

File No. 101247

Committee Item No. 7

Board Item No. 57

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date December 13, 2010

Board of Supervisors Meeting

Date December 14, 2010

Cmte Board

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OTHER

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Environmental Review Determination Letter, 10/6/10</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Department Memo, dtd 12/9/10</u> |
| <input type="checkbox"/> | * <input checked="" type="checkbox"/> | <u>Visitacion Valley Nexus Study</u> |
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Completed by: Alisa Somera Date December 9, 2010

Completed by: Alisa Somera Date December 13, 2010

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

1 [Planning Code - The Visitacion Valley Community Facilities and Infrastructure Fee and Fund]

2
3 **Ordinance amending Planning Code Sections 420.1 through 420.5 to update the**
4 **Visitacion Valley Community Facilities and Infrastructure Fee and Fund and to conform**
5 **the program with other Area Plan fee programs; making conforming changes to**
6 **Sections 401 (definitions) and 406 (waiver, reduction, or adjustment of development**
7 **project requirements); and making findings, including environmental findings.**

8 NOTE: Additions are *single-underline italics Times New Roman*;
9 deletions are *strike-through italics Times New Roman*.
10 Board amendment additions are double-underlined;
11 Board amendment deletions are ~~strikethrough~~ normal.

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

12 Section 1. Findings. The Board of Supervisors hereby finds that:

13 A. The Planning Department has determined that the actions contemplated in this
14 ordinance comply with the California Environmental Quality Act (California Public Resources
15 Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of
16 Supervisors in File No. 101247 and is incorporated herein by reference.

17 B. Pursuant to Section 302 of the Planning Code, the Board finds that this
18 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in
19 Planning Department staff reports dated ~~Commission Resolution No.~~ **December 9, 2010** and the
20 Board incorporates such reasons herein by reference. A copy of these Planning Department
21 staff reports~~Commission Resolution No.~~ _____ is on file with the Board of Supervisors
22 in File No. 101247.

23 C. The Board of Supervisors finds that thisThis ordinance is in conformity with the
24 General Plan and the Priority Policies of Planning Code Section 101.1 for the reasons set
25

1 forth in Planning Commission Resolution No. _____ and the Board incorporates those
2 findings herein by reference.

3 General Plan Compliance. The proposed Ordinance is consistent with the following
4 Objectives and Policies of the General Plan:

5 **Housing Element**

6 OBJECTIVE 5: INCREASE THE EFFECTIVENESS AND EFFICIENCY OF THE
7 CITY'S AFFORDABLE HOUSING PRODUCTION SYSTEM.

8 POLICY 5.1: Prioritize affordable housing projects in the planning review and approval
9 processes, and work with the development community to devise methods of streamlining
10 housing projects.

11 POLICY 5.4: Coordinate governmental activities related to affordable housing.

12 POLICY 11.2: Ensure housing is provided with adequate public improvements,
13 services, and amenities.

14 OBJECTIVE 12: STRENGTHEN CITYWIDE AFFORDABLE HOUSING PROGRAMS
15 THROUGH COORDINATED REGIONAL AND STATE EFFORTS.

16 POLICY 12.3: Encourage jurisdictions throughout the Bay Area to recognize their
17 share in the responsibility to confront the regional affordable housing crisis.

18 In order to enhance the City's supply of affordable housing, the Ordinance provides a
19 waiver from paying the required impact fee to affordable housing units (affordable to
20 households at and below 80% AMI) that are subsidized by the Mayor's Office of Housing, the
21 Redevelopment Agency, or the Housing Authority.

22 Since the 1920's, the area has become predominately residential. In recent years a
23 number of development proposals and planning efforts have contributed to the transformation
24 of the area which includes proposals for approximately 4,981 new units. The Ordinance
25 proposes the Visitacion Valley Impact Fee, which applies to new residential development and

1 ensures that the needs generated by new residents in the area is met by helping to fund
2 adequate public improvements and amenities.

3 **Transportation Element**

4 OBJECTIVE 1: MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE,
5 CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN
6 THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH
7 QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

8 Policy 6: Ensure choices among modes of travel and accommodate each mode when
9 and where it is most appropriate.

10 OBJECTIVE 2: USE THE TRANSPORTATION SYSTEM AS A MEANS FOR
11 GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

12 Policy 1: Use rapid transit and other transportation improvements in the city and region
13 as the catalyst for desirable development, and coordinate new facilities with public and private
14 development.

15 OBJECTIVE 18: ESTABLISH A STREET HIERARCHY SYSTEM IN WHICH THE
16 FUNCTION AND DESIGN OF EACH STREET ARE CONSISTENT WITH THE CHARACTER
17 AND USE OF ADJACENT LAND.

18 Policy 2: Design streets for a level of traffic that serves, but will not cause a detrimental
19 impact on adjacent land uses

20 OBJECTIVE 24: IMPROVE THE AMBIENCE OF THE PEDESTRIAN
21 ENVIRONMENT.

22 The Ordinance permits funds from the transportation component of the Impact Fee to
23 provide capital improvements to the transportation system which services the Fee Area,
24 including transit, streets, and sidewalks. This will ensure that future development contributes
25 its fair share to sustaining basic standards for the local transportation system. Potential

1 transportation revenues will fund transit capital improvements including equipment, facilities,
2 fleet, and infrastructure. Streets and right-of-way improvements to be funded include City
3 capital projects such as new street design, street improvements and street restructuring to be
4 maintained by the City over the long term. The fee is intended to fund necessary capital
5 improvements to support the many modes by which people travel, including by transit, auto,
6 bicycle, and on foot.

7 **Community Facilities Element**

8 OBJECTIVE 6: DEVELOPMENT OF A PUBLIC LIBRARY SYSTEM IN SAN
9 FRANCISCO WHICH WILL MAKE ADEQUATE AND EFFICIENT LIBRARY SERVICE
10 FREELY AVAILABLE TO EVERYONE WITHIN THE CITY, AND WHICH WILL BE IN
11 HARMONY WITH RELATED PUBLIC SERVICE FACILITIES AND WITH ALL OTHER
12 FEATURES AND FACILITIES OF LAND DEVELOPMENT AND TRANSPORTATION
13 PROVIDED FOR IN OTHER SECTIONS OF THE GENERAL PLAN.

14 The Ordinance permits funds from the community facilities component to
15 accommodate increased facility need by residents for child care, libraries, and other facilities.
16 The potential funds will fund capital improvements to existing facilities such as the Visitacion
17 Valley Library, and to create new facilities where needed.

18 **Recreation and Open Space Element**

19 OBJECTIVE 2: DEVELOP AND MAINTAIN A DIVERSIFIED AND BALANCED
20 CITYWIDE SYSTEM OF HIGH QUALITY PUBLIC OPEN SPACE.

21 OBJECTIVE 4: PROVIDE OPPORTUNITIES FOR RECREATION AND THE
22 ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

23 Policy 6: Assure the provision of adequate public open space to serve new residential
24 development.

1 The Ordinance permits funds from the recreation and parks component to expand and
2 improve facilities to accommodate increased park usage by residents. This will ensure that
3 future development bears its fair share of responsibility for the local recreation and parks
4 system. The potential recreation and parks revenues will fund capital improvements to
5 existing parks and supporting facilities (such as signage and bathrooms), expansion of trails,
6 and construction and renovation of playgrounds, playing fields, and outdoor courts, as well as
7 other amenities.

8 The proposed replacement project is consistent with the eight General Plan priority
9 policies set forth in Section 101.1 in that:

10 1. That existing neighborhood serving retail uses be preserved and enhanced and
11 future opportunities for resident employment in and ownership of such businesses enhanced.

12 The proposed Ordinance will encourage neighborhood-serving retail uses or
13 opportunities for employment in or ownership of such businesses in the Visitacion Valley fee
14 area by encouraging the implementation of public infrastructure that supports neighborhood-
15 serving retail.

16 2. That existing housing and neighborhood character be conserved and protected
17 in order to preserve the cultural and economic diversity of our neighborhood.

18 The proposed Ordinance does not affect existing housing and neighborhood character.

19 3. That the City's supply of affordable housing be preserved and enhanced.

20 In order to enhance the affordable housing supply in the City, the Ordinance provides a
21 waiver from paying the required impact fee to affordable housing units (affordable to
22 households at and below 80% AMI) that are subsidized by the Mayor's Office of Housing, the
23 Redevelopment Agency, or the Housing Authority.

24 4. That commuter traffic not impede Muni transit service or overburden our streets
25 or neighborhood parking.

1 The Ordinance permits the use of impact fee revenues to make improvements to the
2 transportation system to accommodate increased usage resulting from new development, and
3 to help reduce commuter traffic.

4 5. That a diverse economic base be maintained by protecting our industrial and
5 service sectors from displacement due to commercial office development, and that future
6 opportunities for resident employment and ownership in these sectors be enhanced.

7 The Ordinance will not displace any industrial or service-sector uses.

8 6. That the City achieve the greatest possible preparedness to protect against
9 injury and loss of life in an earthquake.

10 The Ordinance will assist in the implementation of public infrastructure needed to serve
11 the area, all of which will be required to meet all seismic requirements.

12 7. That landmark and historic buildings be preserved.

13 The Ordinance will not affect any landmark or historic buildings.

14 8. That our parks and open space and their access to sunlight and vistas be
15 protected from development.

16 The Ordinance permits potential recreation and parks revenues to fund capital
17 improvements to existing parks and supporting facilities (such as signage and bathrooms),
18 expansion of trails, and construction and renovation of playgrounds, playing fields, and
19 outdoor courts, as well as other amenities. This will enhance our existing parks and open
20 space systems.

21 D. The Planning Commission scheduled the review and consideration of this
22 Ordinance at three hearings on October 28, November 18 and December 9, 2010. The
23 Planning Commission took public testimony and reviewed, commented on, and considered
24 the Ordinance at two of those hearings on November 18 and December 9. The Commission
25 continued the item three times and another hearing is scheduled on February 3, 2011. Under

1 Planning Code Section 306.4(d)(3), the Planning Commission has 90 days from the referral of
2 the Ordinance from the Board to the Commission to review the Ordinance. Those 90 days
3 expire on January 4, 2011. The Commission's next hearing is scheduled after the expiration
4 of the 90 days the Commission has to hear the item and the Board of Supervisors has not
5 granted an extension. The Board of Supervisors finds that the Planning Commission has
6 reviewed the Ordinance and finds that the Commission's next hearing and any final decision
7 will come after the deadline for the Board to consider any decision of the Commission. The
8 Board has reviewed the comments of the Planning Commission at its November 18 and
9 December 9 hearings and takes those comments into consideration. Notwithstanding that the
10 90-day period for review of the Ordinance has not expired as of the first reading of this
11 Ordinance, the Board has determined that it will approve the Ordinance.

