

1 [Initiative Ordinance - Business and Tax Regulations and Administrative Codes - Tax on  
2 Technology Companies to Fund Affordable Housing and Homeless Services; Business  
3 Registration Fee Reduction]

3

4 **Motion ordering submitted to the voters at an election to be held on November 8, 2016,**  
5 **an Ordinance amending the Business and Tax Regulations Code and Administrative**  
6 **Code to reduce the business registration fee on persons with \$1,000,000 or less in**  
7 **gross receipts and to impose a new 1.5% special tax on the payroll expense of**  
8 **technology companies engaged in business in the City to fund affordable housing and**  
9 **homeless services; and increasing the City’s appropriations limit by the amount of the**  
10 **new tax for four years from November 8, 2016.**

11

12 MOVED, That the Board of Supervisors hereby submits the following ordinance to the  
13 voters of the City and County of San Francisco, at an election to be held on November 8,  
14 2016.

15

16 **Ordinance amending the Business and Tax Regulations Code and Administrative Code**  
17 **to reduce the business registration fee on persons with \$1,000,000 or less in gross**  
18 **receipts and to impose a new 1.5% special tax on the payroll expense of technology**  
19 **companies engaged in business in the City to fund affordable housing and homeless**  
20 **services; and increasing the City’s appropriations limit by the amount of the new tax**  
21 **for four years from November 8, 2016.**

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NOTE: **Unchanged Code text and uncodified text** are in plain font.  
**Additions to Codes** are in *single-underline italics Times New Roman font*.  
**Deletions to Codes** are in ~~italics Times New Roman font~~.  
**Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

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

2 Section 1. Pursuant to Article XIII C of the Constitution of the State of California, this  
3 ordinance shall be submitted to the qualified electors of the City and County of San Francisco  
4 at the November 8, 2016, consolidated general election.

5  
6 Section 2. Findings.

7 (a) San Francisco has seen a technology company boom that has brought many  
8 highly paid workers to the City in a short period of time, generating a demand for housing that  
9 has driven rents beyond the reach of many residents and resulting in longtime residents being  
10 displaced or struggling to remain.

11 (b) Evictions have continued to rise each year since 2010, with a large percentage  
12 of no-fault evictions in San Francisco occurring within four blocks of a private bus shuttle stop  
13 for technology company employees.

14 (c) The technology-driven housing crisis also threatens the diversity our City  
15 cherishes, because technology companies frequently do not employ a workforce that reflects  
16 the diversity of the City as a whole. Moreover, vulnerable populations such as children, the  
17 disabled, and seniors who often rely on a fixed income, have been hit hard by the housing  
18 crisis.

19 (d) According to a report issued on June 1, 2016, by the Budget and Legislative  
20 Analyst of the Board of Supervisors, the City spent over \$20.6 million on homeless quality-of-  
21 life enforcement in 2015, while the number of unsheltered homeless individuals continued to  
22 increase.

23 (e) According to a January 29, 2015 Point-in-Time homeless count included in a  
24 report issued in 2015 by Applied Survey Research, there were just under 7,000 homeless  
25 people in San Francisco, a large proportion of whom were unsheltered.

1 (f) San Francisco has a number of restrictive laws related to homelessness,  
2 including restrictions on sitting, lying, camping, and obstructing the sidewalk.

3 (g) Responses to the housing and homelessness crisis have been limited by a lack  
4 of funding. Affordable housing development has widespread public support but is costly, and,  
5 despite the recent housing bond (Proposition A, November 2015) and other measures, there  
6 is not enough funding available to address the need.

7 (h) Revenue measures such as the Homelessness and Housing Impact Technology  
8 Tax established by this ordinance are needed to hold technology companies accountable for  
9 their impact on housing availability and cost in San Francisco, and to provide funding for  
10 affordable housing programs and homeless services.

11  
12 Section 3. The Business and Tax Regulations Code is hereby amended by revising  
13 Sections 6.9-1, 6.9-2, and 6.9-3 of Article 6 and Section 855 of Article 12, to read as follows:

14 **SEC. 6.9-1. DETERMINATIONS, RETURNS, AND PAYMENTS; DUE DATE OF TAXES.**

15 Except for jeopardy determinations under Section 6.12-2, and subject to remittances  
16 required under Section s 6.9-2 and 6.9-3, all amounts of taxes and fees imposed by Articles 6,  
17 7, 9, 10, 10B, 11, 12, 12-A, ~~and~~ 12-A-1, and 12-A-2 are due and payable, and shall be  
18 delinquent if not paid to the Tax Collector on or before the following dates:

19 (a) For the Hotel Tax (Article 7) and the Parking Tax (Article 9), for each month, on  
20 or before the last day of the following month;

21 (b) For the payroll expense tax (Article 12-A), ~~and~~ the gross receipts tax (Article 12-  
22 A-1), and the Homelessness and Housing Impact Technology Tax (Article 12-A-2), on or before the  
23 last day of February of each year;

24 (c) For the utility users tax (Article 10) and the access line tax (Article 10B), for each  
25 monthly period, on or before the last day of the following month;

1 (d) For the stadium operator admission tax (Article 11), within five days after the  
2 event, subject to the provisions of Section 804 of Article 11; and

3 (e) For the business registration certificate (Article 12), on or before the last day of  
4 May preceding the registration year commencing July 1 of that year.

