Plan Area were identified through a
10 community planning process, based on proposals in the Market and Octavia Area Plan on file
11 with the Clerk of the Board in File No.071158, and on a standards based analysis, and on
12 community input during the Plan adoption process. The Planning Department developed cost
13 estimates to the extent possible for all proposed improvements. These are summarized by
14 use type in Table 1. Cost projections in Table 1 are realistic estimates made by the Planning
15 Department of the actual costs for improvements needed to support new development. More
16 information on these cost estimates is located in the Market and Octavia Community
17 Improvements Program Document. Cost estimates for some items on Table 1 are to be
18 determined through ongoing analyses conducted in coordination with implementation of the
19 Market and Octavia Plan Community Improvements Program. In many cases these projects
20 require further design work, engineering, and environmental review, which may alter the
21 nature of the improvements; the cost estimates are still reasonable approximates for the
22 eventual cost of providing necessary community improvements to respond to identified
23 community needs. The Board of Supervisors is not committing to the implementation of any
24 particular project at this time. Projects may be substituted for like projects should new
25 information from the Citizens Advisory Committee, the Interagency Plan Implementation

1 Committee, other stakeholders, or the environmental review process illustrate that substitute
 2 projects should be prioritized. Cost projections will be updated at a minimum approximately
 3 every five years after adoption.

4 Table 1.

5 Cost of proposed community improvements in the Market and Octavia Plan Area.

6 Market and Octavia	
7 Community Improvements	
8 Greening	9 \$58,310,000
10 Parks	11 \$6,850,000
12 Park Improvements	13 \$ TBD
14 Vehicle	15 \$49,260,000
16 Pedestrian	17 \$23,760,000
18 Transportation	19 \$81,180,000
20 Transit User 21 Infrastructure	22 \$ TBD
23 Bicycle	24 \$1,580,000
25 Childcare	\$17,170,000
Library Materials	\$690,000
26 Recreational 27 Facilities	28 \$15,060,000
29 Future Studies	30 \$460,000

1	Program Administration	\$4,730,000
2	Total	\$258,900,000

3 Provision of affordable housing needs are addressed in Sections 413 and 415 of this
4 Code. Additionally subsidized affordable housing may be granted a waiver from the Market
5 and Octavia Community Improvement Fee as provided for in Section 406 of this Article. This
6 waiver may be leveraged as a local funding 'match' to Federal and State affordable housing
7 subsidies enabling affordable housing developers to capture greater subsidies for projects in
8 the Plan Area.

9 E. Sharing the Burden. As detailed above, new development in the Plan Area will
10 clearly generate new infrastructure demands.

11 To fund such community infrastructure and amenities, new development in the district
12 shall be assessed development impact fees proportionate to the increased demand for such
13 infrastructure and amenities. The City will use the proceeds of the fee to build new
14 infrastructure and enhance existing infrastructure, as described in preceding sections. A
15 Community Infrastructure Impact Fee shall be established for the Van Ness and Market
16 Downtown Residential Special Use District (VNMDR-SUD), and the Neighborhood
17 Commercial Transit (NCT) and Residential Transit Oriented (RTO) Districts as set forth
18 herein.

19 Many counties, cities and towns have one standardized impact fee schedule that
20 covers the entire municipality. Although this type of impact fee structure works well for some
21 types of infrastructure, such as affordable housing and basic transportation needs, it cannot
22 account for the specific improvements needed in a neighborhood to accommodate specific
23 growth. A localized impact fee gives currency to the community planning process and
24 encourages a strong nexus between development and infrastructure improvements.
25

1 Development impact fees are an effective approach to achieve neighborhood
2 mitigations and associate the costs with new residents, workers, and a new kind of
3 development. The proposed Market and Octavia Community ~~Infrastructure~~ Improvements
4 Impact Fee would be dedicated to infrastructure improvements in the Plan Area, directing
5 benefits of the fund clearly to those who pay into the fund, by providing necessary
6 infrastructure improvements, needed to serve new development. The net increases in
7 individual property values in these areas due to the enhanced neighborhood amenities
8 financed with the proceeds of the fee are expected to exceed the payments of fees by project
9 sponsors.

10 The fee rate has been calculated by the Planning Department based on accepted
11 professional methods for the calculation of such fees. The Market and Octavia Community
12 Improvements Program Document contains a full discussion of impact fee calculation. Cost
13 estimates are based on an assessment of the potential cost to the City of providing the
14 specific improvements described in the Market and Octavia Plan Area. The ~~Planning~~
15 Department assigned a weighted value to new construction based on projected population
16 increases in relation to the total population.

17 The proposed fee would cover less than 80% of the estimated costs of the community
18 improvements calculated as necessary to mitigate the impacts of new development. By
19 charging developers less than the maximum amount of the justified impact fee, the City avoids
20 any need to refund money to developers if the fees collected exceed costs. The proposed
21 fees only cover impacts caused by new development and are not intended to remedy existing
22 deficiencies; those costs will be paid for by public, community, and other private sources.

23 The Full implementation of the Market and Octavia community improvements program
24 relies on public, private, and community capital. Since 2000, when the Market and Octavia
25 planning process was initiated, the area has seen upwards of \$100 million in public

1 investment, including the development of Octavia Boulevard, the new Central freeway ramp,
2 Patricia's Green in Hayes Valley and related projects. Additionally private entities have
3 invested in the area by improving private property and creating new commercial
4 establishments. Community members have invested by creating a Community Benefits
5 District in the adjacent Castro neighborhood, organizing design competitions, and lobbying for
6 community programming such as a rotating arts program on Patricia's Green in Hayes Valley.
7 Project sponsor contributions to the Market and Octavia Community Improvements Fund will
8 help leverage additional public and community investment.

9 As a result of ~~the~~^{this} new development, projected to occur over a 20-year period,
10 property tax revenue is projected to increase by as much as \$28 million annually when
11 projected housing production is complete. Sixteen million dollars of this new revenue will be
12 diverted directly to San Francisco (see the Market and Octavia Community Improvements
13 Program Document for a complete discussion of increased property tax revenue). These
14 revenues will fund improvements and expansions to general City services, including police,
15 fire, emergency, and other services needed to partially meet increased demand associated
16 with new development. New development's local impact on community infrastructure will be
17 greater in the Market and Octavia Plan Area, relative to those typically funded by City
18 government through property tax revenues. Increased property taxes will contribute to
19 continued maintenance and service delivery of new infrastructure and amenities. The City
20 should pursue State enabling legislation that directs growth related increases in property tax
21 directly to the neighborhood where growth is happening, similar to the redevelopment
22 agencies' Tax Increment Financing tool. If such a revenue dedication tool does become
23 available, the Planning Department should pursue an ordinance to adopt and apply a tax
24 increment district to the Market and Octavia Plan Area even if the Plan is already adopted by
25 the Board of Supervisors and in effect. The relative cost of capital improvements, along with

1 the reduced role of State and Federal funding sources, increases the necessity for
2 development impact fees to cover these costs. Residential and ~~commercial~~ non-residential
3 impact fees are one of the many revenue sources necessary to mitigate the impacts of new
4 development in the Market and Octavia Plan Area.