12 Section 2. The San Francisco Planning Code is hereby amended by amending
13 Sections 401, 406, and 420.1 through 420.5, to read as follows:

14 **SEC. 401. DEFINITIONS.** ~~(a)~~ In addition to the specific definitions set forth elsewhere
15 in this Article, the following definitions shall govern interpretation of this Article:

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

19 ~~(2)~~—"Affordable to a household." A purchase price that a household can afford to pay
20 based on an annual payment for all housing costs of 33 percent of the combined household
21 annual net income, a 10 percent down payment, and available financing, or a rent that a
22 household can afford to pay based on an annual payment for all housing costs of 30 percent
23 of the combined annual net income.

24 ~~(3)~~—"Affordable to qualifying households":
25

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

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

6 (ii) At or below the maximum purchase price.

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

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

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

12 ~~(4)~~—"Allowable average purchase price":

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

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

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

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

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

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

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

13 ~~(5)~~—"Allowable average annual rent":

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

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

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

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

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

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

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

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

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

15 (11)—"Balboa Park Community Improvements Program." The program intended to
16 implement the community improvements identified in the Balboa Park Area Plan, as
17 articulated in the Balboa Park Community Improvements Program Document on file with the
18 Clerk of the Board in File No. 090179.

19 (12) "Balboa Park Impact Fee." The fee collected by the City to mitigate impacts of
20 new development in the Balboa Park Program Area, as described in the findings in Section
21 422.1.

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

24 (14)—"Base service standard." The relationship between revenue service hours
25 offered by the Municipal Railway and the number of automobile and transit trips estimated to

1 be generated by certain non-residential uses, expressed as a ratio where the numerator
2 equals the average daily revenue service hours offered by MUNI and the denominator equals
3 the daily automobile and transit trips generated by non-residential land uses as estimated by
4 the TIDF Study or updated under Section 411.5 of this Article.

5 (15)—"Base service standard fee rate." The TIDF that would allow the City to recover
6 the estimated costs incurred by the Municipal Railway to meet the demand for public transit
7 resulting from new development in the economic activity categories for which the fee is
8 charged, after deducting government grants, fare revenue, and costs for non-vehicle
9 maintenance and general administration.

10 (16)—"Board" or "Board of Supervisors." The Board of Supervisors of the City and
11 County of San Francisco.

12 "Change of Use." A change of gross floor area from one category of use to another
13 category of use listed in the use table for the zoning district of the subject lot.

14 (17)—"Child-care facility." A child-care facility as defined in California Health and
15 Safety Code Section 1596.750.

16 (18)—"Child-care provider." A provider as defined in California Health and Safety Code
17 Section 1596.791.

18 (19)—"City" or "San Francisco." The City and County of San Francisco.

19 (23)—"Commission" or "Planning Commission." The San Francisco Planning
20 Commission.

21 (24)—"Community apartment." As defined in San Francisco Subdivision Code Section
22 1308(b).

23 (25)—"Community facilities." All uses as defined under Section 209.4(a) and 209.3(d)
24 of this Code.

25

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

5 ~~(27)~~—"Condominium." As defined in California Civil Code Section 783.

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

10 ~~(29)~~—"DBI." The San Francisco Department of Building Inspection, or its successor.

11 ~~(30)~~—"Dedicated." Legally transferred to the City and County of San Francisco,
12 including all relevant legal documentation, at no cost to the City.

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

15 ~~(32)~~—"Department" or "Planning Department." The San Francisco Planning
16 Department or the Planning Department's designee, including the Mayor's Office of Housing
17 and other City agencies or departments.

18 ~~(33)~~—"Designated affordable housing zones." For the purposes of implementing the
19 Eastern Neighborhoods Public Benefits Fund, shall mean the Mission NCT defined in Section
20 736 and the Mixed Use Residential District defined in Section 841.

21 ~~(34)~~—"Development fee." Either a development impact fee or an in-lieu fee. It shall not
22 include a fee for service or any time and material charges charged for reviewing or processing
23 permit applications.

24 ~~(35)~~—"Development Fee Collection Unit" or "Unit." The Development Fee Collection
25 Unit at DBI.

1 (36)—"Development impact fee." A fee imposed on a development project as a
2 condition of approval to mitigate the impacts of increased demand for public services, facilities
3 or housing caused by the development project that may or may not be an impact fee
4 governed by the California Mitigation Fee Act (California Government Code Section 66000 et
5 seq.).

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

11 (38)—"Development project." Any change of use within an existing structure, addition
12 to an existing structure, or new construction, which includes any occupied floor area.

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

20 (40)—"Director." The Director of Planning or his or her designee.

21 (41)—"DPW." The Department of Public Works.

22 (42)—"Eastern Neighborhoods Infrastructure Impact Fee." The fee collected by the
23 City to mitigate impacts of new development in the Eastern Neighborhoods Program Area, as
24 described in the Findings in Section 423.1

1 (43)—"Eastern Neighborhoods Public Benefits Fund." The fund into which all fee
2 revenue collected by the City from the Eastern Neighborhoods Impact Fee is deposited.

3 (44)—"Eastern Neighborhoods Public Benefits Program." The program intended to
4 implement the community improvements identified in the four Area Plans affiliated with the
5 Eastern Neighborhoods (Central Waterfront, East SoMa, Mission, and Showplace
6 Square/Potrero Hill), as articulated in the Eastern Neighborhoods Public Benefits Program
7 Document, on file with the Clerk of the Board in File No. 081155.)

8 (45)—"Eastern Neighborhoods Program Area." The Eastern Neighborhoods Plan Area
9 in Map 1 (Land Use Plan) of the Eastern Neighborhoods Area Plan of the San Francisco
10 General Plan.

11 (46)—"Economic activity category." Under the TIDF, one of the following six categories
12 of non-residential uses: Cultural/Institution/Education (CIE), Management, Information and
13 Professional Services (MIPS), Medical and Health Services, Production/Distribution/Repair
14 (PDR), Retail/Entertainment, and Visitor Services.

15 (48)—"Entertainment use." Space within a structure or portion thereof intended or
16 primarily suitable for or accessory to the operation of uses defined in San Francisco Planning
17 Code Sections 102.17 (Nighttime Entertainment), 790.38 and 890.37 (Other Entertainment),
18 790.36 and 890.36 (Adult Entertainment), 790.64 and 890.64 (Movie Theater), and 790.4 and
19 890.4 (Amusement Arcade), regardless of the zoning district that the use is located in.

20 (49)—"First certificate of occupancy." Either a temporary certificate of occupancy or a
21 Certificate of Final Completion and Occupancy as defined in San Francisco Building Code
22 Section 109A, whichever is issued first.

23 (50)—"First construction document." As defined in Section 107A.13.1 of the San
24 Francisco Building Code.

25

1 ~~(51)~~—"Gross floor area." The total area of each floor within the building's exterior
2 walls, as defined in Section 102.9(b)(12) of this Code.

3 ~~(52)~~ "Gross square feet of use." The meaning set forth in Section 102.9 of this Code,
4 with the exception of the TIDF. With respect to the TIDF, the total square feet of gross floor
5 area in a building and/or space within or adjacent to a structure devoted to all uses covered by
6 the TIDF, including any common areas exclusively serving such uses and not serving
7 residential uses. Where a structure contains more than one use, areas common to two or
8 more uses, such as lobbies, stairs, elevators, restrooms, and other ancillary spaces included
9 in gross floor area that are not exclusively assigned to one uses shall be apportioned among
10 the two or more uses in accordance with the relative amounts of gross floor area, excluding
11 such space, in the structure or on any floor thereof directly assignable to each use.

12 ~~(55)~~—"Hotel" or "Hotel use." Space within a structure or portion thereof intended or
13 primarily suitable for or accessory to the operation of uses defined in San Francisco Planning
14 Code Sections 790.46 and 890.46, regardless of the zoning district that the use is located in.

15 ~~(56)~~—"Household." Any person or persons who reside or intend to reside in the same
16 housing unit.

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

22 ~~(58)~~—"Household of median income." A household composed of one or more persons
23 with a combined annual net income for all adult members which does not exceed the
24 qualifying limit for a median-income family of a size equivalent to the number of persons
25

1 residing in such household, as set forth for the County of San Francisco in Title 25 of the
2 California Code of Regulations Section 6932.

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

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

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

21 ~~(62)~~—"Housing unit" or "unit." A dwelling unit as defined in San Francisco Housing
22 Code Section 401.

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

1 (64)—"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
3 a specific set of community improvements, at a specific phase of construction, in lieu of
4 contribution to the relevant Fund.

5 (65)—"Infrastructure." Open space and recreational facilities; public realms
6 improvements such as pedestrian improvements and streetscape improvements; public transit
7 facilities; and community facilities such as libraries, child care facilities, and community
8 centers.

9 (66)—"In lieu fee." A fee paid by a project sponsor in lieu of complying with a
10 requirement of this Code and that is not a development impact fee governed by the Mitigation
11 Fee Act.

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

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

19 (67)—"Interim Guidelines" shall mean the Office Housing Production Program Interim
20 Guidelines adopted by the City Planning Commission on January 26, 1982, as amended.

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

24 (69)—"Live/work project." A housing project containing more than one live/work unit.

25 (70)—"Live/work unit" shall be as defined in Section 102.13 of this Code.

1 (71)—"Long term housing." Housing intended for occupancy by a person or persons
2 for 32 consecutive days or longer.

3 (72)—"Low income." For purposes of this Article, up to 80% of median family income
4 for the San Francisco PMSA, as calculated and adjusted by the United States Department of
5 Housing and Urban Development (HUD) on an annual basis, except that as applied to
6 housing-related purposes such as the construction of affordable housing and the provision of
7 rental subsidies with funds from the SOMA Stabilization Fund established in Section 418.7, it
8 shall mean up to 60% of median family income for the San Francisco PMSA, as calculated
9 and adjusted by HUD on an annual basis.

10 (73)—"Management, Information and Professional Services (MIPS). An economic
11 activity category under the TIDF that includes, but is not limited to, office use; medical offices
12 and clinics, as defined in Section 890.114 of this Code; business services, as defined in
13 Section 890.111 of this Code; Integrated PDR, as defined in Section 890.49 of this Code, and
14 Small Enterprise Workspaces, as defined in Section 227(t) of this Code.

15 (74)—"Market and Octavia Community Improvements Fund" The fund into which all
16 fee reveue collected by the City from the Market and Octavia Community Improvements Fee
17 is deposited.

18 (75)—"Market and Octavia Community Improvements Impact Fee." The fee collected
19 by the City to mitigate impacts of new development in the Market and Octavia Program Area,
20 as described in the findings in Section 421.1.