5  
6 **SEC. 6.9-2. DETERMINATIONS, RETURNS, AND PAYMENTS; RETURNS.**

7 (a) **Returns.** Except as provided in subsection (b) below, on or before the due  
8 date, or in the event of a cessation of business within 15 days of such cessation, each  
9 taxpayer shall file a return for the subject period on a form provided by the Tax Collector,  
10 regardless of whether there is a tax liability owing. A person subject to any tax or required to  
11 remit any third-party tax who has not received a return form or forms from the Tax Collector is  
12 responsible for obtaining such form(s) and filing a return or returns on or before the due date,  
13 or upon the cessation of business. Returns shall show the amount of tax and any third-party  
14 tax paid or otherwise due for the related period and such other information as the Tax  
15 Collector may require. Each person subject to any tax or required to remit any third-party tax  
16 and required to file the return shall transmit the return, together with the remittance of the  
17 amount of tax or third-party tax due, to the Tax Collector at the Tax Collector's Office on or  
18 before the due date specified in Section 6.9-1.

19 (b) **Minimum Filing Amount.** Notwithstanding any other provision of this Section  
20 6.9-2, and commencing with tax years beginning on or after January 1, 2014:

21 (1) A person whose combined taxable payroll expense in the City under the  
22 Payroll Expense Tax Ordinance (Article 12-A), computed without regard to the small business  
23 exemption set forth in Section 905-A of Article 12-A, is less than \$150,000, shall be exempt  
24 from filing a payroll expense tax return.

1 (2) A person, other than a lessor of residential real estate as that term is  
2 used in Section 954.1 of Article 12-A-1, whose combined taxable gross receipts in the City  
3 under the Gross Receipts Tax Ordinance (Article 12-A-1), computed without regard to the  
4 small business tax exemption set forth under Section 954.1 of Article 12-A-1, is less than  
5 \$500,000, shall be exempt from filing a gross receipts tax return and a Homelessness and  
6 Housing Impact Technology Tax return.

7 (3) A lessor of residential real estate, as that term is used in Section 954.1 of  
8 Article 12-A-1, who leases fewer than four units in any individual building, shall be exempt  
9 from filing a gross receipts tax return and a Homelessness and Housing Impact Technology Tax  
10 return.

11  
12 **SEC. 6.9-3. DETERMINATIONS, RETURNS, AND PAYMENTS.**

13 (a) **Remittances.** Notwithstanding the due dates otherwise provided in  
14 Section 6.9-1, taxpayers shall make remittances of taxes and third-party taxes to the Tax  
15 Collector as follows:

16 \* \* \* \*

17 (3) **Payroll Expense Tax, ~~and~~ Gross Receipts Tax, and Homelessness and**  
18 **Housing Impact Technology Tax.** The payroll expense tax (Article 12-A), ~~and~~ the gross receipts  
19 tax (Article 12-A-1), and the Homelessness and Housing Impact Technology Tax (Article 12-A-2)  
20 shall be paid in quarterly installments as follows:

21 (A) **Due Dates.** Every person liable for payment of payroll expense  
22 tax, ~~or~~ gross receipts tax, or Homelessness and Housing Impact Technology Tax for any tax year  
23 shall pay such tax for that tax year in four quarterly installments. The first, second, and third  
24 quarterly installments shall be due and payable, and shall be delinquent if not paid on or  
25 before, April 30, July 31, and October 31, respectively, of that tax year. The fourth installment

1 shall be reported and paid on or before the last day of February of the immediately following  
2 tax year.

3 (B) **Installment Payments.**

4 (i) The first, second, and third quarterly installments shall be a  
5 credit against the person's total payroll expense tax, ~~or~~ gross receipts tax, or Homelessness and  
6 Housing Impact Technology Tax, as applicable, for the tax year in which such first, second, and  
7 third quarterly installments are due. The fourth quarterly installment shall be in an amount  
8 equal to the person's total payroll expense tax, ~~or~~ gross receipts tax, or Homelessness and  
9 Housing Impact Technology Tax liability for the tax year, as applicable, less the amount of the  
10 payroll expense tax, ~~or~~ gross receipts tax, or Homelessness and Housing Impact Technology Tax  
11 first, second, and third quarterly installments and other tax payments, if any, actually paid.

12 (ii) **Payroll Expense Tax Installments.** A person's first,  
13 second, and third quarterly installment payments of payroll expense tax for any tax year shall  
14 be computed by using the person's taxable payroll expense (as defined under Article 12-A) for  
15 each quarter and the rate of tax applicable to the tax year in which the first, second, and third  
16 quarterly installments are due. Notwithstanding the foregoing sentence, and except for  
17 taxpayers under Section 953.8 of Article 12-A-1, for tax years commencing after  
18 December 31, 2013, the first, second, and third quarterly installments shall be computed using  
19 the rates set forth in the following table:

20

<b>Tax Year</b>	<b>1st, 2nd, and 3rd Installments</b>
2014	1.350%
2015	1.125%
2016	0.750%
2017	0.375%

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22  
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2018	0.000%
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(iii) **Gross Receipts Tax Installments.** A person’s first, second, and third quarterly installments of gross receipts tax for any tax year shall be computed by using the person’s taxable gross receipts (as defined under Article 12-A-1) for each quarter and the rate of tax applicable to the tax year in which the first, second, and third quarterly installments are due. Notwithstanding the foregoing sentence, and except for taxpayers under Section 953.8 of Article 12-A-1, for tax years commencing after December 31, 2013, the first, second, and third quarterly installments shall be computed using the rates applicable to the person’s taxable gross receipts under Sections 953.1 through 953.7 of Article 12-A-1, multiplied by the percentages set forth in the following table:

<b>Tax Year</b>	<b>1st, 2nd, and 3rd Installments</b>
2014	10%
2015	25%
2016	50%
2017	75%
2018	100%

(iv) **Homelessness and Housing Impact Technology Tax Installments.** *A person’s first, second, and third quarterly installment payments of Homelessness and Housing Impact Technology Tax for any tax year shall be computed by using the person’s taxable payroll expense (as defined under Article 12-A-2) for each quarter and the rate of tax provided in Section 976 of Article 12-A-2.*

(C) **Computation of Liability; Payments.**

(i) A person’s total payroll expense tax liability shall be computed using the rate for that tax year computed, certified, and published by the Controller

1 under Section 903.1 of Article 12-A or as otherwise provided in Article 12-A. A person's total  
2 gross receipts tax liability shall be computed using the rate for that tax year computed,  
3 certified, and published by the Controller under Section 959 of Article 12-A-1, or as otherwise  
4 provided in Article 12-A-1. A person's total Homelessness and Housing Impact Technology Tax  
5 liability shall be computed using the rate provided in Section 976 of Article 12-A-2.

6 (ii) Any amounts paid on a person's payroll expense tax liability  
7 for a tax year that are in excess of that person's actual payroll expense tax liability for that  
8 year shall be credited to that person's gross receipts tax liability for that year. Any amounts  
9 paid on a person's gross receipts tax liability for a tax year that are in excess of that person's  
10 actual gross receipts tax liability for that year shall be credited to that person's payroll expense  
11 tax liability for that year.

12 (b) **Tax Installment Penalties.** Except as stated in subsections (b)(1) and (2), eEvery  
13 person who fails to pay any tax installment required under this Section 6.9-3 before the  
14 relevant delinquency date shall pay a penalty in the amount of 5% percent of the amount of the  
15 delinquent tax installment per month, or fraction thereof, up to 20% percent in the aggregate,  
16 and shall also pay interest on the amount of the delinquent tax installment from the date of  
17 delinquency at the rate of 1% percent per month, or fraction thereof, for each month the  
18 installment is delinquent, until paid.

19 (1) The penalty and interest provided under this ~~subs~~Section 6.9-3(b) shall not  
20 apply to the payroll expense tax or gross receipts tax if each of the payroll expense tax and gross  
21 receipts tax payments are equal to or greater than the actual tax owed for that quarter, or the  
22 sum of the payroll expense tax payments and gross receipts tax payments for the quarter is  
23 equal to or greater than 26% percent of the sum of the payroll expense tax and gross receipts  
24 tax liability for the immediately preceding tax year. For taxpayers under Section 953.8 of  
25 Article 12-A-1, for tax year 2014 only, the penalty and interest provided under this ~~subs~~Section



1 6.9-3(b) shall also not apply if a first, second, or third gross receipts tax quarterly installment  
2 payment is in an amount that is at least ~~26% percent~~ of the payroll expense tax liability for the  
3 immediately preceding tax year.

4 (2) The penalty and interest provided under this Section 6.9-3(b) shall not apply to  
5 the Homelessness and Housing Impact Technology Tax if the Homelessness and Housing Impact  
6 Technology Tax payment is equal to or greater than the actual tax owed for that quarter, or the  
7 Homelessness and Housing Impact Technology Tax payment for the quarter is equal to or greater than  
8 26% of the Homelessness and Housing Impact Technology Tax liability for the immediate preceding  
9 tax year.

10 (c) **Hotel and Parking Taxes.** Unless otherwise provided, an operator subject to  
11 the Hotel Tax (Article 7) or the Parking Tax (Article 9) shall make monthly remittances in the  
12 amount of the actual tax owed.

13 (d) **Forms and Adjustments.** Tax remittances required under this Section 6.9-3  
14 shall be accompanied by a tax remittance form prepared by the Tax Collector, but failure of  
15 the Tax Collector to furnish the taxpayer with a tax remittance form shall not relieve the  
16 taxpayer from any tax payment obligation.

17  
18 **SEC. 855. REGISTRATION CERTIFICATE – FEE.**

19 \* \* \* \*

20 (e) **Fee for Registration Years Ending After June 30, 2015.**

21 (1) **General Rule for Registration Years Ending After June 30, 2015, but On or**  
22 **Before June 30, 2018.** Except as otherwise provided in this Section 855 and Section 856 of this  
23 Article 12, the annual fee for obtaining a registration certificate, for the registration years  
24 ending after June 30, 2015, but ending on or before June 30, 2018, payable in advance, shall be  
25 as follows:

<b><i>San Francisco Gross Receipts for the Immediately Preceding Tax Year</i></b>	<b><i>Annual Registration Fee</i></b>
\$0 to \$100,000	\$90
\$100,001 to \$250,000	\$150
\$250,001 to \$500,000	\$250
\$500,001 to \$750,000	\$500
\$750,001 to \$1,000,000	\$700
\$1,000,001 to \$2,500,000	\$300
\$2,500,001 to \$7,500,000	\$500
\$7,500,001 to \$15,000,000	\$1,500
\$15,000,001 to \$25,000,000	\$5,000
\$25,000,001 to \$50,000,000	\$12,500
\$50,000,001 to \$100,000,000	\$22,500
\$100,000,001 to \$200,000,000	\$30,000
\$200,000,001 and over	\$35,000