5 **SEC. 421.3. APPLICATION OF COMMUNITY IMPROVEMENTSINFRASTRUCTURE**
6 **IMPACT FEE.**

7 (a) Application. Section 421.1 et seq. shall apply to any development project located
8 in the Market and Octavia Infrastructure Program Area, ~~which includes properties identified as~~
9 ~~part of the Market and Octavia Plan Area in Map 1 (Land Use Plan) of the Market and Octavia Area~~
10 ~~Plan of the San Francisco General Plan.~~

11 (b) Projects subject to the Market and Octavia Community Improvement Impact Fee. The
12 Market and Octavia Community Improvements Impact Fee is applicable to any development project in
13 the Market and Octavia Program Area which results in:

- 14 (1) At least one net new residential unit,
- 15 (2) Additional space in an existing residential unit of more than 800 gross square feet,
- 16 (3) At least one net new group housing facility or residential care facility,
- 17 (4) Additional space in an existing group housing or residential care facility of more than 800
18 gross square feet,
- 19 (5) New construction of a non-residential use, or
- 20 (6) Additional non-residential space in excess of 800 gross square feet in an existing structure.

21 (c) Fee Calculation for the Market and Octavia Community Improvement Impact Fee. For
22 development projects for which the Market and Octavia Community Improvements Impact Fee is
23 applicable:

- 24 (1) Any net addition of gross square feet shall pay per the Fee Schedule in Table 421.3A, and
25

1 (2) Any replacement of gross square feet or change of use shall pay per the Fee Schedule in
 2 Table 421.3B.

3 TABLE 421.3A

4 FEE SCHEDULE FOR NET ADDITIONS OF GROSS SQUARE FEET IN THE MARKET AND
 5 OCTAVIA PROGRAM AREA

6 TABLE INSET:

7 <u>Residential</u>	<u>Non-residential</u>
8 <u>\$9.00/gsf</u>	<u>\$3.40/gsf</u>

9 TABLE 421.3B

10 FEE SCHEDULE FOR REPLACEMENT OF USE OR CHANGE OF USE IN THE MARKET
 11 AND OCTAVIA PROGRAM AREA

12 TABLE INSET:

13 <u>Residential to</u>	<u>Non-Residential to</u>		
14 <u>Residential or Non-</u>	<u>Residential</u>		
15 <u>residential; or Non-</u>		<u>PDR to Residential</u>	<u>PDR to Non-</u>
16 <u>residential to Non-</u>			<u>Residential</u>
17 <u>residential</u>			
18 <u>\$0</u>	<u>\$5.60/gsf</u>	<u>\$7.30/gsf</u>	<u>\$1.70/gsf</u>

21 ~~(b) — Amount of Market and Octavia Community Infrastructure Impact Fees; Timing of~~
 22 ~~Payment. The sponsor shall pay Market and Octavia Community Infrastructure Impact Fees of the~~
 23 ~~following amounts:~~

24 ~~(1) — Unless a Waiver Agreement has been executed, prior to the issuance by DBI of the first~~
 25 ~~construction document for a residential development project, or residential component of a mixed use~~

1 ~~project within the Program Area, a \$10.00 Community Infrastructure Impact Fee in the Market and~~
2 ~~Octavia Plan Area, as described in (a) above, for the Market and Octavia Community Improvements~~
3 ~~Fund, for each net addition of occupiable square feet which results in an additional residential unit or~~
4 ~~contributes to a 20 percent increase of residential space from the time that Section 421.1 et seq. is~~
5 ~~adopted.~~

6 (2) — ~~Unless a Waiver Agreement has been executed, prior to the issuance by DBI of the first~~
7 ~~construction document for a non-residential development project, or non-residential component of a~~
8 ~~mixed use project within the Program Area, a \$4.00 Community Improvement Impact Fee in the Market~~
9 ~~and Octavia Plan Area, as described in (a) above, for the Market and Octavia Community~~
10 ~~Improvements Fund for each net addition of occupiable square feet which results in an additional non-~~
11 ~~residential capacity that is beyond 20 percent of the non-residential capacity at the time that Section~~
12 ~~421.1 et seq. is adopted.~~

13 (c) — ~~Fee Adjustments.~~

14 (1) — ~~Inflation Adjustments. The Controller may make annual adjustments of the development~~
15 ~~fees for inflation in accordance with Section 409 of this Article. The Market and Octavia Community~~
16 ~~Infrastructure Impact Fee adjustments should be based on the following factors: (a) the percentage~~
17 ~~increase or decrease in the cost to acquire real property for public park and open space use in the area~~
18 ~~and (b) the percentage increase or decrease in the construction cost of providing these and other~~
19 ~~improvements listed in Section 421.1(E). Fluctuations in the construction market can be gauged by~~
20 ~~indexes such as the Engineering News Record or a like index. Revision of the fee should be done in~~
21 ~~coordination with revision to other like fees, such as those detailed in Sections 247, 414, 414, 415, 418,~~
22 ~~and 419 of this Code. The Planning Department shall provide notice of any fee adjustment including~~
23 ~~the formula used to calculate the adjustment, on its website and to any interested party who has~~
24 ~~requested such notice at least 30 days prior to the adjustment taking effect.~~

1 (2) — ~~Program Adjustments. Upon Planning Commission and Board approval adjustments~~
2 ~~may be made to the fee to reflect changes to (a) the list of planned community improvements listed in~~
3 ~~Section 421.1(D); (b) re-evaluation of the nexus based on new conditions; or (c) further planning work~~
4 ~~which recommends a change in the scope of the community improvements program. Changes may not~~
5 ~~be made to mitigate temporary market conditions. Notwithstanding the foregoing, it is the intent of the~~
6 ~~Board of Supervisors that it is not committing to the implementation of any particular project at this~~
7 ~~time and changes to, additions, and substitutions of individual projects listed in the related program~~
8 ~~document can be made without adjustment to the fee rate or Section 421.1 et seq. as those individual~~
9 ~~projects are placeholders that require further public deliberation and environmental review.~~

10 (3) — ~~Unless and until an adjustment has been made, the schedule set forth in this Section~~
11 ~~421.1 et seq. shall be deemed to be the current and appropriate schedule of development impact fees.~~

12 (d) Option for In-Kind Provision of Community Improvements~~Infrastructure~~ and Fee
13 Credits. Project sponsors may propose to directly provide community improvements to the City. In
14 such a case, the City may enter into an In-Kind Improvements Agreement with the sponsor and issue a
15 fee waiver for the Market and Octavia Community Improvements Impact Fee from the Planning
16 Commission, subject to the following rules and requirements:

17 (1) Approval criteria. The City shall not enter into an In-Kind Agreement unless the
18 proposed in-kind improvements meet an identified community need and where they substitute for
19 improvements that could be provided by the Market and Octavia Community Improvements Fund (as
20 described in Section 421.5). The City may reject in-kind improvements if they are not consistent with
21 the priorities identified in the Market and Octavia Area Plan, by the Interagency Plan Implementation
22 Committee (see Section 36 of the Administrative Code), the Market and Octavia Citizens Advisory
23 Committee, or other prioritization processes related to Market and Octavia community improvements
24 programming. No physical improvement or provision of space otherwise required by the Planning
25

1 Code or any other City Code shall be eligible for consideration as part of this In-Kind Improvements
2 Agreement.

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

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

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

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

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

17 (4) Approval Process. The Planning Commission must approve the material terms of an In-
18 Kind Agreement. Prior to the parties executing the Agreement, the City Attorney must approve the
19 agreement as to form and to substance. The Director of Planning is authorized to execute the
20 Agreement on behalf of the City. If the Planning Commission approves the In-Kind Agreement, it shall
21 waive the amount of the Market and Octavia Community Improvements Impact Fee by the value of the
22 proposed In-Kind Improvements Agreement as determined by the Director of Planning. No credit shall
23 be made for land value unless ownership of the land is transferred to the City or a permanent public
24 easement is granted, the acceptance of which is at the sole discretion of the City. The maximum value
25

1 of the In-Kind Improvements Agreement shall not exceed the required Market and Octavia Community
2 Improvements Impact Fee.