21 (76)—"Market and Octavia Community Improvements Program." The program
22 intended to implement the community improvements identified in the Market and Octavia Area
23 Plan, as articulated in the Market and Octavia Community Improvements Program Document
24 on file with the Clerk of the Board in File No. 071157.)
25

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

6 ~~(78)~~—"Market rate housing." Housing constructed in the principal project that is not
7 subject to sales or rental restrictions.

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

- 12 (A) For all one-bedroom units, for a household of two persons;
- 13 (B) For all two-bedroom units, for a household of three persons;
- 14 (C) For all three-bedroom units, for a household of four persons;
- 15 (D) For all four-bedroom units, for a household of five persons.

16 ~~(19)~~—"Maximum purchase price." The maximum purchase price that a household of
17 moderate income can afford to pay for an owned unit based on an annual payment for all
18 housing costs of 33 percent of the combined household annual net income, a 10 percent
19 down payment, and available financing, for the following household sizes:

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

24 ~~(80)~~—"Medical and Health Services." An economic activity category under the TIDF
25 that includes, but is not limited to, those non-residential uses defined in Sections 209.3(a) and

1 217(a) of this Code; animal services, as defined in Section 224(a) and (b) of this Code; and
2 social and charitable services, as defined in Sections 209.3(d) and 217(d) of this Code.

3 ~~(81)~~—"Middle Income Household." A household whose combined annual gross
4 income for all members is between 120 percent and 150 percent of the local median income
5 for the City and County of San Francisco, as calculated by the Mayor's Office of Housing
6 using data from the United States Department of Housing and Urban Development (HUD) and
7 adjusted for household size or, if data from HUD is unavailable, as calculated by the Mayor's
8 Office of Housing using other publicly available and credible data and adjusted for household
9 size.

10 ~~(83)~~—"MOH." The Mayor's Office of Housing, or its successor.

11 ~~(84)~~—"MTA." The Municipal Transportation Agency, or its successor.

12 ~~(85)~~—"MTA Director." The Director of MTA or his or her designee.

13 ~~(86)~~—"Municipal Railway; MUNI." The public transit system owned by the City and
14 under the jurisdiction of the MTA.

15 ~~(87)~~—"Net addition." The total amount of gross floor area defined in Planning Code
16 Section 102.9 contained in a development project, less the gross floor area contained in any
17 structure demolished or retained as part of the proposed development project.

18 "New development." Under the TIDF, any new construction, or addition to or
19 conversion of an existing structure under a building or site permit issued on or after
20 September 4, 2004 that results in 3,000 gross square feet or more of a use covered by the
21 TIDF. In the case of mixed use development that includes residential development, the term
22 "new development" shall refer to only the non-residential portion of such development.

23 "Existing structure" shall include a structure for which a sponsor already paid a fee under the
24 prior TIDF ordinance, as well as a structure for which no TIDF was paid.

1 ~~(97)~~—"Nonprofit child-care provider." A child-care provider that is an organization
2 organized and operated for nonprofit purposes within the provisions of California Revenue
3 and Taxation Code Sections 23701--23710, inclusive, as demonstrated by a written
4 determination from the California Franchise Tax Board exempting the organization from taxes
5 under Revenue and Taxation Code Section 23701.

6 ~~(98)~~—"Nonprofit organization." An organization organized and operated for nonprofit
7 purposes within the provisions of California Revenue and Taxation Code Sections 23701--
8 23710, inclusive, as demonstrated by a written determination from the California Franchise
9 Tax Board exempting the organization from taxes under Revenue and Taxation Code Section
10 23701.

11 ~~(102)~~—"Non-residential use." Space within any structure or portion thereof intended or
12 primarily suitable for or accessory to occupancy by retail, office, commercial, or other non-
13 residential uses defined in Section 209.3, 209.8, 217, 218, 219 of this Code, and 221,
14 regardless of the zoning district that the use is located in; except that residential components
15 of uses defined in Section 209.3(a)-(c) and (g)-(i) shall be defined as a "residential use" for
16 purposes of this Article. For the purposes of this Article, non-residential use shall not include
17 PDR and publicly owned and operated community facilities.

18 ~~(103)~~—"Notice of Special Restrictions." A document recorded with the San Francisco
19 Recorder's Office for any unit subject to this Program detailing the sale and resale or rental
20 restrictions and any restrictions on purchaser or tenant income levels included as a Condition
21 of Approval of the principal project relating to the unit.

22 ~~(105)~~—"Office use." Space within a structure or portion thereof intended or primarily
23 suitable for or accessory to the operation of uses defined in San Francisco Planning Code
24 Section 890.70, regardless of the zoning district that the use is located in.
25

1 ~~(106)~~—"Off-site unit." A unit affordable to qualifying households constructed pursuant to
2 this Ordinance on a site other than the site of the principal project.

3 ~~(107)~~—"On-site unit." A unit affordable to qualifying households constructed pursuant to
4 this Article on the site of the principal project.

5 ~~(108)~~—"Owned unit." A unit affordable to qualifying households which is a
6 condominium, stock cooperative, community apartment, or detached single-family home. The
7 owner or owners of an owned unit must occupy the unit as their primary residence.

8 ~~(109)~~—"Owner." The record owner of the fee or a vendee in possession.

9 ~~(110)~~—"PDR use." Space within any structure or portion thereof intended or primarily
10 suitable for or accessory to the operation of uses defined in San Francisco Planning Code
11 Sections 220, 222, 223, 224, 225, 226, 227(a), 227(b), and 227(p), regardless of the zoning
12 district that the use is located in.

13 ~~(111)~~—"Principal project." A housing development on which a requirement to provide
14 affordable housing units is imposed.

15 ~~(112)~~—"Principal site." The total site proposed for development, including the portion of
16 site proposed to be legally transferred to the City and County of San Francisco.

17 ~~(113)~~—"Procedures Manual." The City and County of San Francisco Affordable Housing
18 Monitoring Procedures Manual issued by the San Francisco Department of City Planning, as
19 amended.

20 ~~(114)~~—"Rent" or "rental." The total charges for rent, utilities, and related housing
21 services to each household occupying an affordable unit.

22 ~~(115)~~—"Rental unit." A unit affordable to qualifying households which is not a
23 condominium, stock cooperative, or community apartment.

24 ~~(116)~~—"Replacement of use." The total amount of gross floor area, as defined in
25 Section 102.9 of this Code, to be demolished and reconstructed by a development project.

1 ~~(118)~~ "Research and development use." Space within any structure or portion thereof
2 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
4 located in.

5 ~~"Residential development project subject to the Visitacion Valley Community~~
6 ~~Infrastructure Fee."~~ Any new construction, addition, extension, conversion or enlargement, or
7 combination thereof in Visitacion Valley, of an existing structure which includes any occupied
8 floor area of residential use and which has twenty (20) residential units or more; provided,
9 however, that for projects that solely comprise an addition to an existing structure which would
10 add occupied floor area in an amount less than 20 percent of the occupied floor area of the
11 existing structure, the provisions of this Section shall only apply to the new occupied square
12 footage.

13 ~~(122)~~ "Residential use." Space within any structure or portion thereof intended or
14 primarily suitable for or accessory to occupancy by uses defined in San Francisco Planning
15 Code Sections 209.1, 790.88, and 890.88 of this Code, as relevant for the subject zoning
16 district, or containing group housing as defined in Section 209.2(a)-(c) of this Code and any
17 residential components of institutional uses as defined in Section 209.3(a)-(c) and (g)-(i) of this
18 Code.

19 ~~(124)~~ "Retail/entertainment." An economic activity category under the TIDF that
20 includes, but is not limited to, a retail use; an entertainment use; massage establishments, as
21 defined in Section 218.1 of this Code; laundering, and cleaning and pressing, as defined in
22 Section 220 of this Code.

23 ~~(125)~~ "Retail use." Space within any structure or portion thereof intended or primarily
24 suitable for or accessory to the operation of uses contained in San Francisco Planning Code
25 Section 218, regardless of the zoning district that the use is located in.

1 ~~(126)~~—"Revenue services hours." The number of hours that the Municipal Railway
2 provides service to the public with its entire fleet of buses, light rail (including streetcars), and
3 cable cars.

4 ~~(127)~~—"Rincon Hill Community Improvements Fund." The fund into which all fee
5 revenue collected by the City from the Rincon Hill Community Infrastructure Impact Fee is
6 deposited.

7 ~~(128)~~—"Rincon Hill Community Infrastructure Impact Fee." The fee collected by the City
8 to mitigate impacts of new development in the Rincon Hill Program Area, as described in the
9 findings in Section 418.1.

10 ~~(129)~~—"Rincon Hill Program Area." Those districts identified as the Rincon Hill
11 Downtown Residential (RH DTR) Districts in the Planning Code and on the Zoning Maps.

12 ~~(130)~~—"Section 6932." Section 6932 of Title 25 of the California Code of Regulations as
13 such section applies to the County of San Francisco.

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

18 ~~(75)~~—"SOMA." The area bounded by Market Street to the north, Embarcadero to the
19 east, King Street to the south, and South Van Ness and Division to the west.

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

23 ~~(132)~~—"SOMA Community Stabilization Fund." The fund into which all fee revenue
24 collected by the City from the SOMA Community Stabilization Fee is deposited.

25

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

4 ~~(134)~~—"Stock cooperative." As defined in California Business and Professions Code
5 Section 11003.2.

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

11 "TIIDF; Transit Impact Development Fee." The development fee that is the subject of
12 Section 411.1 et seq. of this Article.

13 ~~(136)~~—"TIIDF Study." The study commissioned by the San Francisco Planning
14 Department and performed by Nelson/Nygaard Associates entitled "Transit Impact
15 Development Fee Analysis – Final Report," dated May 2001, including all the Technical
16 Memoranda supporting the Final Report and the Nelson/Nygaard update materials contained
17 in Board of Supervisors File No. 040141.

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

21 ~~(138)~~—"Transit Impact Development Fee; TIIDF." The development fee that is the
22 subject of Section 411.1 et seq. of this Article.

23 ~~(139)~~—"Treasurer." The Treasurer for the City and County of San Francisco.

24 ~~(140)~~—"Trip generation rate." The total number of automobile and Municipal Railway
25 trips generated for each 1,000 square feet of development in a particular economic activity

1 category as established in the TIDF Study, or pursuant to the five-year review process
2 established in Section 411.5 of this Article.

3 ~~(141)~~—"Use." The purpose for which land or a structure, or both, are legally designed,
4 constructed, arranged, or intended, or for which they are legally occupied or maintained, let or
5 leased.