(2) ***General Rule for Registration Years Ending After June 30, 2018.*** *Except as otherwise provided in this Section 855 and Section 856 of this Article 12, the annual fee for obtaining a registration certificate, for the registration years ending after June 30, 2018, payable in advance, shall be as follows:*

<b><i><u>San Francisco Gross Receipts for the Immediately Preceding Tax Year</u></i></b>	<b><i><u>Annual Registration Fee</u></i></b>
<u>\$0 to \$100,000</u>	<u>\$45</u>
<u>\$100,000.01 to \$250,000</u>	<u>\$75</u>
<u>\$250,000.01 to \$500,000</u>	<u>\$125</u>
<u>\$500,000.01 to \$750,000</u>	<u>\$250</u>

1	<u>\$750,000.01 to \$1,000,000</u>	<u>\$350</u>
2	<u>\$1,000,000.01 to \$2,500,000</u>	<u>\$300</u>
3	<u>\$2,500,000.01 to \$7,500,000</u>	<u>\$500</u>
4	<u>\$7,500,000.01 to \$15,000,000</u>	<u>\$1,500</u>
5	<u>\$15,000,000.01 to \$25,000,000</u>	<u>\$5,000</u>
6	<u>\$25,000,000.01 to \$50,000,000</u>	<u>\$12,500</u>
7	<u>\$50,000,000.01 to \$100,000,000</u>	<u>\$22,500</u>
8	<u>\$100,000,000.01 to \$200,000,000</u>	<u>\$30,000</u>
9	<u>\$200,000,000.01 and over</u>	<u>\$35,000</u>

10                   (23)   **Fee for Retail Trade, Wholesale Trade, and Certain Services for**  
11 **Registration Years Ending After June 30, 2015, but On or Before June 30, 2018.** Except as  
12 otherwise provided in this Section 855 and Section 856 of this Article 12, for registration years  
13 ending after June 30, 2015, but ending on or before June 30, 2018, the annual fee for obtaining a  
14 registration certificate, payable in advance, for a business that was required to report all of its  
15 gross receipts pursuant to Article 12-A-1, Section 953.1 for the preceding tax year, shall be as  
16 follows:

18	<b><i>San Francisco Gross Receipts for the Immediately Preceding Tax Year</i></b>	<b><i>Annual Registration Fee</i></b>
19	\$0 to \$100,000	\$75
20	\$100,001 to \$250,000	\$125
21	\$250,001 to \$500,000	\$200
22	\$500,001 to \$750,000	\$400
23	\$750,001 to \$1,000,000	\$600
24	\$1,000,001 to \$2,500,000	\$200

1	\$2,500,001 to \$7,500,000	\$400
2	\$7,500,001 to \$15,000,000	\$1,125
3	\$15,000,001 to \$25,000,000	\$3,750
4	\$25,000,001 to \$50,000,000	\$7,500
5	\$50,000,001 to \$100,000,000	\$15,000
6	\$100,000,001 to \$200,000,000	\$20,000
7	\$200,000,001 and over	\$30,000

8 **(4) Fee for Retail Trade, Wholesale Trade, and Certain Services for Registration**

9 **Years Ending After June 30, 2018.** *Except as otherwise provided in this Section 855 and Section 856*  
10 *of this Article 12, for registration years ending after June 30, 2018, the annual fee for obtaining a*  
11 *registration certificate, payable in advance, for a business that was required to report all of its gross*  
12 *receipts pursuant to Article 12-A-1, Section 953.1 for the preceding tax year, shall be as follows:*

14	<b><u>San Francisco Gross Receipts for the</u></b> <b><u>Immediately Preceding Tax Year</u></b>	<b><u>Annual Registration Fee</u></b>
15	<u>\$0 to \$100,000</u>	<u>\$45</u>
16	<u>\$100,000.01 to \$250,000</u>	<u>\$75</u>
17	<u>\$250,000.01 to \$500,000</u>	<u>\$125</u>
18	<u>\$500,000.01 to \$750,000</u>	<u>\$250</u>
19	<u>\$750,000.01 to \$1,000,000</u>	<u>\$350</u>
20	<u>\$1,000,000.01 to \$2,500,000</u>	<u>\$200</u>
21	<u>\$2,500,000.01 to \$7,500,000</u>	<u>\$400</u>
22	<u>\$7,500,000.01 to \$15,000,000</u>	<u>\$1,125</u>
23	<u>\$15,000,000.01 to \$25,000,000</u>	<u>\$3,750</u>
24	<u>\$25,000,000.01 to \$50,000,000</u>	<u>\$7,500</u>

1	<u>\$50,000,000.01 to \$100,000,000</u>	<u>\$15,000</u>
2	<u>\$100,000,000.01 to \$200,000,000</u>	<u>\$20,000</u>
3	<u>\$200,000,000.01 and over</u>	<u>\$30,000</u>

4 \* \* \* \*

5  
6 Section 4. The Business and Tax Regulations Code is hereby amended by adding  
7 Section 6.2-9.5, to read as follows:

8 **SEC. 6.2-9.5. HOMELESSNESS AND HOUSING IMPACT TECHNOLOGY TAX ORDINANCE;**  
9 **HOMELESSNESS AND HOUSING IMPACT TECHNOLOGY TAX.**

10 “Homelessness and Housing Impact Technology Tax Ordinance” means Article 12-A-2;

11 “Homelessness and Housing Impact Technology Tax” means the tax imposed thereunder.