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

7 ~~The Planning Commission may reduce the Market and Octavia Community Infrastructure~~
8 ~~Impact Fee owed for specific development projects in cases where a project sponsor has entered into~~
9 ~~an In-Kind Agreement with the City to provide In-Kind improvements in the form of streetscaping,~~
10 ~~sidewalk widening, neighborhood open space, community center, and other improvements that result in~~
11 ~~new public infrastructure and facilities described in Section 421.1(E)(a) or similar substitutes. For the~~
12 ~~purposes of calculating the total value of In-Kind community improvements, the project sponsor shall~~
13 ~~provide the Department with a cost estimate for the proposed In-Kind community improvements from~~
14 ~~two independent contractors or, if relevant, real estate appraisers. If the City has completed a detailed~~
15 ~~site specific cost estimate for a planned community improvement this may serve as one of the cost~~
16 ~~estimates, required by this clause; if such an estimate is used it must be indexed to current cost of~~
17 ~~construction. Based on these estimates, the Director shall determine their appropriate value and the~~
18 ~~Commission may reduce the Community Infrastructure Impact Fee assessed to that project~~
19 ~~proportionally. Approved In-Kind improvements should generally respond to priorities of the~~
20 ~~community, or fall within the guidelines of approved procedures for prioritizing projects in the Market~~
21 ~~and Octavia Community Improvements Program. Open space or streetscape improvements, including~~
22 ~~off-site improvements per the provisions of this Special Use District, proposed to satisfy the usable~~
23 ~~open space requirements of Section 135 and 138 of this Code are not eligible for credit toward the~~
24 ~~contribution as In-Kind improvements. No credit toward the contribution may be made for land value~~
25 ~~unless ownership of the land is transferred to the City or a permanent public easement is granted, the~~

1 ~~acceptance of which is at the sole discretion of the City. A permanent easement shall be valued at no~~
2 ~~more than 50% of appraised fee simple land value, and may be valued at a lower percentage as~~
3 ~~determined by the Director of Planning in his or her sole discretion. Any proposal for contribution of~~
4 ~~property for public open space use shall follow the procedures of Subsection (6)(D) below. The~~
5 ~~Commission may reject In-Kind improvements if they do not fit with the priorities identified in the plan,~~
6 ~~by the Interagency Plan Implementation Committee (see Section 36 of the Administrative Code), the~~
7 ~~Market and Octavia Citizens Advisory Committee (Section 341.5) or other prioritization processes~~
8 ~~related to Market and Octavia Community Improvements Programming.~~

9 (e) Option for Financing of Community Improvements or Payment of the Market and
10 Octavia Community ~~Improvements~~Infrastructure Impact Fee via a Mello Roos Community
11 Facilities District ("CFD").

12 Applicants may finance In-Kind Community Improvements (subject to subsection (e) above) or
13 payment of the Market and Octavia Community ~~Improvements~~Infrastructure Impact Fee (subject
14 to subsection (c) above) through the formation of a CFD. Applicants who do so shall be
15 responsible for any additional time and materials costs associated with annexation or
16 formation of the CFD, including Planning Department staff, City Attorney time, and other costs
17 associated with annexation or formation of the CFD. These costs shall be paid in addition to
18 the In-Kind Community Improvements obligation and billed no later than expenditure of CFD
19 bond funds promptly following satisfaction of the In-Kind Agreement or payment of the Market
20 and Octavia Community ~~Improvements~~Infrastructure Impact Fee. In the case of failure by the
21 project sponsor to provide Community Facilities Districts funds to the City according to the specified
22 timeline and terms in the agreement, the project sponsor shall be responsible for paying to the City the
23 full Fee described in (c) above plus interest (accrued since the date of first site permit) at a rate not less
24 than that earned by the City's investment pool over such period as calculated by the City Controller.
25

1 (f) Timing of Fee Payments. The Market and Octavia Community Improvements Impact Fee
2 is due and payable to the Development Fee Collection Unit at DBI prior to issuance of the first
3 construction document, with an option for the project sponsor to defer payment to prior to issuance of
4 the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be paid into the
5 appropriate fund in accordance with Section 107A.13.3 of the San Francisco Building Code.

6 (g) Waiver or Reduction.

7 Development projects may be eligible for a waiver or reduction of impact fees, per Section 406
8 of this Article. Additionally, Applicants that are subject to the downtown parks fee, Section 139,
9 can reduce their contribution to the Market and Octavia Community Improvements Fund by
10 one dollar for every dollar that they contribute to the downtown parks fund, the total fee waiver
11 or reduction granted through this clause shall not exceed 8.2 percent of calculated
12 contribution for residential development or 13.8 percent for commercial development.

13 **SEC. 421.7. TRANSPORTATION STUDIES AND FUTURE FEES.**

14 (a) Purpose. Studies conducted by the City including the Transit Impact
15 Development Fee nexus study, the ongoing Eastern Neighborhoods studies, and others
16 indicate that new residential development and the creation of new ~~commercial~~ non-residential or
17 residential parking facilities negatively impact the City's transportation infrastructure and
18 services. The purpose of this Section is to authorize a nexus study establishing the impact of
19 new residential development and new parking facilities, in nature and amount, on the City's
20 transportation infrastructure and parking facilities and, if justified, to impose impact fees on
21 residential development and projects containing parking facilities.

22 (b) Timing. No later than October 15, 2008, the City shall initiate a study as
23 described below. The agencies described in subsection (c) shall develop a comprehensive
24 scope and timeline of this study which will enable the Board of Supervisors to pursue policy
25

1 recommendations through the legislative process as soon as twelve months after the study's
2 initiation.

3 (c) Process. The study shall be coordinated by the Municipal Transportation Agency
4 (MTA) and the City Attorney's Office. The study shall build on existing Nexus Study work
5 including recently published nexus studies for parks and recreation, childcare facilities, the
6 existing Transit Development Impact Fee Nexus Study, and all relevant area plan nexus
7 analysis. The MTA shall coordinate with all relevant government agencies including the San
8 Francisco County Transportation Authority, the Planning Department, the Mayor's Office of
9 Housing, the Controller's Office, the City Attorney's Office and the City Administrator by
10 creating a task force that meets regularly to discuss the study and resultant policy and
11 program recommendations. The MTA shall hire consultants as deemed appropriate to
12 complete the technical analysis.

13 (d) Scope. The study shall determine the impact, in nature and amount, of new
14 residential development and new parking facilities, including new individual parking spaces,
15 on transportation infrastructure and services within the City and County of San Francisco. The
16 study shall not consider or develop specific transportation infrastructure improvement
17 recommendations. The study shall make policy and/or program a recommendations to the
18 Board of Supervisors on the most appropriate mechanisms for funding new transportation
19 infrastructure and services including but not limited to new residential transit impact fees and
20 new parking impact fees.