6 ~~(142)~~—"Visitacion Valley." The area bounded by Carter Street and McLaren Park to the
7 west, Mansell Street to the north, Route 101 between Mansell Street and Bayshore Boulevard
8 to the northeast, Bayview Park to the north, Candlestick Park and Candlestick Point
9 Recreation Area to the east, the San Francisco Bay to the southeast, and the San Francisco
10 County line to the south.

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

14 ~~(144)~~—"Waiver Agreement." An agreement acceptable in form and substance to the
15 City Attorney and the Planning Department under which the City agrees to waive all or a
16 portion of the Community Improvements Impact Fee.

17 **SEC. ~~420~~ formerly Section 318.10). VISITACION VALLEY COMMUNITY**
18 **FACILITIES AND INFRASTRUCTURE FEE AND FUND.**

19 Sections 420.1 through 420.5, hereafter referred to as Section 420.1 et seq., set forth
20 the requirements and procedures for the Visitacion Valley Community Facilities and
21 Infrastructure Fee and Fund. The effective date of these requirements shall be either
22 November 18, 2005, which is the date that the requirements originally became effective, or
23 the date a subsequent modification, if any, became effective.

24 **SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT**
25 **PROJECT REQUIREMENTS.**

1 (a) Waiver or Reduction Based on Absence of Reasonable Relationship.

2 (1) The sponsor of any development project subject to a development fee or
3 development impact requirement imposed by this Article may appeal to the Board of
4 Supervisors for a reduction, adjustment, or waiver of the requirement based upon the absence
5 of any reasonable relationship or nexus between the impact of development and either the
6 amount of the fee charged or the on-site requirement.

7 (2) Any appeal authorized by this Section shall be made in writing and filed with the
8 Clerk of the Board no later than 15 days after the date the Department or Commission takes
9 final action on the project approval that assesses the requirement. The appeal shall set forth
10 in detail the factual and legal basis for the claim of waiver, reduction, or adjustment.

11 (3) The Board of Supervisors shall consider the appeal at a public hearing within 60
12 days after the filing of the appeal. The appellant shall bear the burden of presenting
13 substantial evidence to support the appeal, including comparable technical information to
14 support appellant's position. The decision of the Board shall be by a simple majority vote and
15 shall be final.

16 (4) If a reduction, adjustment, or waiver is granted, any change in use within the
17 project shall invalidate the waiver, adjustment, or reduction of the fee or inclusionary
18 requirement. If the Board grants a reduction, adjustment or waiver, the Clerk of the Board
19 shall promptly transmit the nature and extent of the reduction, adjustment or waiver to the
20 Development Fee Collection Unit at DBI and the Unit shall modify the Project Development
21 Fee Report to reflect the change.

22 (b) Waiver or Reduction, Based on Housing Affordability or Duplication of Fees.

23 (1) The Planning Commission shall give special consideration to offering reductions
24 or waivers of the impact fee to housing projects on the grounds of affordability in cases in
25 which the State of California, the Federal Government, MOH, the San Francisco

1 Redevelopment Agency, or other public agency subsidies target new housing for households
2 at or below 50% of the Area Median Income as published by HUD, including units that qualify as
3 replacement Section 8 units under the HOPE SF program. This waiver clause intends to provide a
4 local 'match' for these deeply subsidized units and should be considered as such by relevant
5 agencies. Specifically these units may be rental or ownership opportunities but they must be
6 subsidized in a manner which maintains their affordability for a term no less than 55 years.
7 Project sponsors must demonstrate to Department staff that a governmental agency will be
8 enforcing the term of affordability and reviewing performance and service plans as necessary;
9 usually this takes the form of a deed restriction.

10 (2) The Planning Department shall publish an annual schedule of specific values
11 for waivers and reductions available under this subsection. Department staff shall apply these
12 waivers based on the most recent schedule published at the time that fee payment is made.

13 (3) Projects that meet the requirements of this subsection are eligible for a 100
14 percent fee reduction until an alternative fee schedule is published by the Department. Ideally
15 some contribution will be made to Community Improvement Programs for specific areas, as
16 these units will place an equal demand on community improvements infrastructure. This
17 waiver clause shall not be applied to units built as part of a developer's efforts to meet the
18 requirements of the Inclusionary Affordable Housing Program, and Section 415 of this Code.

19 (4) Waiver based on Duplication of Fees. The City shall make every effort not to
20 assess duplicative fees on new development. In general, project sponsors are only eligible for
21 fee waivers under this Subsection if a contribution to another fee program would result in a
22 duplication of charges for a particular type of community infrastructure. The Department shall
23 publish a schedule annually of all known opportunities for waivers and reductions under this
24 clause, including the specific rate. Requirements under Section 135 and 138 of this Code do
25 not qualify for a waiver or reduction. Should future fees pose a duplicative charge, such as a

1 Citywide open space or childcare fee, the same methodology shall apply and the Department
2 shall update the schedule of waivers or reductions accordingly.

3 **SEC. 420.1. FINDINGS.**

4 a. New Residential and Non-Residential Uses. The Visitacion Valley Fee Area (Fee Area)
5 is located along the southeastern border of San Francisco and includes the area bounded by McLaren
6 Park to the west, the San Mateo County line to the south, Mansell Street to the north, and Highway 101
7 and Bayview Park to the east. The Fee Area includes the following planning areas: Executive Park,
8 Schlage Lock, Visitacion Valley Redevelopment Area, and HOPE SF Sunnydale. Jointly these plans
9 aim to strengthen neighborhood character, the neighborhood commercial district, and transit by
10 increasing the housing and retail capacity in the area. This project goal will also help to meet ABAG's
11 projected demand to provide housing in the Bay Area by encouraging the construction of higher density
12 housing. The Plan builds on existing neighborhood character and establishes new standards for
13 amenities necessary for a transit-oriented neighborhood.

14 (b) Need for Public Improvements to Accompany New Uses. The City anticipates an
15 increase of at least ~~5,049~~ 4,780 new housing units within the next 20 years, and over ~~52225~~ new jobs,
16 as described in the Visitacion Valley Nexus Study on file with the Clerk of the Board in File No.
17 101247 and incorporated by reference herein. This new development will have an impact on the
18 Area's neighborhood infrastructure. New development will generate needs for a new Library, street
19 improvements, transit improvements, community facilities, childcare and parks and recreation
20 amenities, as described in the Visitacion Valley Nexus Study, on file with the Clerk of the Board.
21 Various City agencies and related planning efforts intend to address existing deficiencies and new
22 impacts through a comprehensive package of community improvements. This Program will enable the
23 City and County of San Francisco to provide necessary public infrastructure to new residents while
24 increasing neighborhood livability and investment in the district.

1 (c) Programmed Improvements. General public improvements and amenities needed to
 2 meet the needs of both existing residents, as well as those needs generated by new development, have
 3 been identified through the various community planning processes, including the Visitacion
 4 Valley/Schlage Lock Master Plan, the Executive Park Neighborhood Plan, and the HOPE SF
 5 Sunnydale process. The City developed generalized cost estimates, based on similar project types
 6 implemented by the City in the relevant time period, to provide reasonable approximations for the
 7 eventual cost of providing necessary community improvements to respond to identified community
 8 needs. In some cases, design work, engineering, and environmental review will be required and may
 9 alter the nature of the improvements, as well as the sum total of the cost for these improvements.

10 (d) Visitacion Valley Impact Fee. Development impact fees are an effective approach to
 11 mitigate impacts associated with growth in population. The proposed Visitacion Valley Impact Fee
 12 would be dedicated to community improvements in the described fee Area; directing benefits of the fund
 13 to those who pay into the fund by providing the necessary infrastructure improvements needed to serve
 14 new development. The Planning Department has calculated the fee rate based on accepted professional
 15 methods for the calculation of such fees, and described fully in the Visitacion Valley nexus study.

16 The proposed fee would cover less than the full impact of new development. The proposed fee
 17 only covers a portion of impacts caused by new development and is not intended to remedy existing
 18 deficiencies. Existing deficiency costs will be paid for by the public, the community, and other private
 19 sources. Residential and non-residential impact fees are only one of many revenue sources necessary to
 20 implement the community improvements outlined in the Plan.

	<u>Nexus</u>
	<u>Amount per sf</u>
<u>Library</u>	<u>17%</u>
<u>Transportation</u>	<u>28%</u>
<u>Parks & Recreation</u>	<u>24%</u>

<u>Child Care</u>	<u>22%</u>
<u>Community Facilities</u>	<u>9%</u>
<u>Total per sf</u>	<u>\$4.58</u>

e. The Board of Supervisors has reviewed the record for this item including but not limited to the Nexus study, the Planning Department file, the recommendation of the Planning Commission, staff analysis, and public testimony and, on that basis finds that the study supports the requirements of the Visitacion Valley Community Facilities and Infrastructure Fee and Fund. Specifically, the Board finds that Nexus study and the record: identify the purpose of the fee to mitigate impacts on the demand for the identified community facilities and infrastructure; identify the use to which the fee is to be put as being to build a new library; and make improvements to the following community facilities and infrastructure: transportation, parks and recreation, childcare, and community facilities; and establishes a reasonable relationship between the use of the fee for the identified community facilities and infrastructure and the need for these facilities caused by the construction of new residential and non-residential development. Moreover, the Board finds that the fee is less than the cost of mitigation and does not include the costs of remedying any existing deficiencies. The Board also finds that the Nexus study establishes that the fee does not duplicate other city requirements or fees.

A. A number of large sites in Visitacion Valley are targeted for substantial changes of use. Currently there are three applications pending at the City's Planning Department to develop Executive Park, originally planned as an office complex, into a large housing development. In addition, the City has drafted plans for Schlage Lock, long an industrial site, to be transformed into a major mixed-use housing development. Together, these sites would represent over 2,000 new units of housing in areas previously contemplated for office and industrial activities.

For the past thirty years, Executive Park has been the subject of several proposals and development plans. The first Executive Park Development Plan, developed in 1978, considered a development of 833,000 square feet of office space, 174,000 square feet of hotel/meeting space, and

1 75,000 square feet of retail space. Building permits were issued for the construction of four office
2 buildings and a restaurant under this plan. Three of the office buildings were constructed by 1985, for
3 a total of about 320,000 square feet of office space and 2,500 square feet of retail space. The fourth
4 office building and the restaurant have yet to be constructed.

5 In 1983, a revised development plan was proposed to amend the previous 1978 Development
6 Plan by adding additional office space and hotel space, and by adding residential use. Overall, and
7 including the four office buildings and the restaurant previously approved, the 1984 Development Plan
8 Amendment called for 1,644,000 square feet of office space, 234,000 square feet of hotel space, 50,000
9 square feet of retail/restaurant spaces, and 600 residential units.