12  
13 Section 5. The Business and Tax Regulations Code is hereby amended by adding  
14 Article 12-A-2, consisting of Sections 970 through 984, to read as follows:

15 **ARTICLE 12-A-2: HOMELESSNESS AND HOUSING IMPACT TECHNOLOGY TAX**

16  
17 **SEC. 970. SHORT TITLE.**

18 This Article 12-A-2 shall be known as the “Homelessness and Housing Impact Technology Tax  
19 Ordinance,” and the tax imposed under this Article 12-A-2 shall be known as the “Homelessness and  
20 Housing Impact Technology Tax.”

21  
22 **SEC. 971. DEFINITIONS.**

23 Except where the context otherwise requires or as otherwise provided, the terms used in this  
24 Article 12-A-2 shall have the meanings given to them in Articles 6, 12-A, and 12-A-1.

1 **SEC. 972. PAYROLL EXPENSE.**

2 (a) The term “Payroll Expense” means the compensation paid to, on behalf of, or for the  
3 benefit of an individual, including shareholders of a professional corporation or a Limited Liability  
4 Company (“LLC”), including salaries, wages, bonuses, commissions, property issued or transferred in  
5 exchange for the performance of services (including but not limited to stock options), compensation for  
6 services to owners of pass-through entities, and any other form of compensation, who during any tax  
7 year, perform work or render services, in whole or in part in the City; and if more than one individual  
8 or shareholders of a professional corporation or members of an LLC, during any tax year performs  
9 work or renders services in whole or in part in the City, the term “Payroll Expense” means the total  
10 compensation paid including salaries, wages, bonuses, commissions, property issued or transferred in  
11 exchange for the performance of services (including but not limited to stock options), in addition to any  
12 compensation for services to owners of pass-through entities, and any other form of compensation for  
13 services, to all such individuals and shareholders of a professional corporation or members of an LLC.

14 (b) Any person that grants a service provider a right to acquire an ownership interest in  
15 such person in exchange for the performance of services shall include in its payroll expense for the tax  
16 year in which such right is exercised an amount equal to the excess of (1) the fair market value of such  
17 ownership interest on the date such right is exercised over (2) the price paid for such interest.

18 (c) All compensation, including all pass-through compensation for services paid to, on  
19 behalf of, or for the benefit of owners of a pass through entity, shall be included in the calculation of  
20 such entity’s Homelessness and Housing Impact Technology Tax base for purposes of determining such  
21 entity’s tax liability under this Article 12-A-2. For purposes of this Section 972, the “pass-through  
22 compensation for services” of a pass-through entity shall be the aggregate compensation paid by such  
23 entity for personal services rendered by all such owners, and shall not include any return on capital  
24 investment. The taxpayer may calculate the amount of compensation to owners of the entity subject to  
25 the Homelessness and Housing Impact Technology Tax, or the taxpayer may presume that, in addition

1 to amounts reported on a W-2 form, the amount subject to the Homelessness and Housing Impact  
2 Technology Tax is, for each owner, an amount that is 200% of the average annual compensation paid  
3 to, on behalf of, or for the benefit of the employees of the pass-through entity whose compensation is in  
4 the top quartile of the entity's employees who are based in the City; provided, the total number of  
5 employees of the entity based in the City is not less than four.

6 (d) The provisions of this Section 972 shall be interpreted in the same manner as the  
7 provisions of Section 902.1 of Article 12-A. However, no exclusions from payroll expense shall be  
8 permitted under Section 906.1 (the "Biotechnology Exclusion"), Section 906.2 (the "Clean Technology  
9 Business Exclusion"), Section 906.3 (the "Central Market Street and Tenderloin Area Payroll Expense  
10 Tax Exclusion"), or Section 906.4 (the "Stock-Based Compensation Exclusion").

11  
12 **SEC. 973. PASS-THROUGH ENTITY.**

13 The term "pass-through entity" includes a trust, partnership, corporation described in  
14 Subchapter S of the Internal Revenue Code of 1986, as amended, limited liability company, limited  
15 liability partnership, professional corporation, and any other person or entity (other than a  
16 disregarded entity for federal income tax purposes) that is not subject to the income tax imposed by  
17 Subtitle A, Chapter 1 of the Internal Revenue Code of 1986, as amended, or that is allowed a deduction  
18 in computing such tax for distributions to the owners or beneficiaries of such person or entity. Any  
19 person exempt from payment of the Homelessness and Housing Impact Technology Tax under Section  
20 980 of this Article 12-A-2 shall not be disqualified from or denied such exemption as a result of being a  
21 "pass-through entity" under this Section 973.

1     **SEC. 974. TECHNOLOGY COMPANY.**

2             The term “technology company” means all persons that receive any amount of gross receipts  
3 from a business within one or more of the following NAICS codes, as defined in Section 952.4 of Article  
4 12-A-1: 3341; 5112; 5182; 51913; and 5415.

5  
6     **SEC. 975. IMPOSITION OF TAX.**

7             A special tax, the Homelessness and Housing Impact Technology Tax, is hereby imposed upon  
8 the entire payroll expense of every technology company engaging in business within the City as defined  
9 in Section 6.2-12 of Article 6; provided, that such tax shall be levied only upon that portion of the  
10 technology company’s payroll expense that is attributable to the City as set forth in Section 979. The  
11 Homelessness and Housing Impact Technology Tax shall be in addition to all other taxes imposed  
12 under the Business and Tax Regulations Code.