21 (e) Springing Condition Projects Subject to Future Fees, Based on the findings of
22 the above-referenced is study the City anticipates that the Board may adopt new impact fees
23 to offset the impact of new parking facilities and residential development on San Francisco's
24 transportation network. As the Market and Octavia Plan Area is one of the first transit oriented
25 neighborhood plans in the City and County of San Francisco the City should strive for a

1 successful coordination of transit oriented development with adequate transportation
2 infrastructure and services. All residential and ~~commercial~~ *non-residential* development projects
3 in the Market and Octavia Plan Area that receive Planning Department or Commission
4 approval on or after the effective date of this Section shall be subject to any future Citywide or
5 Plan-specific parking impact fees or residential transit impact fees that are established before
6 the project receives a first certificate of occupancy. The Planning Department and Planning
7 Commission shall make payment of any future residential transit impact fee or parking impact
8 fee a condition of approval of all projects in the Market and Octavia Plan Area that receive
9 Planning Department or Commission approval on or after the effective date of this Section,
10 with the following maximum amounts;

11 (1) Parking Impact fee no more than \$5.00 per square foot of floor area dedicated to
12 parking.

13 (2) Transit Impact fee no more than \$9.00 per square foot of residential and
14 ~~commercial~~ *non-residential* floor area.

15 **SEC. 422.3. APPLICATION OF COMMUNITY IMPROVEMENT IMPACT FEE.**

16 (a) Application. Section 422.1 et seq. shall apply to any development project
17 located in the Balboa Park Community Improvements Program Area, ~~which includes all~~
18 ~~properties identified as part of the Balboa Park Station Area Plan in Figure 1 of the San Francisco~~
19 ~~General Plan.~~

20 (b) Projects subject to the Balboa Park Impact Fee. The Balboa Park Impact Fee is applicable
21 to any development project in the Balboa Park Program Area which results in:

22 (1) At least one net new residential unit,

23 (2) Additional space in an existing residential unit of more than 800 gross square feet,

24 (3) At least one net new group housing facility or residential care facility,

25

1 (4) Additional space in an existing group housing or residential care facility of more than 800
 2 gross square feet,

3 (5) New construction of a non-residential use, or

4 (6) Additional non-residential space in excess of 800 gross square feet in an existing structure.

5 (c) Fee Calculation for the Balboa Park Impact Fee. For development projects for which the
 6 Balboa Park Impact Fee is applicable:

7 (1) Any net addition of gross square feet shall pay per the Fee Schedule in Table 422.3A, and

8 (2) Any replacement of gross square feet or change of use shall pay per the Fee Schedule in
 9 Table 422.3B.

11 TABLE 422.3A

12 FEE SCHEDULE FOR NET ADDITIONS OF GROSS SQUARE FEET IN THE BALBOA PARK

13 PROGRAM AREA

14 TABLE INSET:

<u>Residential</u>	<u>Non-residential</u>
<u>\$8.00/gsf</u>	<u>\$1.50/gsf</u>

17 TABLE 422.3B

18 FEE SCHEDULE FOR REPLACEMENT OF USE OR CHANGE OF USE IN THE BALBOA

19 PARK PROGRAM AREA

20 TABLE INSET:

<u>Residential to</u>	<u>Non-Residential to</u>		
<u>Residential or Non-</u>	<u>Residential</u>		<u>PDR to Non-</u>
<u>residential; or Non-</u>		<u>PDR to Residential</u>	<u>Residential</u>
<u>residential to Non-</u>			

<u>residential</u>			
<u>\$0</u>	<u>\$6.50/gsf</u>	<u>\$7.25/gsf</u>	<u>\$0.75/gsf</u>

(b) — *Amount of Fee.*

~~(1) — Residential Uses: \$8.00 per net addition of gross square feet which results in an additional residential unit or contributes to a 20 percent increase of residential floor area at the time that Section 422.1 et seq. was adopted in any development project with a residential use located within the Program Area; and~~

~~(2) — Non-Residential Uses: \$1.50 per net addition of gross square feet which results in an additional non-residential floor area that is beyond 20 percent of the non-residential floor area at the time that Section 422.1 et seq. was adopted in any development project with a non-residential use located within the Program Area.~~

(d~~e~~) Option for In-Kind Provision of Community Improvements and Fee Credits.

Project sponsors may propose to directly provide community improvements to the City. In such a case, the City may enter into an In-Kind Improvements Agreement with the sponsor and issue a fee waiver for the Balboa Park Impact Fee from the Planning Commission, subject to the following rules and requirements:

(1) Approval criteria. The City shall not enter into an In-Kind Agreement unless the proposed in-kind improvements meet an identified community need as analyzed in the Balboa Park Community Improvements Program and where they substitute for improvements that could be provided by the Balboa Park Community Improvements Fund (as described in Section 422.5). The City may reject in-kind improvements if they are not consistent with the priorities identified in the Balboa Park Area Plan, by the Interagency Plan Implementation Committee (see Section 36 of the Administrative Code), or other prioritization processes related to Balboa Park community improvements programming. No physical improvement or provision of space otherwise required by the Planning

1 Code or any other City Code shall be eligible for consideration as part of this In-Kind Improvements
2 Agreement.

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

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

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

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

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

17 (4) Approval Process. The Planning Commission must approve the material terms of an In-
18 Kind Agreement. Prior to the parties executing the Agreement, the City Attorney must approve the
19 agreement as to form and to substance. The Director of Planning is authorized to execute the
20 Agreement on behalf of the City. If the Planning Commission approves the In-Kind Agreement, it shall
21 waive the amount of the Balboa Park Impact Fee by the value of the proposed In-Kind Improvements
22 Agreement as determined by the Director of Planning. No credit shall be made for land value unless
23 ownership of the land is transferred to the City or a permanent public easement is granted, the
24 acceptance of which is at the sole discretion of the City. The maximum value of the In-Kind
25 Improvements Agreement shall not exceed the required Balboa Park Impact Fee.

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

5 ~~The Commission may reduce the Balboa Park Community Improvements Impact Fee owed for~~
6 ~~specific development projects in cases where the Director has recommended approval and the project~~
7 ~~sponsor has entered into an In-Kind Improvements Agreement with the City. In-kind improvements may~~
8 ~~be accepted if they are prioritized in the Plan, meet identified community needs as analyzed in the~~
9 ~~Balboa Park Community Improvements Program, and serve as a substitute for improvements funded by~~
10 ~~impact fee revenue such as street improvements, transit improvements, and community facilities. Open~~
11 ~~space or streetscape improvements proposed to satisfy the usable open space requirements of Section~~
12 ~~135 are not eligible as in-kind improvements. No proposal for In-kind improvements shall be accepted~~
13 ~~that does not conform to the criteria above. Project sponsors that pursue In-kind Improvements~~
14 ~~Agreements with the City will be charged time and materials for any additional administrative costs~~
15 ~~that the Department or any other City agency incurs in processing the request.~~

16 (1) ~~The Balboa Park Community Impact Fee may be reduced by the total dollar value of the~~
17 ~~community improvements provided through an In-kind Improvements Agreement recommended by the~~
18 ~~Director and approved by the Commission. For the purposes of calculating the total value, the project~~
19 ~~sponsor shall provide the Department with a cost estimate for the proposed in-kind improvement(s)~~
20 ~~from two independent sources or, if relevant, real estate appraisers. If the City has completed a~~
21 ~~detailed site-specific cost estimate for a planned improvement this may serve as one of the cost~~
22 ~~estimates provided it is indexed to current cost of construction. Based on these estimates, the Director~~
23 ~~shall determine the appropriate value of the in-kind improvements and the Commission shall reduce the~~
24 ~~Balboa Park Community Improvements Impact Fee otherwise due by an equal amount shall be made~~
25

1 ~~for land value unless ownership of the land is transferred to the City or a permanent public easement is~~
2 ~~granted, the acceptance of which is at the sole discretion of the City.~~