10 A 1992 Development Plan added 25,000 square feet of health club space, 10,000 square feet of
11 childcare space, and an additional 10,000 square feet of restaurant space. Following this approval,
12 building permits were issued for the construction of five residential buildings, containing about 287
13 units. Only two of the residential buildings, containing 128 units, have been constructed.

14 At present, Executive Park consists of three office buildings containing 320,000 square feet of
15 office space and 2,500 square feet of retail space, and two residential buildings containing 128
16 residential units. Since 2003, three project sponsors have filed applications to develop over 1,300 new
17 units of housing, totaling 1,709,000 square feet of residential use. To accommodate these projects, the
18 Planning Commission has forwarded a General Plan Amendment to the Board of Supervisors that
19 would allow for an additional 499 residential units while eliminating 1,324,000 square feet of office
20 space, 10,000 square feet of retail space, and 25,000 square feet of health club use. In addition, the
21 General Plan Amendment would reduce the allowable square footage of childcare use from 13,240
22 square feet to 10,000 square feet.

23 At the Schlage Loek site, this company operated a large industrial plant for the better part of a
24 century, providing jobs for area residents and serving as a key part of the community. Ingersoll Rand,
25

1 the parent company of Schlage Lock, closed the plant in 1999, indicating a wish to sell the property.
 2 Since that time, the site has remained vacant and under-utilized.

3 In 2002, the City sponsored a series of community planning workshops to formulate a
 4 community plan for the re-use of the 20-acre site. The community planning workshops, involving
 5 several hundred residents of Visitacion Valley and surrounding neighborhoods, produced a written
 6 report, "The Visitacion Valley Schlage Lock Community Planning Workshop: Strategic Concept Plan
 7 and Workshop Summary." This plan calls for a mix of housing, open space, community-oriented retail
 8 and community-oriented institutional uses. The plan contemplates 740 new units of housing on the
 9 residential portions of the site. Using a planning standard of 1,000 square feet per unit, the projected
 10 square footage of new residential development at the site is 740,000 square feet.

11 *Projected New Visitacion Valley*
 12 *Residential Development*

14	<i>Signature Properties</i>		<i>615,000</i>
15	<i>(Executive Park)</i>	<i>433 units</i>	<i>square feet</i>
16		—	
17	<i>Top Vision</i>		<i>618,000</i>
18	<i>(Executive Park)</i>	<i>410 units</i>	<i>square feet</i>
19		—	
20	<i>Yerby</i>		<i>476,000</i>
21	<i>(Executive Park)</i>	<i>496 units</i>	<i>square feet</i>
22		—	
23	<i>Schlage Lock</i>		<i>740,000</i>
24		<i>740 units</i>	<i>square feet</i>
25			

	—	
<i>Total—</i>	<i>2,079 units—</i>	<i>2,449,000 square feet—</i>

In its environmental review of the Signature Properties application, the San Francisco Planning Department estimates 3,340 new residents at the three Executive Park sites. For the Schlage Lock site, a planning standard of 2.2 new residents per unit is applied to the development, or 1,628 new residents. Together, therefore, these four proposals are expected to introduce 4,968 new residents to the neighborhood.

According to the 2000 Census, there are currently 16,482 residents in Visitacion Valley. With the 4,968 new residents expected through the above projects, the new Visitacion Valley population would be 21,450 residents. Therefore, 23.2% of all Visitacion Valley residents would be new residents at these four project sites.

B. — San Francisco's growing population and severe housing crisis requires the development of new housing. To respond to this need for housing, the City is considering granting Conditional Use Authorization, re-zonings, and/or General Plan Amendments for a number of large development sites in Visitacion Valley. These areas are currently occupied primarily by office or industrial uses with minimal community facilities and infrastructure to support a significant residential population. In addition, very few residents currently reside in these areas. New residential development in these areas will impact Visitacion Valley's community facilities and infrastructure and will generate a substantial need for community improvements as the neighborhood's population grows as a result of new residential development. Substantial new investments in community infrastructure, including active recreational spaces, community facilities, and other public services are necessary to mitigate the impacts of new development at these sites.

1 ~~The amendments to the General Plan, Planning Code and/or Zoning Maps that are necessary to~~
2 ~~facilitate residential developments at these sites will permit a substantial amount of new residents.~~
3 ~~More than 2,050 new units representing approximately 5,000 new residents would be anticipated in the~~
4 ~~Visitacion Valley neighborhood, resulting in a 30% increase in the neighborhood's residential~~
5 ~~population. The new development will have a profound impact on the neighborhood's dated~~
6 ~~infrastructure. A comprehensive program of community facilities and public infrastructure is necessary~~
7 ~~to mitigate the impacts of the proposed new development and to provide these basic community~~
8 ~~improvements to the neighborhood's growing residential population.~~

9 ~~As a result of this new development, property tax revenue is projected to increase. These~~
10 ~~revenues will fund improvements and expansions to general City services, including Police, Fire,~~
11 ~~Emergency, and other services needed to partially meet the increased demand associated with new~~
12 ~~development. Local impacts on the need for community facilities and infrastructure will be heightened~~
13 ~~in Visitacion Valley, compared to those typically funded by City government through property tax~~
14 ~~revenues. The relative cost of capital improvements, along with the reduced role of State and federal~~
15 ~~funding sources, increases the necessity for development impact fees to cover these costs. General~~
16 ~~property tax revenues will not be adequate to fully fund the costs of the community facilities and~~
17 ~~infrastructure necessary to mitigate the impacts of new development in the Visitacion Valley~~
18 ~~neighborhood.~~

19 ~~Development impact fees are a more cost effective, realistic way to implement mitigations to a~~
20 ~~local neighborhood associated with particular developments' impacts. As important, the proposed~~
21 ~~Visitacion Valley Community Facilities and Infrastructure Fee would be dedicated to the Visitacion~~
22 ~~Valley area, directing benefits of the fund directly to those who pay into the fund.~~

23 ~~While this fee will increase the overall burden on new development in the neighborhood, the~~
24 ~~burden is typically reflected in a reduced sale price for developable land, or passed on to the~~
25

1 buyers/renters of housing in the neighborhood and thus is borne primarily by those who have caused
2 the impact and who will ultimately enjoy the benefits of the community improvements it pays for.

3 ~~The purpose of the Visitacion Valley Community Facilities and Infrastructure Fee is to provide~~
4 ~~specific improvements, including active recreational spaces, pedestrian and streetscape improvements,~~
5 ~~and other facilities and services. The Visitacion Valley Community Facilities and Infrastructure Fee~~
6 ~~will create the necessary financial mechanism to fund these improvements in proportion to the need~~
7 ~~generated by new development.~~

8 ~~The capital improvements that the fee would fund are clearly described in the ordinance. The~~
9 ~~fee would be solely used to fund the acquisition, design, and construction of community facilities in the~~
10 ~~Visitacion Valley neighborhood. The proposed fees only cover impacts caused by new development and~~
11 ~~are not intended to remedy already existing deficiencies; those costs will be paid for by other sources.~~

12 ~~The City has existing plans for the community facility and infrastructure projects to be funded~~
13 ~~through this fee. The San Francisco Public Library has an account established, initial funds~~
14 ~~appropriated, and adopted plans and a preliminary construction schedule for the Visitacion Valley~~
15 ~~Branch Library. The San Francisco Department of Recreation and Parks has accounts established,~~
16 ~~initial funds appropriated, and adopted plans and a preliminary construction schedule for the~~
17 ~~Visitacion Valley projects identified herein. The Department of Public Works, in coordination with the~~
18 ~~Planning Department, has an account established and adopted plans and a preliminary construction~~
19 ~~schedule for the Leland Avenue street improvements. It is anticipated that the remaining community~~
20 ~~facility and infrastructure projects would be at a similar stage of development in terms of having~~
21 ~~accounts established and plans adopted as the projects listed above when the final developments~~
22 ~~covered by this ordinance are to apply for City permits.~~

23 ~~C. — In order to enable the City and County of San Francisco to create a unified, attractive,~~
24 ~~and safe residential Visitacion Valley neighborhood, and to mitigate the impacts of potential new large~~
25 ~~developments on community amenities, it is necessary to upgrade existing streets and streetscaping and~~

1 ~~to develop neighborhood public services, active recreational spaces, and community facilities. To fund~~
2 ~~such community infrastructure and amenities, new residential development in the neighborhood shall~~
3 ~~be assessed development impact fees proportionate to the increased demand for such infrastructure and~~
4 ~~amenities created by the new housing. The City will use the proceeds of the fee to develop community~~
5 ~~facilities and infrastructure within Visitacion Valley that provides direct benefits to the new housing.~~

6 *The development of community facilities and infrastructure in the Visitacion Valley*
7 *neighborhood will provide a benefit to new residents beyond the provision of services. It is anticipated*
8 *that new residents will realize an increase in property values due to the enhanced neighborhood*
9 *amenities financed with the proceeds of the fee. A Visitacion Valley Community Facilities and*
10 *Infrastructure Fee shall be established for new residential development within Visitacion Valley as set*
11 *forth herein.*

12 *The proposed improvements described below are necessary to serve the new population at the*
13 *anticipated densities. Cost estimates are based on an assessment of the potential cost to the City of*
14 *providing the specific improvements. Developer contributions are based upon the percentage of new*
15 *residents expected in Visitacion Valley at these four project sites, or 23.2%, with the exception of*
16 *improvements necessary to mitigate impacts that are created entirely by the developers. In these cases,*
17 *developer contributions are set at 100%.*

18 *The proposed Visitacion Valley Community Facilities and Infrastructure Fee would fund*
19 *mitigations of the impacts of new development on:*

- 20 *• Active Recreational Spaces: development of neighborhood playground, pool, and outdoor*
21 *education center*
- 22 *• Library Facilities: construction of a new neighborhood library*
- 23 *• Community Facilities: development of community spaces available for public uses*
- 24 *• Streetscape Improvements: Blanken Avenue sidewalk widening and lighting improvements;*
25 *Leland Avenue streetscape improvements*

1 ~~Active Recreational Space: The San Francisco Recreation and Park Department has provided a~~
2 ~~cost estimate of necessary improvements to the Kelloch Velasco Playground (\$2,222,500), the Coffman~~
3 ~~Pool (\$10,600,000), and the Visitacion Valley Greenway Educational Center for the Sciences and Arts~~
4 ~~at Tioga Avenue (\$2,054,000). The total developer contribution is deemed to be \$3,451,348.~~

5 ~~Library Facilities: The San Francisco Public Library has provided a cost estimate for the~~
6 ~~construction of the Visitacion Valley Branch Library (\$9,350,000). The total developer contribution is~~
7 ~~deemed to be \$2,169,200.~~