13  
14     **SEC. 976. RATE OF TAX.**

15             The rate of the Homelessness and Housing Impact Technology Tax shall be 1.5%. The amount  
16 of a technology company’s liability for the Homelessness and Housing Impact Technology Tax shall be  
17 the product of such technology company’s entire taxable payroll expense multiplied by the 1.5% rate.  
18 The amount of such Homelessness and Housing Impact Technology Tax for Associations shall be the  
19 sum of the payroll expense of such Association and the total distributions made by such Association by  
20 way of salary to those having an ownership interest in such Association, multiplied by the 1.5% rate.  
21 Amounts paid or credited to those having an ownership interest in such Association prior and in  
22 addition to the distribution of ownership profit or loss shall be presumed to be distributions “by way of  
23 salary” and for personal services rendered, unless the taxpayer proves otherwise by clear and  
24 convincing evidence.



1 **SEC. 977. EXEMPTION PROVISIONS.**

2 (a) Except as provided in subsection (b) of this Section 977, an organization that is exempt  
3 from income taxation by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the  
4 California Revenue and Taxation Code or Subchapter F (commencing with Section 501) of Chapter 1  
5 of Subtitle A of the Internal Revenue Code of 1986, as amended, as qualified by Sections 502, 503, 504,  
6 and 508 of the Internal Revenue Code of 1986, as amended, shall be exempt from taxation under this  
7 Article 12-A-2, only so long as those exemptions continue to exist under state or federal law.

8 (b) An organization otherwise exempt from income taxation under subsection (a) that is  
9 directly engaged within the City in an unrelated trade or business within the meaning of Section 513(a)  
10 of the Internal Revenue Code of 1986, as amended, and has, from its own operations, unrelated  
11 business taxable income within the meaning of Section 512(a)(1) of the Internal Revenue Code of 1986,  
12 as amended, shall pay a Homelessness and Housing Impact Technology Tax equal to the amount  
13 calculated by multiplying the tax that would have been due under this Article 12-A-2 if the organization  
14 were not an exempt organization by the percentage which its unrelated business receipts bear to its  
15 total receipts. If it is impracticable, unreasonable, or improper to allocate such organization's  
16 Homelessness and Housing Impact Technology Tax as aforesaid either because of the particular nature  
17 of the organization's unrelated trade or business or for any other reason, then the amount of  
18 Homelessness and Housing Impact Technology Tax reasonably attributable to the organization's non-  
19 exempt trade or business in the City shall be determined on the basis of all relevant facts and  
20 circumstances of the particular case, in accordance with any rulings or regulations issued or  
21 promulgated by the Tax Collector for this purpose.

22 (c) Any person upon whom the City is prohibited under the Constitution or laws of the State  
23 of California from imposing the Homelessness and Housing Impact Technology Tax shall be exempt  
24 from the Homelessness and Housing Impact Technology Tax, for only so long as and to the extent that  
25 the City is prohibited from imposing such tax.

1 **SEC. 978. USE OF FUNDS.**

2 (a) Deposit of Monies Collected. All monies from the collection of the Homelessness and  
3 Housing Impact Technology Tax shall be deposited to the credit of the Housing and Homelessness  
4 Needs Fund (“Fund”), established in Administrative Code Section 10.100-73, which shall be a  
5 category four fund under Section 10.100-1. The Fund shall be maintained separate and apart from all  
6 other City funds and shall be subject to appropriation. Any balance remaining in the Fund at the close  
7 of any fiscal year shall be deemed to have been provided for a special purpose within the meaning of  
8 Charter Section 9.113(a) and shall be carried forward and accumulated in the Fund for the purposes  
9 described in this Section 978.

10 (b) Expenditures. Subject to the budgetary and fiscal provisions of the Charter, monies in  
11 the Fund shall be used exclusively for the following purposes:

12 (1) Paying or reimbursing the Tax Collector and other City Departments for the set-  
13 up costs and continued administration of the Homelessness and Housing Impact Technology Tax;

14 (2) Refunding any overpayments of the Homelessness and Housing Impact  
15 Technology Tax; and

16 (3) Funding affordable housing and homeless services, including any administrative  
17 costs involved.

18 (c) Annual Reports. Commencing with a report filed no later than January 1, 2020,  
19 covering the fiscal year ending on June 30, 2019, the Controller shall file annually with the Board of  
20 Supervisors, by January 1 of each year, a report containing the amount of monies collected in and  
21 expended from the Fund during the prior fiscal year, and such other information as the Controller, in  
22 the Controller’s sole discretion, shall deem relevant to the operation of this Section 978.

1 **SEC. 979. APPORTIONMENT OF PAYROLL EXPENSE.**

2 (a) Where payroll expense is incurred by reason of work performed or services rendered by  
3 an individual, wholly within the City, all of the payroll expense for such individual shall be attributable  
4 to the City and subject to tax under this Article 12-A-2. Where payroll expense is incurred by reason of  
5 work performed or services rendered by an individual partly within and partly without the City, the  
6 portion of such payroll expense attributable to the City (and subject to tax under this Article 12-A-2)  
7 shall be determined as follows:

8 (1) Except as otherwise provided in this Section 979, the portion of such payroll  
9 expense attributable to the City shall be the portion of such payroll expense which the total number of  
10 working hours employed within the City bears to the total number of working hours within and without  
11 the City.