3 (2) ~~— All In-Kind Improvements Agreements shall require the project sponsor to reimburse all~~
4 ~~City agencies for their administrative and staff costs in negotiating, drafting, and monitoring~~
5 ~~compliance with the In-Kind Improvements Agreement. The City also shall require the project sponsor~~
6 ~~to provide a letter of credit or other instrument, acceptable in form and substance to the Department~~
7 ~~and the City Attorney, to secure the City's right to receive improvements as described above.~~

8 (d) ~~— The Department or Commission shall impose a condition on the approval of application~~
9 ~~for a development project subject to Section 422.1 et seq. The project sponsor shall supply all~~
10 ~~information to the Department or the Commission necessary to make a determination as to the~~
11 ~~applicability of Section 422.1 et seq. and imposition of the requirements.~~

12 (e) ~~Timing of Fee and Payments of Fee.~~ The Balboa Park Impact Fee ~~fee required by this~~
13 ~~Section~~ is due and payable to the Development Fee Collection Unit at DBI prior to issuance of
14 the first construction document for the development project deferred to prior to issuance of the
15 first certificate of occupancy pursuant to Section 107A.13.3.1 of the San Francisco Building
16 Code.

17 (f) Waiver or Reduction. ~~Development projects may be eligible for a waiver or reduction of~~
18 ~~impact fees, per Section 406 of this Article.~~

19 **SEC. 423.2. DEFINITIONS.**

20 (a) In addition to the definitions set forth in Section 401 of this Article, the following
21 definitions shall govern interpretation of Section 423.1 et seq.

22 (1). Tier 1.

23 (A) All development on sites which received a height increase of eight feet or less, or received a
24 reduction in height, as part of the Eastern Neighborhoods Plan (on file with the Clerk of the Board of
25 Supervisors in File No. 081154);

1 (B) The residential portion of all 100% affordable housing projects;

2 (C) The residential portion of all projects within the Urban Mixed Use (UMU) district; and

3 (D) All changes of use within existing structures.

4 (2). Tier 2. All additions to existing structures or new construction on other sites not listed in
5 subsection (1) above which received a height increase of nine to 28 feet as part of the Eastern
6 Neighborhoods Plan (on file with the Clerk of the Board of Supervisors in File No. 081154);

7 (3). Tier 3. All additions to existing structures or new construction on other sites not listed in
8 subsection (1) above which received a height increase of 29 feet or more as part of the Eastern
9 Neighborhoods Plan (on file with the Clerk of the Board of Supervisors in File No. 081154).

10 For purposes of this Section, increase in heights in the MUR District shall be measured by the
11 base height (as defined in Section 263.11) prior to the effective date of the Eastern Neighborhoods
12 (Ordinance #298-08).

13 ~~(1) — "Tier 1." Sites which do not receive zoning changes that increase heights, as compared~~
14 ~~to allowable height prior to the rezoning (May 2008), all 100% affordable housing projects, and all~~
15 ~~housing projects within the Urban Mixed Use (UMU) district.~~

16 ~~(2) — "Tier 2." Sites which receive zoning changes that increase heights by one to two stories.~~

17 ~~(3) — "Tier 3." Sites which receive zoning changes that increase heights by three or more~~
18 ~~stories and in the Mixed Use Residential District.~~

19 **SEC. 423.3. APPLICATION OF EASTERN NEIGHBORHOODS INFRASTRUCTURE**
20 **IMPACT FEE.**

21 (a) Application. Section 423.1 et seq. shall apply to any development project
22 located in the Eastern Neighborhoods ~~Public Benefits~~ Program Area, ~~which includes properties~~
23 ~~identified as part of the Eastern Neighborhoods Plan Areas in Map 1 (Land Use Plan) of the San~~
24 ~~Francisco General Plan.~~

1 (b) Projects subject to the Eastern Neighborhoods Infrastructure Impact Fee. The Eastern
2 Neighborhoods Infrastructure Impact Fee is applicable to any development project in the Eastern
3 Neighborhoods Program Area which results in:

- 4 (1) At least one net new residential unit,
5 (2) Additional space in an existing residential unit of more than 800 gross square feet,
6 (3) At least one net new group housing facility or residential care facility,
7 (4) Additional space in an existing group housing or residential care facility of more than
8 800 gross square feet,
9 (5) New construction of a non-residential use, or
10 (6) Additional non-residential space in excess of 800 gross square feet in an existing
11 structure.

12 (c) Fee Calculation for the Eastern Neighborhoods Infrastructure Impact Fee. For
13 development projects for which the Eastern Neighborhoods Infrastructure Impact Fee is applicable:

- 14 (1) Any net addition of gross square feet shall pay per the Fee Schedule in Table 423.3A,
15 and
16 (2) Any replacement of gross square feet or change of use shall pay per the Fee Schedule in
17 Table 423.3B.

18 TABLE 423.3A

19 FEE SCHEDULE FOR NET ADDITIONS OF GROSS SQUARE FEET IN THE EASTERN
20 NEIGHBORHOODS PROGRAM PLAN AREAS

21 TABLE INSET:

<u>Tier (per Sec. 423.3(a))</u>	<u>Residential</u>	<u>Non-residential</u>
<u>I</u>	<u>\$8/gsf</u>	<u>\$6/gsf</u>

2	<u>\$12/gsf</u>	<u>\$10/gsf</u>
3	<u>\$16/gsf</u>	<u>\$14/gsf</u>

TABLE 423.3B

FEE SCHEDULE FOR REPLACEMENT OF USE OR CHANGE OF USE IN THE EASTERN NEIGHBORHOODS PROGRAM AREA

TABLE INSET:

<u>Tier (per Sec. 422.3(a))</u>	<u>Residential to Residential or Non-residential; or Non-residential to Non-residential</u>	<u>Non-Residential to residential</u>	<u>PDR to Residential</u>	<u>PDR to Non-residential</u>
1	<u>\$0</u>	<u>\$2/gsf</u>	<u>\$5/gsf</u>	<u>\$3/gsf</u>
2	<u>\$0</u>	<u>\$2/gsf</u>	<u>\$9/gsf</u>	<u>\$7/gsf</u>
3	<u>\$0</u>	<u>\$2/gsf</u>	<u>\$13/gsf</u>	<u>\$11/gsf</u>

(b) — Amount of Fee.

(1) — Residential Uses. The fees set forth in Table 423.3 below shall be charged on net additions of gross square feet which result in a net new residential unit, contribute to a 20 percent increase of non residential space in an existing structure, or create non residential space in a new structure.