8 ~~Community Facilities: In the Rincon Hill Plan adopted by the Board of Supervisors, the San~~
9 ~~Francisco Planning Department determined a need of community facilities space at 2.29 square feet for~~
10 ~~every new resident. Based upon the 4,968 new residents projected for Visitacion Valley from residential~~
11 ~~development in large opportunity sites, there would be a need for 11,376 square feet of new community~~
12 ~~center space.~~

13 ~~For a comparable land cost, the San Francisco Public Library acquired its current development~~
14 ~~site on Leland Avenue for \$135 per square foot. For comparable improvement costs, the San Francisco~~
15 ~~Planning Department estimated a cost of \$400 per square foot to build a new community center in~~
16 ~~Rincon Hill. Taken together, the cost to build a new community center in Visitacion Valley for the new~~
17 ~~residents is estimated to be \$6,086,160, a cost to be entirely borne by the developers.~~

18 ~~Streetscape Improvements: DPW and San Francisco Public Utilities Commission estimate the~~
19 ~~cost to upgrade the Blanken Avenue tunnel to make it more accessible for pedestrians, to be \$152,755.~~
20 ~~This estimate includes widening the sidewalk and improving the lighting in the tunnel. Because these~~
21 ~~improvements are necessary to accommodate new pedestrian traffic and to minimize automobile use~~
22 ~~in the new developments, this cost is to be entirely borne by the developers.~~

23 ~~DPW and the Planning Department have provided a cost estimate for improvements to Leland~~
24 ~~Avenue, the commercial core of Visitacion Valley (\$2,621,730). The total developer contribution is~~
25 ~~deemed to be \$608,241.~~

1 ~~Total Developer Contribution: The total developer contribution for Visitacion Valley~~
2 ~~community facilities and infrastructure improvements is \$12,467,704. At an estimated 2,449,000 square~~
3 ~~feet of new residential development, the developer contribution is \$5.09 per square foot. The Visitacion~~
4 ~~Valley Community Facilities and Infrastructure Fee shall be established at \$4.58 per square foot, or~~
5 ~~90% of the estimated costs of the community improvements. By charging developers less than the~~
6 ~~maximum amount of the justified impact fee, the City avoids any need to refund money to developers if~~
7 ~~fees collected exceed costs.~~

8 ~~D.——The Board of Supervisors finds that the Fees imposed in Section 420.1 et seq. as impact~~
9 ~~fees to fund specific improvements, including active recreational spaces, pedestrian and streetscape~~
10 ~~improvements, and other facilities and services, are proportionate to the need generated by residential~~
11 ~~development projects in Visitacion Valley. It shall be the policy of the Board of Supervisors that no~~
12 ~~additional development impact fees specific to Visitacion Valley will be imposed to fund the specific~~
13 ~~improvements described above. It is the policy of the Board of Supervisors that any future changes to~~
14 ~~citywide impact fees or other exactions will apply equally to Visitacion Valley as to other areas of the~~
15 ~~City, unless otherwise excepted by the Board.~~

16 **SEC. 420.2. DEFINITIONS.** See Section 401 of this Article.

17 **SEC. 420.3. APPLICATION.**

18 (a) Projects subject to the Visitacion Valley Community Facilities and Infrastructure
19 Fee. The Visitacion Valley Community Facilities Fee and Infrastructure Fee is applicable to
20 any development project in the Visitacion Valley fee area which:

21 (1) has 20 or more residential units, and

22 (A) creates at least one new residential unit, or

23 (B) creates additional space in an existing residential unit of more than 800 gross

24 square feet. Application: Section 420.1 et seq. shall apply to all residential development
25 projects that:

1 (1) are located in Visitacion Valley; and

2 (2) have both not filed an application or a building permit, site permit, conditional
3 use, planned unit development, environmental evaluation, Zoning Map amendment or
4 General Plan amendment prior to September 1, 2003, and have filed an application for a
5 building permit, site permit, conditional use, planned unit development, environmental
6 evaluation, Zoning Map amendment or General Plan amendment on or after September 1,
7 2003.

8 (b) Amount of Fee. The Visitacion Valley Community Facilities and Infrastructure
9 Fee ("Fee") shall be ~~\$4,584.124.58~~ for each net addition of ~~occupiable~~ ~~occupiable~~ gross square
10 feet of residential use within a development project subject to this Section. Any replacement
11 of gross square feet or change of use shall pay per the Fee Schedule in Table 420.3A below.

12 TABLE INSET:

<u>Residential to</u> <u>Residential or</u> <u>Non-residential;</u> <u>Non-residential to</u> <u>Non-residential; or</u> <u>PDR to Non-</u> <u>Residential</u>	<u>Non-Residential to</u> <u>Residential</u>	<u>PDR to</u> <u>Residential</u>
<u>\$0</u>	<u>\$3.60/gsf</u>	<u>\$2.32/gsf</u>

13
14
15
16
17
18 (c) Credits for In-Kind Improvements: Option for In-Kind Provision of Community
19 Infrastructure and Fee Credits. Project sponsors may propose to directly provide community
20 improvements to the City. In such a case, the City may enter into an In-Kind Improvements Agreement
21 with the sponsor and issue a fee waiver for the Visitacion Valley Community Facilities and
22 Infrastructure Fee from the Planning Commission, subject to the following rules and requirements:

23 (1) Approval criteria. The City shall not enter into an In-Kind Agreement unless the
24 proposed in-kind improvements meet an identified community need and where they substitute for
25

1 improvements that could be provided by the Visitacion Valley Community Facilities and Infrastructure
2 Fund. The City may reject in-kind improvements if they are not consistent with the priorities identified
3 in the Visitacion Valley Community Facilities and Infrastructure Fee Program, by the Interagency Plan
4 Implementation Committee (see Section 36 of the Administrative Code), or other prioritization
5 processes related to Visitacion Valley community improvements programming. No physical
6 improvement or provision of space otherwise required by the Planning Code or any other City Code
7 shall be eligible for consideration as part of this In-Kind Improvements Agreement.

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

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

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

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

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

22 (4) Approval Process. The Planning Commission must approve the material terms of an In-
23 Kind Agreement. Prior to the parties executing the Agreement, the City Attorney must approve the
24 agreement as to form and to substance. The Director of Planning is authorized to execute the
25 Agreement on behalf of the City. If the Planning Commission approves the In-Kind Agreement, it shall

1 waive the amount of the Visitacion Valley Community Facilities and Infrastructure Fee by the value of
2 the proposed In-Kind Improvements Agreement as determined by the Director of Planning. No credit
3 shall be made for land value unless ownership of the land is transferred to the City or a permanent
4 public easement is granted, the acceptance of which is at the sole discretion of the City. The maximum
5 value of the In-Kind Improvements Agreement shall not exceed 100% of the required fee
6 required Visitacion Valley Community Facilities and Infrastructure Fee.

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

11 (6) Credit for On-Site Community Facilities and Childcare Facilities.
12 Notwithstanding the foregoing provisions of subsection (c), a project that filed its first
13 environmental application on or before November 18, 2010 only, is eligible for a credit for on-
14 site community facilities or Childcare Facilities as follows: The project sponsor shall receive a
15 credit not to exceed \$1.12 multiplied by the net addition of occupiable square feet of
16 residential use in the residential development project. To qualify for a credit for community
17 facilities or Childcare Facility, the facility shall be open and available to the general public on
18 the same terms and conditions as to residents of the residential development project in which
19 the facilities are located. Subject to the review and approval of the Planning Commission, the
20 project sponsor may apply for a credit up to 100% of the required fee, as stated in subsection
21 (c) above not to exceed \$2.24 multiplied by the net addition of occupiable square feet of
22 residential use in the residential development project.

23 (1) Credit for On-Site Community Facilities: In its review of a proposed residential
24 development project subject to Section 420.1 et seq., the Planning Commission and Board of
25 Supervisors shall apply the planning standard of 2.29 square feet of community facilities space for each

1 ~~new resident projected at the residential development project to calculate the residential development~~
2 ~~project's allocation of community facilities space. The project sponsor shall receive a credit against the~~
3 ~~Fee of \$535 per square foot of community facilities space provided on site within the boundaries of the~~
4 ~~residential development project, provided that such credit shall not exceed \$2.24 multiplied by the net~~
5 ~~addition of occupiable square feet of residential use in the residential development project. To qualify~~
6 ~~for a credit, the community facilities shall be open and available to the general public on the same~~
7 ~~terms and conditions as to residents of the residential development project in which the community~~
8 ~~facilities are located.~~

9 ~~(2) Credit for Improvements to Blanken Avenue: The Commission may reduce the Fee~~
10 ~~described in this Section for specific residential development proposals in cases where the Sponsor~~
11 ~~has entered into an agreement with the City, in form acceptable to the City Attorneys' Office, to provide~~
12 ~~in-kind improvements to Blanken Avenue. For the purposes of calculating the total value of the in-kind~~
13 ~~community improvements, the project Sponsor shall provide the Department with a cost estimate for the~~
14 ~~proposed in-kind improvements from two independent contractors. Based on these estimates, the~~
15 ~~Director of Planning shall determine their appropriate value and the Commission may reduce the Fee~~
16 ~~assessed to that project proportionally. The Commission may not reduce the fee by an amount greater~~
17 ~~than the amount that would be the Sponsor's contribution toward the Blanken Avenue improvements if~~
18 ~~the Sponsor were to pay the Fee.~~

19 (d) Timing and Payment of Fee. Any fee required by Section 420.1 et seq. shall be
20 paid to the Development Fee Collection Unit at DBI prior to issuance of the first construction
21 document, with an option for the project sponsor to defer payment to prior to issuance of the
22 first certificate of occupancy upon agreeing to pay a deferral surcharge that would be
23 deposited into the Visitacion Valley Community Facilities and Infrastructure Fund in
24 accordance with Section 402 of this Article and Section 107A.13 of the San Francisco Building
25 Code.

1 SEC. 420.4. IMPOSITION OF REQUIREMENTS.

2 (a) Determination of Requirements. The Department shall determine the
3 applicability of Section 420.1 et seq. to any development project requiring a building or site
4 permit and, if Section 420.1 et seq. is applicable, the net addition of ~~occupiable~~ gross square
5 feet of residential use subject to its requirements, and shall impose the fee requirements as a
6 condition of approval for issuance of the building or site permit. The project sponsor shall
7 supply any information necessary to assist the Department in this determination.

8 (b) Notice to Development Fee Collection Unit of Requirements. Prior to issuance
9 of the building or site permit for a development project subject to Section 420 et seq., the
10 Department shall notify the Development Fee Collection Unit at DBI of its final determination
11 of any fee requirements, including any fee credits for in-kind improvements, in addition to the
12 other information required by Section 402(b) of this Article.