12 (2) If the amount of such payroll expense depends on the volume of business  
13 transacted by such individual, then the portion of such payroll expense attributable to the City shall be  
14 the portion of such payroll expense which the volume of business transacted by such individual in the  
15 City bears to the volume of business transacted by such individual within and without the City.

16 (3) If it is impracticable, unreasonable, or improper to apportion such payroll  
17 expenses as aforesaid either because of the particular nature of the services of such individual, or on  
18 account of the unusual basis of compensation, or for any other reason, then the amount of such payroll  
19 earnings reasonably attributable to work performed or services rendered in the City shall be  
20 determined on the basis of all relevant facts and circumstances of the particular case, in accordance  
21 with any rulings or regulations issued or promulgated by the Tax Collector for the purpose.

22 (4) If the Tax Collector determines that the percentage of payroll expenses  
23 attributable to the City, for any one or more persons, is a relatively stable percentage, the Tax  
24 Collector may establish that percentage as prima facie evidence of payroll expense attributable to the  
25 City; provided, that the Tax Collector shall condition the establishment of such fixed percentage upon

1 the obligation of the taxpayer to report immediately to the Tax Collector any significant change in the  
2 taxpayer's mode of business which may impact the portion of the person's payroll expense that is  
3 attributable to the City; and, provided further, that the Tax Collector may rescind any such fixed  
4 percentage at any time by providing written notice to the taxpayer of such rescission.

5 (b) The provisions of this Section 979 shall be interpreted in the same manner as the  
6 provisions of Section 904 of Article 12-A.

7  
8 **SEC. 980. SMALL BUSINESS TAX EXEMPTION.**

9 (a) Notwithstanding any other provision of this Article 12-A-2, a "small business  
10 enterprise" as hereinafter defined for purposes of this Article 12-A-2 shall be exempt from payment of  
11 the Homelessness and Housing Impact Technology Tax; provided, however, that a small business  
12 enterprise shall pay the annual registration fee under Section 855 of Article 12, if required to register  
13 under Article 12.

14 (b) For purposes of this Article 12-A-2, the term "small business enterprise" shall mean  
15 and include any person:

16 (1) Whose combined gross receipts within the City for the tax year as determined  
17 under Article 12-A-1, including the gross receipts of the person and any related entities as defined in  
18 Section 952.5 of Article 12-A-1, did not exceed the threshold provided in Section 954.1(b)(1) of Article  
19 12-A-1; and

20 (2) Who timely filed a Homelessness and Housing Impact Technology Tax return for  
21 the tax year, if that person was required to file such a return under Section 6.9-2 of Article 6. If a  
22 person is required to file a tax return under this Section 980 and fails to file a return by the due date,  
23 the taxpayer shall be subject to a penalty as specified in subsection (c).

24 (c) In lieu of the penalty and interest specified in Sections 6.11-3 and 6.17-1 of Article 6 for  
25 failure to file and pay, any person who otherwise qualifies for the small business tax exemption set

1 forth in this Section 980, and who was required to file a Homelessness and Housing Impact Technology  
2 Tax return under Section 6.9-2 of Article 6, who fails to timely file a return shall pay a penalty as  
3 follows:

4 (1) The penalty for the first month, or fraction thereof, that the return is delinquent,  
5 shall be 5% of the amount of the tax liability, calculated without regard to the small business tax  
6 exemption in this Section 980. The penalty shall increase by an additional 5% each month, or fraction  
7 thereof, that the return is delinquent, up to a maximum of 20% of the tax liability. Any penalties  
8 remaining unpaid for a period of 90 days or more shall be subject to an additional penalty of 20% of  
9 the amount of the tax liability excluding penalties and interest.

10 (2) Penalties are due and payable when assessed. Unpaid penalties shall accrue  
11 interest at the rate of 1% per month, or fraction thereof, from the date that they are assessed through  
12 the date of payment. The total amount of the penalties, interest, and fees shall not exceed the amount of  
13 the person's Homelessness and Housing Impact Technology Tax liability for the period but for the  
14 small business tax exemption.

15 (d) The Tax Collector may, at his or her discretion, reduce the penalty set forth in  
16 subsection (c) to not less than \$100 upon a showing that the late filing of the return was due to  
17 reasonable cause and not due to willful neglect.

18  
19 **SEC. 981. PAYMENTS, RETURNS, INSTALLMENT PAYMENTS, AND EXTENSIONS.**

20 (a) Payments, returns, installment payments, and extensions for technology companies  
21 subject to the Homelessness and Housing Impact Technology Tax shall be as prescribed in the common  
22 administrative provisions set forth in Article 6.

23 (b) A "combined group" as described in Section 956.3 of Article 12-A-1 must file a single  
24 Homelessness and Housing Impact Technology Tax return; the combined group must choose a single  
25 person to file the return on its behalf, which person need not be a technology company. Each

1 technology company within the combined group engaging in business in the City must provide a power  
2 of attorney to the person filing the return, authorizing the person filing the return to file the return and  
3 to act on behalf of each person with respect to payments, refunds, audits, resolutions, and any other  
4 items related to the tax liability reflected in the return. The power of attorney shall be substantially in  
5 a form prescribed or approved by the Tax Collector. Each return filed by a combined group constitutes  
6 a combined return under this Article 12-A-2 and Article 6. The person filing any combined return shall  
7 pay the tax liability reflected on the return and any liability determined on audit at the time and in the  
8 manner set forth for returns and liabilities in Article 6.