(2) — Non Residential Uses. The fees set forth in Table 423.3 below shall be charged on non-residential use within each use category of Cultural/Institution/Education; Management, Information & Professional Service; Medical & Health Service; Retail/Entertainment; and Visitor Services; with no

1 ~~substitutions across uses. Fees shall not be required for uses contained in Sections 220, 222, 223, 224,~~
2 ~~225, and 226 of this Code.~~

3 ~~(3) — Mixed Use Projects. Fees shall be assessed on mixed use projects according to the gross~~
4 ~~square feet of each residential and non-residential use in the project.~~

5
6 **TABLE 423.3**

7 **FEE SCHEDULE FOR EASTERN NEIGHBORHOODS PLAN AREAS**

8

Tier	Residential	Non-residential*
1	\$8/gsf	\$6/gsf
2	\$12/gsf	\$10/gsf
3	\$16/gsf	\$14/gsf

9
10
11
12
13
14 ~~(d_e) Option for In-Kind Provision of Community Improvements and Fee Credits.~~

15 ~~Project sponsors may propose to directly provide community improvements to the City. In such a case,~~
16 ~~the City may enter into an In-Kind Improvements Agreement with the sponsor and issue a fee waiver~~
17 ~~for the Eastern Neighborhoods Infrastructure Impact Fee from the Planning Commission, subject to the~~
18 ~~following rules and requirements:~~

19 ~~(1) Approval criteria. The City shall not enter into an In-Kind Agreement unless the~~
20 ~~proposed in-kind improvements meet an identified community need as analyzed in the Eastern~~
21 ~~Neighborhoods Community Improvements Program and where they substitute for improvements that~~
22 ~~could be provided by the Eastern Neighborhoods Community Improvements Fund (as described in~~
23 ~~Section 423.5). The City may reject in-kind improvements if they are not consistent with the priorities~~
24 ~~identified in the Eastern Neighborhoods Area Plans (Central Waterfront, East SoMa, Mission, and~~
25 ~~Showplace Square/Potrero Hill), by the Interagency Plan Implementation Committee (see Section 36 of~~

1 the Administrative Code), the Eastern Neighborhoods Citizens Advisory Committee, or other
2 prioritization processes related to Eastern Neighborhoods Citizens community improvements
3 programming. No physical improvement or provision of space otherwise required by the Planning
4 Code or any other City Code shall be eligible for consideration as part of this In-Kind Improvements
5 Agreement.

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

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

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

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

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

20 (4) Approval Process. The Planning Commission must approve the material terms of an In-
21 Kind Agreement. Prior to the parties executing the Agreement, the City Attorney must approve the
22 agreement as to form and to substance. The Director of Planning is authorized to execute the
23 Agreement on behalf of the City. If the Planning Commission approves the In-Kind Agreement, it shall
24 waive the amount of the Eastern Neighborhoods Infrastructure Impact Fee by the value of the proposed
25 In-Kind Improvements Agreement as determined by the Director of Planning. No credit shall be made

1 for land value unless ownership of the land is transferred to the City or a permanent public easement is
2 granted, the acceptance of which is at the sole discretion of the City. The maximum value of the In-Kind
3 Improvements Agreement shall not exceed the required Eastern Neighborhoods Infrastructure Impact
4 Fee.

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

9 ~~The Commission may reduce the Eastern Neighborhoods Infrastructure Impact Fee owed for~~
10 ~~specific development projects in cases where the Director has recommended approval and the project~~
11 ~~sponsor has entered into an In-Kind Improvements Agreement with the City. In-kind improvements may~~
12 ~~be accepted if they are prioritized in the Plan, meet identified community needs as analyzed in the~~
13 ~~Eastern Neighborhoods Needs Assessment, and serve as a substitute for improvements funded by~~
14 ~~impact fee revenue such as public open spaces and recreational facilities, transportation and transit~~
15 ~~service, streetscapes or the public realm, and community facility space. Open space or streetscape~~
16 ~~improvements proposed to satisfy the usable open space requirements of Section 135 are not eligible as~~
17 ~~in-kind improvements. No proposal for In-kind improvements shall be accepted that does not conform~~
18 ~~to the criteria above. Project sponsors that pursue In-kind Improvement Agreements with the City will~~
19 ~~be charged time and materials for any additional administrative costs that the Department or any other~~
20 ~~City agency incurs in processing the request.~~

21 ~~(1) — The Eastern Neighborhoods Infrastructure Impact Fee may be reduced by the total~~
22 ~~dollar value of the community improvements provided through the In-kind Improvements Agreement~~
23 ~~recommended by the Director and approved by the Commission. For the purposes of calculating the~~
24 ~~total value, the project sponsor shall provide the Department with a cost estimate for the proposed in-~~
25 ~~kind Public Benefits from two independent sources or, if relevant, real estate appraisers. If the City has~~

1 ~~completed a detailed site-specific cost estimate for a planned improvement this may serve as one of the~~
2 ~~cost estimates provided it is indexed to current cost of construction. Based on these estimates, the~~
3 ~~Director shall determine the appropriate value of the in-kind improvements and the Commission may~~
4 ~~reduce the Eastern Neighborhoods Infrastructure Impact Fee otherwise due by an equal amount. No~~
5 ~~credit shall be made for land value unless ownership of the land is transferred to the City or a~~
6 ~~permanent public easement is granted, the acceptance of which is at the sole discretion of the City.~~

7 (2) ~~All In-Kind Improvements Agreements shall require the project sponsor to reimburse all~~
8 ~~city agencies for their administrative and staff costs in negotiating, drafting, and monitoring~~
9 ~~compliance with the In-Kind Improvements Agreement. The City also shall require the project sponsor~~
10 ~~to provide a letter of credit or other instrument, acceptable in form and substance to the Planning~~
11 ~~Department and the City Attorney, to secure the City's right to receive improvements as described~~
12 ~~above.~~

13 (e) Timing of Fee Payments. The Eastern Neighborhoods Infrastructure Impact Fee is due
14 and payable to the Development Fee Collection Unit at DBI prior to issuance of the first construction
15 document, with an option for the project sponsor to defer payment to prior to issuance of the first
16 certificate of occupancy upon agreeing to pay a deferral surcharge that would be paid into the
17 appropriate fund in accordance with Section 107A.13.3 of the San Francisco Building Code.

18 (f) ~~Waiver or Reduction of Fees. The provisions for waiver or reduction of fees are set~~
19 ~~forth in Section 406 of this Article. Development projects may be eligible for a waiver or reduction of~~
20 ~~impact fees, per Section 406 of this Article. Additionally, In addition to those provisions project~~
21 sponsors with a development project located within an applicable San Francisco
22 Redevelopment Project Area may reduce their required contribution to the Eastern
23 Neighborhoods Public Benefits Fund by half of any total sum that they would otherwise be
24 required to pay under this Section, if the sponsor

1 (1A) has filed its first application, including an environmental evaluation application or
2 any other Planning Department or Building Department application before the effective date of
3 Section 423.1 et seq. and

4 (2B) provides the Zoning Administrator with written evidence, supported in writing by
5 the San Francisco Redevelopment Agency, that demonstrates the annual tax increment which
6 could be generated by the proposed project would support a minimum future bonding capacity
7 equal to \$10,000,000 or greater.

8 **SEC. 423.5. THE EASTERN NEIGHBORHOODS PUBLIC BENEFITS FUND.**

9 (a) There is hereby established a separate fund set aside for a special purpose
10 entitled the Eastern Neighborhoods Public Benefits Fund ("Fund"). All monies collected by the
11 Development Fee Collection Unit at DBI pursuant to Section 423.3(b) shall be deposited in a
12 special fund maintained by the Controller. The receipts in the Fund to be used solely to fund
13 Public Benefits subject to the conditions of this Section.

14 (b) Expenditures from the Fund shall be recommended by the Planning
15 Commission, and administered by the Board of Supervisors.

16 (1) All monies deposited in the Fund shall be used to design, engineer, acquire, and
17 develop and improve public open space and recreational facilities; transit, streetscape and
18 public realm improvements; and community facilities including child care and library materials,
19 as defined in the Eastern Neighborhoods Nexus Studies; or housing preservation and
20 development within the Eastern Neighborhoods Plan Area. Funds may be used for childcare
21 facilities that are not publicly owned or "publicly-accessible". Funds generated for 'library
22 resources' should be used for materials in branches that directly service Eastern
23 Neighborhoods residents. Monies from the Fund may be used by the Planning Commission to
24 commission economic analyses for the purpose of revising the fee, and/or to complete an
25

1 updated nexus study to demonstrate the relationship between development and the need for
2 public facilities if this is deemed necessary.