13 (c) Development Fee Collection Unit Notice to Department. The Development Fee
14 Collection Unit at DBI shall provide notice in writing or electronically to the Department prior to
15 issuing the first certificate of occupancy for any development project subject to Section 420.1
16 et seq. that has elected to satisfy its fee requirement with credits-in-kind improvements. If the
17 Department notifies the Unit at such time that the sponsor has not satisfied the in-kind
18 improvements requirements of Section 420.3, the Director of DBI shall deny any and all
19 certificates of occupancy until the subject project is brought into compliance.

20 (d) Process for Revisions of Determination of Requirements. In the event that the
21 Department or the Commission takes action affecting any development project subject to
22 Section 420.1 et seq. and such action is subsequently modified, superseded, vacated, or
23 reversed by the Department or the Commission, Board of Appeals, the Board of Supervisors,
24 or by court action, the procedures of Section 402(c) of this Article shall be followed.

1 SEC. 420.4.LIEN PROCEEDINGS. If, for any reason, the fee imposed under Section
2 420.3 remains unpaid following issuance of the certificate of occupancy, the Development Fee
3 Collection Unit at DBI shall institute lien proceedings to make the entire unpaid balance of the
4 fee, plus interest and any deferral surcharge, a lien against all parcels used for the
5 development project in accordance with Section 408 of this Article and Section 107A.13.215
6 of the San Francisco Building Code.

7 SEC. 420.5. VISITACION VALLEY COMMUNITY FACILITIES AND
8 INFRASTRUCTURE FUND.

9 (a) There is hereby established a separate fund set aside for a special purpose
10 entitled the Visitacion Valley Community Facilities and Infrastructure Fund ("Fund"). All
11 monies collected by DBI pursuant to Section 420.3(b) shall be deposited in the Fund which
12 shall be maintained by the Controller.

13 (b) The receipts in the Fund are, subject to the budgetary and fiscal provisions of
14 the Charter, to be used solely to fund community facilities and infrastructure in Visitacion
15 Valley, including but not limited to capital improvements to library facilities, playgrounds,
16 recreational facilities, open space, childcare, and transportation. ~~and major streets.~~

17 (c) No portion of the Fund may be used, by way of loan or otherwise, to pay any
18 administrative, general overhead, or similar expense of any public entity, except for the
19 administration of this fund in an amount not to exceed 4% of the total annual revenue.

20 (d) ~~The Controller shall not release any monies from the Fund without prior approval~~
21 ~~of the Board of Supervisors for an expenditure. City Agencies responsible for the construction~~
22 ~~or improvement of public infrastructure subject to this ordinance, including but not limited to~~
23 ~~the San Francisco Public Library, DPW, MTA, DCYFS, and the Department of Recreation and~~
24 ~~Parks, shall request funds from the Board of Supervisors as necessary. Before approving any~~
25 ~~expenditures, the Board of Supervisors shall determine the relative impact from the residential~~

1 development on public infrastructure in Visitacion Valley described in Section 420.56(b) and
2 shall insure that the expenditures are consistent with mitigating the impacts from the
3 development.

4 (d) A public hearing shall be held by the Recreation and Parks Commissions to elicit
5 public comment on proposals for the acquisition of property using monies in the Fund or
6 through agreements for financing In-Kind Community Improvements via a Mello-Roos
7 Community Facilities District that will ultimately be maintained by the Department of
8 Recreation and Parks. Notice of public hearings shall be published in an official newspaper at
9 least 20 days prior to the date of the hearing, which notice shall set forth the time, place, and
10 purpose of the hearing. The Parks Commissions may vote to recommend to the Board of
11 Supervisors that it appropriate money from the Fund for acquisition of property for park use
12 and for development of property acquired for park use.

13 (e) The Planning Commission shall work with other City agencies and commissions,
14 specifically the Department of Recreation and Parks, DPW, and the Metropolitan
15 Transportation Agency, to develop agreements related to the administration of the
16 improvements to existing and development of new public facilities within public rights-of-way
17 or on any acquired property designed for park use, using such monies as have been allocated
18 for that purpose at a hearing of the Board of Supervisors.

19 (f) The Director of Planning shall have the authority to prescribe rules and
20 regulations governing the Fund, which are consistent with this Section 420.1 et seq. The
21 Director shall make recommendations to the Board regarding allocation of funds.

22 (eg) The Controller's Office shall file an annual report with the Board of Supervisors
23 beginning one year after the effective date of Section 418.1 et seq., which report shall set
24 forth the amount of money collected in the Fund.
25

1 Section 3. Severability. This Section is uncodified. If any Section, subsection,
2 paragraph, sentence, clause or phrase of this ordinance or any part thereof is for any reason
3 held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, or
4 other competent agency, such decisions shall not affect the validity or effectiveness of the
5 remaining portions of this ordinance or any part thereof. The Board of Supervisors declares
6 that it would have passed each Section, subsection, paragraph, sentence, clause or phrase of
7 this ordinance irrespective of the fact that any one or more Sections, subsections, paragraph,
8 sentence, clause or phrase of this ordinance be declared unconstitutional or invalid or
9 ineffective.

10 Section 4. This section is uncodified.

11 In enacting this Ordinance, the Board intends to amend only those words, phrases,
12 paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams or any
13 other constituent part of the Planning Code that are explicitly shown in this legislation as
14 additions, deletions, Board amendment additions, and Board amendment deletions in
15 accordance with the "Note" that appears under the official title of the legislation. This
16 Ordinance shall not be construed to effectuate any unintended amendments. Any additions or
17 deletions not explicitly shown as described above, omissions, or other technical and non-
18 substantive differences between this Ordinance and the Planning Code that are contained in
19 this legislation are purely accidental and shall not effectuate an amendment to the Planning
20 Code. The Board hereby authorizes the City Attorney, in consultation with the Clerk and other
21 affected City departments, to make those necessary adjustments to the published Planning
22 Code, including non-substantive changes such as renumbering or relettering, to ensure that
23 the published version of the Planning Code is consistent with the laws that this Board enacts.

24 Specifically, the Board of Supervisors recognizes that three pending ordinances in Files
25 Nos. 100046, 101247, and 101095 amend some of the same sections of the Planning Code.

Supervisor Maxwell
BOARD OF SUPERVISORS

1 The Board intends that, if adopted, the Board amendment additions, and Board amendment
2 deletions shown in all three Ordinances be given effect so that the substance of each
3 ordinance be given full force and effect. To this end, the Board directs the City Attorney's
4 office and the publisher to harmonize the provisions of each ordinance.

5 Section 5. This Section is uncodified. Effective Date. The amendments to Section
6 420.5(d), (e), and (f) shall apply only to appropriations of funds made on or after February 1,
7 2011.

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

10 By:


11 Susan Cleveland-Knowles
12 Deputy City Attorney

REVISED LEGISLATIVE DIGEST
(Revised in Committee: 12/13/2010)

[Planning Code - The Visitacion Valley Community Facilities and Infrastructure Fee and Fund.]

Ordinance amending Planning Code Sections 420.1 through 420.5 to update the Visitacion Valley Community Facilities and Infrastructure Fee and Fund and to conform the program with other Area Plan fee programs; making conforming changes to Sections 401 (definitions) and 406 (waiver); and making findings, including environmental findings.

Existing Law

The Board adopted the Visitacion Valley Community Facilities and Infrastructure Fee and Fund in November 2005 (the "Program"). The fee of \$4.58 applies to all residential developments of 20 units or more in the Visitacion Valley area to mitigate impacts from development on recreational space, library facilities, community facilities, streetscape improvements. The fee was imposed on each net addition of "occupiable" square feet. The Program allowed credit for in-kind improvements, but only for on-site community facilities and improvements to Blanken Avenue. The Program did not permit fees to be used for administrative costs.

Amendments to Current Law

The proposed legislation would update the findings supporting the Program. In addition, subsequent to the adoption of the Program, the Board adopted other, similar fees in Area Plans such as Balboa Park, Market and Octavia and the Eastern Neighborhoods. In recent amendments the Board adopted legislation moving all of the area plan fees into a new Article IV of the Planning Code, and in the process removed many inconsistencies in the fee programs. Some inconsistencies still remain. For example, while other fee programs apply to residential and commercial developments of almost any size, this Program continues to apply only to residential developments and only to developments of 20 units or more. The legislation does harmonize the Program by including a new process for in-kind improvements that allows in-kind improvements for any portion of the fee with the approval of the Planning Commission and allows for up to 4% of the fee proceeds to be used for administration of the Program. The legislation maintains a provision that allows project sponsors to provide community facilities or child care in-kind improvements in lieu of the fee without Planning Commission approval for a maximum amount equal to one quarter of the required fee (the previous provision allowed for up to half of the amount of the fee without Commission approval). The legislation makes additional changes so that this fee program is consistent with other programs including providing an exact fee to be applied for projects involving the conversion of non-residential to residential uses, and changing the administration of the Program, including the process to prioritize projects to be funded by the fee. ~~The legislation also changes the calculation of the fee from a calculation based on "occupiable square feet" to "gross square feet" that is the method used by the other fee programs. Due to the different method of calculation, the fee is reduced to \$4.12 per gross square foot.~~

BOARD of SUPERVISORS



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TDD/TTY No. 554-5227

October 6, 2010

File No. 101247

Bill Wycko
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Mr. Wycko:

On September 28, 2010, Supervisor Maxwell introduced the following proposed legislation:

File No. 101247

Ordinance amending the San Francisco Planning Code by amending Sections 420.1 through 420.5 to update the Visitacion Valley Community Facilities and Infrastructure Fee and Fund and to conform the program with other Area Plan fee programs; making conforming changes to Sections 401 (definitions) and 406 (waiver, reduction, or adjustment of development project requirements); and making findings, including environmental findings.

The legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Somera".

By: Alisa Somera, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Nannie Turrell, Major Environmental Analysis
Brett Bollinger, Major Environmental Analysis

*Exempt from CEQA per
CEQA Guidelines,
Section 15273, Rates,
Tolls, Fares and Charges.*

*Nannie R. Turrell
October 6, 2010*



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: DECEMBER 9, 2010

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Project Name: Amendments relating to the Visitacion Valley Community Facilities and Infrastructure Fee and Fund
Case Number: 2010.0863T [Board File No. 10-1247]
Initiated by: Supervisor Maxwell / Introduced September 28, 2010
Staff Contact: Kate McGee, Planner
Kate.McGee@sfgov.org, 415-558-6367
Reviewed by: Sarah Dennis, Plan Manager
Sarah.Dennis@sfgov.org, 415-558-6314
Recommendation: **Recommend Approval**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Visitacion Valley Community Facilities and Infrastructure Fee and Fund Code Sections 420.1 (Findings), 420.2 (Definitions), 420.3 (Application), 420.4 (Imposition of Requirements), 420.5 (Visitacion Valley Community Facilities and Infrastructure Fund) to update the Visitacion Valley Community Facilities and Infrastructure Fee and Fund and to conform the program with other Area Plan fee programs.