9 (c) The Homelessness and Housing Impact Technology Tax liability of each technology  
10 company within a combined group shall be computed as if that person was filing its own separate  
11 return. This separate computation requirement shall apply to any of the technology company's  
12 applicable exemptions or exclusions, except for the small business tax exemption in Section 980, which  
13 shall be calculated on a combined basis as provided in Section 980. The total liability on the combined  
14 return shall be the sum of the liabilities of each technology company within the combined group.

15  
16 **SEC. 982. CONSTRUCTION OF ARTICLE.**

17 No section, subsection, clause, part, or provision of this Article 12-A-2 shall be construed as  
18 requiring the payment of any tax for engaging in business or the doing of an act when such payment or  
19 act would constitute an unlawful burden upon or an unlawful interference with interstate or foreign  
20 commerce, or which payment or act would be in violation of the United States Constitution or a statute  
21 of the United States, or of the California Constitution or a statute of the State of California.

22  
23 **SEC. 983. SEVERABILITY.**

24 If any section, subsection, clause, part, or provision of this Article 12-A-2, or the application  
25 thereof to any person or circumstance, is held invalid or unconstitutional by a decision of a court of

1 competent jurisdiction, the remainder of this Article, including the application of such section,  
2 subsection, clause, part, or provision to other persons or circumstances, shall not be affected thereby  
3 and shall continue in full force and effect. To this end, the provisions of this Article 12-A-2 are  
4 severable.

5  
6 **SEC. 984. AMENDMENT OF ARTICLE.**

7 The Board of Supervisors may by ordinance amend or repeal this Article 12-A-2 without a vote  
8 of the People of the City and County of San Francisco, except as limited by Article XIII C of the  
9 California Constitution.

10  
11 Section 6. The Administrative Code is hereby amended by adding Section 10.100-73,  
12 to read as follows:

13 **SEC. 10.100-73. HOUSING AND HOMELESSNESS NEEDS FUND.**

14 (a) Establishment of Fund. The Housing and Homelessness Needs Fund (“Fund”) is  
15 established as a category four fund as defined in Section 10.100-1 of the Administrative Code, and  
16 shall receive all taxes, penalties, interest, and fees collected from the tax imposed under Article 12-A-2  
17 of the Business and Tax Regulations Code.

18 (b) Use of Fund. Subject to the budgetary and fiscal provisions of the Charter, monies in the  
19 Fund shall be used exclusively for the purposes described in Section 978 of Article 12-A-2 of the  
20 Business and Tax Regulations Code.

21 (c) Administration of Fund. As stated in Section 978 of Article 12-A-2 of the Business and Tax  
22 Regulations Code, commencing with a report filed no later than January 1, 2020, covering the fiscal  
23 year ending June 30, 2019, the Controller shall file annually with the Board of Supervisors, by  
24 January 1 of each year, a report containing the amount of monies collected in and expended from the  
25 Fund during the prior fiscal year, and such other information as the Controller, in the Controller’s sole

1 discretion, shall deem relevant to the operation of Section 978 of Article 12-A-2 of the Business and  
2 Tax Regulations Code.

3  
4 Section 7. Appropriations Limit Increase. Pursuant to California Constitution  
5 Article XIII B and applicable laws, for four years from November 8, 2016, the appropriations  
6 limit for the City shall be increased by the aggregate sum collected by the levy of the tax  
7 imposed by the Homelessness and Housing Impact Technology Tax Ordinance, contained in  
8 Section 5 of this measure.

9  
10 Section 8. The Homelessness and Housing Impact Technology Tax Ordinance,  
11 contained in Section 5 of this measure, is submitted to the qualified electors of the City  
12 pursuant to Article XIII C, Section 2(d) of the California Constitution, and must pass by a two-  
13 thirds vote of the qualified electors in the City. If this measure does not pass by a two-thirds  
14 vote of the qualified electors of the City, the entire measure shall be void and shall have no  
15 effect.

16  
17 Section 9. Severability. If any section, subsection, sentence, clause, phrase, or word  
18 of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any  
19 court of competent jurisdiction, such decision shall not affect the validity of the remaining  
20 portions of the ordinance. The People of the City and County of San Francisco hereby  
21 declare that they would have passed this ordinance and each and every section, subsection,  
22 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to  
23 whether any other portion of this ordinance would be subsequently declared invalid or  
24 unconstitutional.



1 Section 10. No Conflict with Federal or State Law. Nothing in this ordinance shall be  
2 interpreted or applied so as to create any requirement, power, or duty in conflict with any  
3 federal or state law.

4  
5 Section 11. Scope of Ordinance. In enacting this ordinance, the People of the City  
6 and County of San Francisco intend to amend only those words, phrases, paragraphs,  
7 subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other  
8 constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions  
9 or deletions, in accordance with the "Note" that appears under the official title of the  
10 ordinance.

11  
12 Section 12. Effective and Operative Date. The effective date of this ordinance shall be  
13 ten days after the date the official vote count is declared by the Board of Supervisors. This  
14 ordinance shall become operative on January 1, 2018.

15  
16 APPROVED AS TO FORM:  
17 DENNIS J. HERRERA, City Attorney

18  
19 By: \_\_\_\_\_  
20 Scott M. Reiber  
Deputy City Attorney

21 n:\legana\as2016\1600778\01116883.docx