3 (2) Funds may be used for administration and accounting of fund assets, for
4 additional studies as detailed in the Eastern Neighborhoods Public Benefits Program
5 Document, and to defend the Community Stabilization fee against legal challenge, including
6 the legal costs and attorney's fees incurred in the defense. Administration of this fund includes
7 time and materials associated with reporting requirements, facilitating the Eastern
8 Neighborhoods Citizens Advisory Committee meetings, and maintenance of the fund. All
9 interest earned on this account shall be credited to the Eastern Neighborhoods Public
10 Benefits Fund.

11 (c) Funds shall be deposited into specific accounts according to the improvement
12 type for which they were collected. Funds from a specific account may be used towards a
13 different improvement type, provided said account or fund is reimbursed over a five-year
14 period of fee collection. Funds shall be allocated to accounts by improvement type as
15 described below:

16 (1) Funds collected from all zoning districts in the ~~Project~~ Eastern Neighborhoods
17 Program Area, excluding Designated Affordable Housing Zones shall be allocated to accounts
18 by improvement type according to Table 423.6.

19 (2) Funds collected in designated affordable housing zones (Mission NCT and MUR
20 (as defined in 423.2 (3)), shall be allocated to accounts by improvement type as described in
21 Table 423.6A. The revenue devoted to affordable housing preservation and development shall
22 be deposited into a specific amount to be held by the Mayor's Office of Housing.

23 A. All funds collected from projects in the Mission NCT that are earmarked for
24 affordable housing preservation and development shall be expended on housing programs
25 and projects within the Mission Area Plan boundaries.

B. All funds collected from projects in the MUR that are earmarked for affordable housing preservation and development shall be expended on housing programs and projects shall be expended within the boundaries of 5th to 10th Streets/Howard to Harrison Streets.

C. Collectively, the first \$10 million in housing fees collected between the two Designated Affordable Housing Zones shall be utilized for the acquisition and rehabilitation of existing housing.

(3) All funds are supported by the Eastern Neighborhoods Nexus Studies, San Francisco Planning Department, Case No. 2004.0160, and monitored according to the Eastern Neighborhoods Area Plans Monitoring Program required by the Administrative Code Section 10E and detailed by separate resolution.

TABLE 423.6

BREAKDOWN OF EASTERN NEIGHBORHOODS PUBLIC BENEFIT FEE/FUND BY IMPROVEMENT TYPE*

Improvement Type	Residential	Non-residential
Open space and recreational facilities	50%	7%
Transit, streetscape and public realm improvements	42%	90%
Community facilities (child care and library materials)	8%	3%

*Does not apply to Designated Affordable Housing Zones, which are addressed in Table 423.6A.

TABLE 423.6A

1 BREAKDOWN OF EASTERN NEIGHBORHOODS PUBLIC BENEFIT FEE/FUND BY
 2 IMPROVEMENT TYPE FOR DESIGNATED AFFORDABLE HOUSING ZONES

Improvement Type	Residential	Non-residential
Affordable housing preservation and development	75%	n/a
Open space and recreational facilities	13%	7%
Transit, streetscape and public realm improvements	10%	90%
Community facilities (child care and library materials)	2%	3%

13 (d) With full participation by the Planning Department and related implementing
 14 agencies, the Controller's Office shall file a report with the Board of Supervisors beginning
 15 180 days after the last day of the fiscal year of the effective date of Section 423.1 et seq. that
 16 shall include the following elements: (1) a description of the type of fee in each account or
 17 fund; (2) amount of fee collected; (3) beginning and ending balance of the accounts or funds
 18 including any bond funds held by an outside trustee; (4) amount of fees collected and interest
 19 earned; (5) identification of each public improvement on which fees or bond funds were
 20 expended and amount of each expenditure; (6) an identification of the approximate date by
 21 which the construction of public improvements will commence; (7) a description of any inter-
 22 fund transfer or loan and the public improvement on which the transferred funds will be
 23 expended; and (8) amount of refunds made and any allocations of unexpended fees that are
 24 not refunded.

1 (e) A public hearing shall be held by the Recreation and Parks Commissions to elicit
2 public comment on proposals for the acquisition of property using monies in the Fund that will
3 ultimately be maintained by the Department of Recreation and Parks. Notice of public
4 hearings shall be published in an official newspaper at least 20 days prior to the date of the
5 hearing, which notice shall set forth the time, place, and purpose of the hearing. The Parks
6 Commissions may vote to recommend to the Board of Supervisors that it appropriate money
7 from the Fund for acquisition and development of property acquired for park use.

8 (f) The Planning Commission shall work with other City agencies and commissions,
9 specifically the Department of Recreation and Parks, DPW, and the MTA, to develop
10 agreements related to the administration of the improvements to existing public facilities and
11 development of new public facilities within public rights-of-way or on any acquired public
12 property, using such monies as have been allocated for that purpose at a hearing of the Board
13 of Supervisors.

14 (g) The Planning Commission, based on findings from the Interagency Planning &
15 Implementation Committee (IPIC), shall make recommendations to the Board regarding
16 allocation of funds.

17 (h) Within 60 days of receiving the Eastern Neighborhoods Capital Expenditure
18 Evaluation Report as specified in Administrative Code Section 10E.7, the Office of the
19 Controller shall assess whether funds collected from the Eastern Neighborhoods Impact Fee
20 are being effectively utilized for capital projects serving the Eastern Neighborhoods, and
21 whether such projects are successfully advancing towards implementation, as set forth in the
22 abovementioned Section. Based on this assessment, the following shall occur:

23 (A) If the Controller determines that the funds have been effectively utilized as set
24 forth in Section 10E.7 of the Administrative Code, the Controller shall issue an affirmative
25 finding to the Board of Supervisors and the Planning Commission certifying that the intent of

1 this aforementioned Section is being met. No further Controller action is necessary for
2 purposes of this Subsection.

3 (B) If the Controller fails to issue the certification described in Subsection (h) ~~(i)~~(A)
4 above or if the Controller determines that the fees are not being effectively utilized as set forth
5 in Administrative Code Section 10E.7 and notifies the Board of Supervisors and Planning
6 Commission of this determination, then the following shall occur:

7 (i) Any project specified below within the Eastern Neighborhoods Area Plan that
8 has not already received final and effective approvals from the Planning Department, Zoning
9 Administrator, and/or the Planning Commission, shall require a conditional use authorization,
10 in addition to any other approvals necessary under the Planning Code:

11 (aa) Residential projects containing more than 10 new units that have not received
12 issuance of their first site or building permit; or

13 (bb) Non-residential projects containing a net new addition or new construction of
14 10,000 square feet or more that have not received issuance of their first site or building
15 permit.

16 (C) Elimination of interim conditional use requirement. (i) At any time after the
17 Controller has determined that Eastern Neighborhood impact fees are not being effectively
18 utilized as set forth in Section 423.6(h)(B) above, or fails to certify that they are being
19 effectively utilized as set forth in Section 423.6(h)(A), the Planning Department may provide
20 the Controller with a newly updated or revised Eastern Neighborhoods Capital Expenditure
21 Evaluation Report.