This item was continued from the Planning Commission's Regular Meeting on November 18, 2010. At that hearing, several amendments were discussed, and there was concern that more time was required to digest those amendments. Since that hearing, those amendments have been incorporated into the proposed Ordinance (attached as Exhibit B), and no additional amendments have been made.

The Way It Is Now:

- All monies collected by the treasurer are deposited into a fund and maintained by the Controller. City agencies responsible for the construction or improvement of public infrastructure subject to this ordinance are required to request funds from the Board of Supervisors as necessary.
- The fee is charged on the net addition of occupiable square feet of residential use, including affordable housing.
- The fee supports recreation and parks, library facilities, community facilities, and streetscape improvements. The allocation of fees is specified in the ordinance, and contributes to the development of a neighborhood playground, pool, and outdoor education center, a new library, the development of community spaces available for public uses, Blanken Avenue sidewalk widening and lighting improvements, and Leland Avenue streetscape improvements (phase 2).
- Credits for in-kind improvements are given for providing on-site community facilities and improvements to Blanken Avenue. The project sponsor shall receive a credit against the Fee of \$535 per square foot of community facilities space, provided that such credit shall not exceed \$2.24 multiplied by the net addition of occupiable square feet of residential use in the residential development project.

The Way It Would Be:

The proposed ordinance would update the Visitacion Valley Community Facilities and Infrastructure Fee and Fund to conform the program to other Area Plan fee programs, specifically:

- Monies would be paid to the Development Fee Collection Unit at the Department of Building Inspection and deposited into the Visitacion Valley Community Facilities and Infrastructure Fee and Fund. City agencies would request allocations from the fund through the Interagency Plan Implementation Committee (IPIC), and the fund would be administered by the Board of Supervisors.
- The fee would not apply to affordable housing units (affordable to households at and below 80% AMI) that are subsidized by the Mayor's Office of Housing, the Redevelopment Agency, or the Housing Authority.
- The fee would continue to support recreation and parks, library facilities, community facilities, and streetscape improvements, and would also include child care, and other transportation needs. The allocation of the fee to these areas is determined according to the nexus amount established per square foot.
- The revised Ordinance includes an option for providing in-kind improvements in accordance with the Commission Policy adopted on September 9, 2010 regarding approval criteria, valuation, content of agreement, approval process, and administrative costs.
 - Credits for in-kind improvements can now be given for any improvement type supported by the fee, not just on-site community facilities and improvements to Blanken Avenue.
 - Projects sponsors (for projects with an environmental application filed on or before November 18, 2010) shall receive a credit not to exceed \$1.12 per occupiable square foot of residential use for on-site community facilities or child care facilities. With Commission approval, project sponsors may continue to receive the previous credit of up to \$2.24 per occupiable square foot of residential use for community facilities or childcare.
- The revised Ordinance is also supported by an updated analysis, the *Visitacion Valley Nexus Study* (October 2010), attached, Exhibit C.

ISSUES TO NOTE

One subject of particular discussion at the previous hearing was the in-kind credit for providing on-site community facilities. As mentioned above, for projects that filed an environmental application before November 18, 2010, the previous in-kind contribution used to permit up to 50% of the fee requirement to be credited towards the provision of community facility space as-of-right (i.e. without Commission approval). This current proposal amends the as-of-right in-kind contribution for community facilities to a maximum of 25%, but enables a credit of up to 100% with neighborhood support and Commission approval. It also expands the categories that are eligible for in-kind agreements with neighborhood support and Commission approval to any improvements covered by the fee ordinance. This amendment brings in-kind agreements in Visitacion Valley more in line with the in-kind procedures adopted by the Planning Commission in September, by giving the community and the Planning Commission more

oversight in the allocation of improvements and funds, and by expanding the categories to which credit could be applied.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

Minor technical changes to the legislation should be expected in order to correct any errors prior to being at the Board of Supervisors for adoption.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The proposed Planning Code text amendments and the updated nexus study reflect the most up-to-date data while building on the city's existing plans and programs created since the establishment of the Visitacion Valley Community Facilities and Infrastructure Fee and Fund 2005. Generally, these amendments update the fund so that it is coordinated with other fee programs in the city. For example, the change in administration of the fee (paid to the Department of Building Inspection prior to issuance of first construction document), and would bring the fee in line with other programs.

Additionally, this update expands the opportunity for developers to provide in-kind improvements in the area. The option to enter into an in-kind agreement allows the developer to provide improvements to any of the areas of public infrastructure mentioned above, rather than the limited Blanken Avenue street widening improvement or provision of community facility space, as described in the original ordinance. It also, however, enables the community and the Planning Commission more oversight in granting these in-kind agreements, to ensure that the facilities provided are truly of value to the community.

Lastly, the required nexus study has also been updated to clearly illustrate the amount of public facilities and improvements needed to accommodate the demand generated by new development in the Fee Area, per California legislative requirements.

By updating and coordinating this program with others in the city, it is expected that the administration and application of the Visitacion Valley fee and fund will be improved, which in turn will assist in the implementation of the public infrastructure needed to serve the area.

ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Sections 420.1 (Findings), 420.2 (Definitions), 420.3 (Application), 420.4 (Imposition of Requirements), 420.5 (Visitacion Valley Community Facilities and Infrastructure Fund) to update the Visitacion Valley Community Facilities and Infrastructure Fee and Fund would have no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any comments in with regard to the proposed Ordinance.

RECOMMENDATION: Recommendation of Approval
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 10-1247
- Exhibit C: Visitacion Valley Nexus Study



SAN FRANCISCO PLANNING DEPARTMENT

Draft Planning Commission Resolution

HEARING DATE: DECEMBER 9, 2010

1650 Mission St.
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Staff Contact: Kate McGee, Planner
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Reviewed by: Sarah Dennis, Plan Manager
Sarah.Dennis@sfgov.org, 415-558-6314

Recommendation: **Recommend Approval**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE VISITACION VALLEY COMMUNITY FACILITIES AND INFRASTRUCTURE FEE AND FUND CODE, INCLUDING SECTIONS 401 (DEFINITIONS), 406 (WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT PROJECT REQUIREMENTS), 420.1 (FINDINGS), 420.2 (DEFINITIONS), 420.3 (APPLICATION), 420.4 (IMPOSITION OF REQUIREMENTS), 420.5 (VISITACION VALLEY COMMUNITY FACILITIES AND INFRASTRUCTURE FUND) TO UPDATE THE VISITACION VALLEY COMMUNITY FACILITIES AND INFRASTRUCTURE FEE AND FUND AND TO CONFORM THE PROGRAM WITH OTHER AREA PLAN FEE PROGRAMS.

PREAMBLE

Whereas, on September 28, 2010, Supervisor Maxwell introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-1247 which was amended and attached hereto as Exhibit B, which would amend the Visitacion Valley Community Facilities and Infrastructure Fee and Fund Code Sections 420.1 (Findings), 420.2 (Definitions), 420.3 (Application), 420.4 (Imposition of Requirements), 420.5 (Visitacion Valley Community Facilities and Infrastructure Fund) to update the Visitacion Valley Community Facilities and Infrastructure Fee and Fund and to conform the program with other Area Plan fee programs; and

WHEREAS, the City adopted the Visitacion Valley Community Facilities and Infrastructure Fee and Fund in 2005; and

WHEREAS, the Planning Code text amendments and the updated nexus study reflect the most up-to-date data while building on the city's existing plans and programs; and

WHEREAS, the updated Visitation Valley Community Facilities and Infrastructure Fee and Fund would conform with other Area Plan fee programs; and

WHEREAS, the required nexus study has also been updated to clearly illustrate the amount of public facilities and improvements needed to accommodate the demand generated by new development in the Fee Area, per California legislative requirements; and

WHEREAS, the fee supports parks and recreation, a library facility, child care, transportation improvements, and community facilities. The allocation of the fee to these areas is determined according to the nexus amount established per square foot; and

WHEREAS, the proposed modifications expand the opportunity for developers to provide in-kind improvements in the area; and

WHEREAS, the proposed modifications waive affordable housing units from paying the impact fee. For the purpose of this waiver, affordable housing units are defined as affordable at or below 80%, and subsidized by the Housing Authority, MOH, and the SFRA. This amendment applies to all Area Plan impact fees ; and

WHEREAS, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on December 9, 2010; and

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

WHEREAS, the Commission has heard and considered the testimony presented to it at two public hearings, dated November 18th, and December 9th, and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, that all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, minor technical changes to the legislation should be expected in order to correct any errors prior to being at the Board of Supervisors for adoption; and

WHEREAS, the Commission approves the proposed Ordinance by Supervisor Maxwell, which was later amended, and described in the staff report dated December 9, 2010; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed Ordinance* and adopts the attached Draft Resolution to that effect.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on December 9, 2010.

Draft Resolution No.
Hearing Date: December 9, 2010

CASE NO. 2010.0863T
Visitacion Valley: Impact Fee and Fund

Linda Avery
Commission Secretary

AYES:

NAYS:

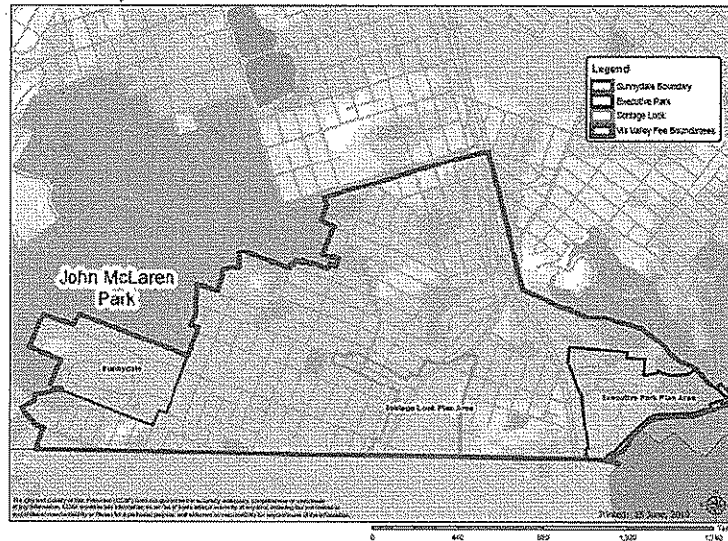
ABSENT:

ADOPTED: December 9, 2010



12/09/2010

Visitacion Valley Nexus Study



Prepared by:
City of San Francisco
Planning Department