22 (ii) Within 60 days of receiving an updated or revised Report, the Office of the
23 Controller shall determine whether funds collected from the Eastern Neighborhoods Public
24 Benefit Fee are being effectively utilized for capital projects serving the Eastern
25 Neighborhoods consistent with the intent of the Section 10E.7 of the Administrative Code.

1 (iii) If, on the basis of a new, updated or revised Eastern Neighborhoods Capital
2 Expenditure Evaluation Report, the Controller determines that the development impact fees
3 collected to date are being effectively utilized as set forth in Section 423.6 (h)(A) above, any
4 projects within the Eastern Neighborhoods Plan Area that required a conditional use
5 authorization on an interim basis as set forth in Section 423.6(h)(B) shall no longer require
6 such conditional use authorization unless the underlying use requires conditional use
7 authorization independent of the requirements set forth in Section 423.6(i)(B).

8 **SEC. ~~43~~28. - INTEGRATED PDR FEE DISCOUNT PROGRAM.**

9 (a) Purpose. The purpose of the Integrated PDR Fee Discount Program is to
10 encourage the hiring of disadvantaged workers by existing or future business tenants and/or
11 occupants in newly permitted Integrated PDR space. Owners of buildings with Integrated PDR
12 space are given the option of deferring up to fifty percent of development impact fees that
13 would otherwise be owed, to encourage their Integrated PDR tenants and/or occupants to
14 register their respective business with the Office of Economic and Workforce Development's
15 (OEWD) Integrated PDR Program. At the end of a five-year period commencing upon
16 issuance of the first site or building permit, owners of Integrated PDR buildings will be
17 responsible for payment of the full deferred amount unless they can demonstrate to the
18 Planning Department, based on registration records submitted to OWED, that a certain
19 percentage of the employees occupying Integrated PDR space qualify as "disadvantaged
20 workers." The greater the percentage of disadvantaged workers, the higher the fee waiver.

21 (b) Definitions.

22 (1) Applicant. For purposes of this section, the owner of a building that contains
23 permitted Integrated PDR space.

24 (2) Integrated PDR. This is defined in Section 890.49.

25 (3) Disadvantaged worker. Any employee who qualifies for the California State.

1 (4) Enterprise Zone hiring credit for the San Francisco Enterprise Zone.

2 (5) Discount-eligible worker, a disadvantaged worker who lives within the City and
3 County of San Francisco.

4 (6) Discount-program fees. The fees that are subject to this discount program are the
5 Eastern Neighborhoods Fees (per Sec. 327), the Transit Impact Development Fee (TIDF) (per
6 Chapter 38 of the Administrative Code), and the Jobs-Housing Linkage Fee (per Section 313).

7 (7) Integrated PDR Registration Record. A dated receipt acknowledging that the
8 subject Integrated PDR business has newly registered or updated their existing registration
9 with the Office of Economic and Workforce Development (OEWD).

10 (8) Outstanding Discount-Program fees. The 50% of Discount-program fees that are
11 not paid at the issuance of the first site or building permit.

12 (c) Controls.

13 (1) Any project involving the establishment of net new Integrated PDR space may
14 choose to avail itself of the fee discounts described below in this Subsection.

15 (2) Initial fee reduction and payment:

16 (A) At the issuance of the first site or building permit, the Applicant will pay 50% of
17 discount-program fees.

18 (B) An Integrated PDR Notice of Special Restrictions (NSR) will be placed on the
19 property stating the following:

20 (i) The amount of Outstanding Discount-Program fees.

21 (ii) That the Outstanding Discount-Program fees, adjusted for the cost of living as
22 defined by the Controller's Office, will be paid within 30 days of notification of the applicant by
23 the Planning Department of the amount of payment due. A reduction or waiver of these
24 outstanding fees is available only if the conditions of subsection (c)(3) of this Section are met.

25 (3) Outstanding Discount-Program fee determination and payment:

1 (A) After five years from the issuance of the first site or building permit for any
2 Integrated PDR space, the Applicant must pay the Outstanding Discount-Program fees.

3 (B) An Applicant may seek to waive or reduce any Outstanding Discount-Program fees
4 by providing sufficient evidence in the form of Integrated PDR Registration Records to
5 demonstrate to the Planning Department that they have satisfied the workforce goals of the
6 Integrated PDR program as of the date of the filing of an application for such a waiver.

7 (C) Outstanding Discount-Program fees may be waived or forgiven under the following
8 circumstances:

9 (i) If 10% to 14.9% of the total workforce currently employed in space that is permitted
10 as Integrated PDR is discount-eligible workers, then 50% of the outstanding fees will be
11 waived.

12 (ii) If 15% to 19.9% of the total workforce currently employed in space that is permitted
13 as Integrated PDR is discount-eligible workers, then 60% of the outstanding fees will be
14 waived.

15 (iii) If 20% to 24.9% of the total workforce currently employed in space that is permitted
16 as Integrated PDR is discount-eligible workers, then 70% of the outstanding fees will be
17 waived.

18 (iv) If 25% to 29.9% of the total workforce currently employed in space that is permitted
19 as Integrated PDR is discount-eligible workers, then 80% of the outstanding fees will be
20 waived.

21 (v) If 30% to 34.9% of the total workforce currently employed in space that is permitted
22 as Integrated PDR is discount-eligible workers, then 90% of the outstanding fees will be
23 waived.

1 (vi) If 35% or more of the total workforce currently employed in space that is permitted
2 as Integrated PDR is discount-eligible workers, then 100% of the outstanding fees will be
3 waived.

4 (D) Applicants who cannot provide sufficient evidence in the form of Integrated PDR
5 Registration records to demonstrate to the Planning Department that tenants and/or
6 occupants of any Integrated PDR space have satisfied the annual reporting requirements of
7 the Office of Economic and Workforce Development (OEWD), or its successor, will not be
8 eligible for any waivers or reductions of Outstanding Discount-Program Fees, and will owe the
9 full amount of any Outstanding Discount-Program Fees five years after the issuance of the
10 first site or building permit. These annual reporting requirements are stated contained in the
11 City's Administrative Code Sec. 10E.7.

12 (E) Applicants must apply to the Planning Department for Outstanding Discount-
13 Program Fee reduction or waiver. This application must be submitted within three months
14 before or after the five-year anniversary of the issuance of the first site or building permit. The
15 Planning Department shall transmit the application to the Office of Economic and Workforce
16 Development (OEWD), or its successor, for verification of relevant employment statistics, and
17 the Director of OEWD shall subsequently submit its findings to the Planning Department.

18 (F) Payment of outstanding fees is due within 30 days of notification of the applicant by
19 the Planning Department of the amount of payment due.

20 (G) Failure to pay shall be deemed a violation of the Planning Code and result in an
21 enforcement action by the Department, which may include, referral to the Bureau of
22 Delinquent Revenue and a lien on the subject property. Any enforcement action also may
23 result in additional charges or penalties to cover the City's costs in the enforcement action,
24 including, but not limited to City Attorney's fees.

1 Section 3. Application. This legislation applies to all projects. Notwithstanding the
2 foregoing, the amendments to Section 421.3 shall not apply to any application that meets the
3 following criteria: (1) The subject property is or will be owned and operated by a non-profit
4 which is exempted from payment of income tax under Section 501(c)(3) of the Internal
5 Revenue Code of the United States; (2) its first development application to the Planning
6 Department was submitted prior to April 15, 2010; and (3) involves an entertainment use of
7 less than 50,000 square feet.

8
9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By: _____
12 Susan Cleveland-Knowles
13 Deputy City Attorney
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