

1 [Planning Code - Establishing a New Citywide Transportation Sustainability Fee]

2
3 **Ordinance amending the Planning Code by establishing a new citywide Transportation**
4 **Sustainability Fee and suspending application of the existing Transit Impact**
5 **Development Fee, with some exceptions, as long as the Transportation Sustainability**
6 **Fee remains operative; amending Section 401 to add definitions reflecting these**
7 **changes; amending Section 406 to clarify affordable housing and homeless shelter**
8 **exemptions from the Transportation Sustainability Fee; making conforming**
9 **amendments to the Area Plan fees in Planning Code, Article 4; affirming the Planning**
10 **Department's determination under the California Environmental Quality Act, and**
11 **making findings, including general findings, findings of public necessity, convenience**
12 **and welfare, and findings of consistency with the General Plan and the eight priority**
13 **policies of Planning Code Section 101.1.**

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

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

22 Section 1. Findings. The Board of Supervisors of the City and County of San
23 Francisco hereby finds and determines that:

24 (a) The Planning Department has determined that the actions contemplated in this
25 ordinance comply with the California Environmental Quality Act (California Public Resources
Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. 150790 and is incorporated herein by reference. The Board affirms
2 this determination.

3 (b) On September 10, 2015, the Planning Commission, in Resolution No. 19454,
4 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
5 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
6 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
7 the Board of Supervisors in File No. 150790, and is incorporated herein by reference.

8 (c) On September 10, 2015, the Planning Commission, in Resolution No. 19454,
9 approved this legislation, recommended it for adoption by the Board of Supervisors, and
10 adopted findings that it will serve the public necessity, convenience and welfare. Pursuant to
11 Planning Code Section 302, the Board adopts these findings as its own. A copy of said
12 Resolution is on file with the Clerk of the Board of Supervisors in File No. 150790, and is
13 incorporated by reference herein.

14
15 Section 2. The Planning Code is hereby amended by adding Sections 411A, 411A.1,
16 411A.2, 411A.3, 411A.4, 411A.5, 411A.6, 411A.7, and 411A.8, to read as follows:

17 **SEC. 411A. TRANSPORTATION SUSTAINABILITY FEE.**

18 Sections 411A.1 through 411A.8 (hereafter referred to collectively as "Section 411A") set forth
19 the requirements and procedures for the Transportation Sustainability Fee ("TSF").

20 **SEC. 411A.1. FINDINGS.**

21 (a) In 1981, San Francisco ("the City") enacted Ordinance No. 224-81, imposing a Transit
22 Impact Development Fee ("TIDF") on new office development in the downtown area. The TIDF was
23 based on studies showing that the development of new office uses places a burden on the City's transit
24 system, especially in the downtown area of San Francisco during commute hours, known as "peak
25 periods."

1 (b) The City later amended the TIDF, and made it applicable to non-residential
2 Development Projects citywide, recognizing that development has transportation impacts across the
3 City’s transportation network.

4 (c) Starting in 2009, the City and the San Francisco County Transportation Authority
5 worked to develop the concept of a comprehensive citywide transportation fee and supporting nexus
6 study (the “TSF Nexus Study”). The fee would offset impacts of Development Projects, both residential
7 and non-residential, on the City’s transportation network, including impacts on transportation
8 infrastructure that support pedestrian and bicycle travel. The Nexus Study is on file with the Clerk of
9 the Board of Supervisors in File No. 150790, and is incorporated herein by reference.

10 (d) The TSF Nexus Study concluded that all new land uses in San Francisco will generate
11 an increased demand for transportation infrastructure and services, and recommended that the TSF
12 apply to both residential and non-residential Development Projects in the City.

13 (e) In accordance with the TSF Nexus Study, Section 411A imposes a citywide
14 transportation fee, the TSF, which will allow the San Francisco Municipal Transportation Agency
15 (“SFMTA”) and other regional transportation agencies serving San Francisco to meet the demand
16 generated by new development and thus maintain their existing level of service. Section 411A will
17 require sponsors of Development Projects in the City to pay a fee that is reasonably related to the
18 financial burden such projects impose on the City. This financial burden is measured by the cost that
19 will be incurred by SFMTA and other transportation agencies serving San Francisco to meet the
20 demand for transit capital maintenance, transit capital facilities and fleet, and pedestrian and bicycle
21 infrastructure (also referred to as “complete streets” infrastructure) created by new development
22 throughout the City.

23 (f) The TSF Nexus Study justifies charging fee rates higher than those Section 411A
24 imposes. The rates imposed herein take into consideration the recommendations of a TSF Economic
25 Feasibility Study that the City prepared in conjunction with TSF. The TSF Economic Feasibility Study

1 took into account the impact of the TSF on the feasibility of development, throughout the City. The TSF
2 Economic Feasibility Study is on file with the Clerk of the Board of Supervisors in File No. 150790,
3 and is incorporated herein by reference.

4 (g) The fee rates charged herein are no higher than necessary to cover the reasonable costs
5 of providing transportation infrastructure and service to the population associated with the new
6 Development Projects, such as residents, visitors, employees and customers. The TSF will provide
7 revenue that is significantly below the costs that SFMTA and other transit providers will incur to
8 mitigate the transportation infrastructure and service needs resulting from the Development Projects.

9 (h) The TSF is an efficient and equitable method of providing funds to mitigate the
10 transportation demands imposed on the City by new Development Projects.

11 (i) Based on the above findings and the TSF Nexus Study, the City determines that the TSF
12 satisfies the requirements of California Government Code Section 66001 et seq. ("the Mitigation Fee
13 Act"), as follows:

14 (1) The purpose of the TSF is to help meet the demands imposed on the City's
15 transportation system by new Development Projects.

16 (2) Funds from collection of the TSF will be used to meet the demand for transit
17 capital maintenance, transit capital facilities and fleet, and pedestrian and bicycle infrastructure
18 generated by new development in the City.

19 (3) There is a reasonable relationship between the proposed uses of the TSF and the
20 impacts of Development Projects subject to the TSF on the transportation system in the City.

21 (4) There is a reasonable relationship between the types of Development Projects on
22 which the TSF will be imposed and the need to fund transportation system improvements.

23 (5) There is a reasonable relationship between the amount of the TSF to be imposed
24 on Development Projects and the impact on transit resulting from such projects.

1 **SEC. 411A.2. DEFINITIONS.**

2 See Section 401 of this Article 4 for definitions of terms applicable to this Section 411A. In
3 addition, the following abbreviations are used throughout Section 411A: TIDF (Transit Impact
4 Development Fee); TSF (Transportation Sustainability Fee).

5 **SEC. 411A.3. APPLICATION OF TSF.**

6 (a) Except as provided in Subsection (b), the TSF shall apply to any Development Project in
7 the City that results in:

8 (1) More than twenty new dwelling units;

9 (2) New group housing facilities, or additions of 800 gross square feet or more to an
10 existing group housing facility;

11 (3) New construction of a Non-Residential ~~or PDR~~ use in excess of 800 gross
12 square feet, or additions of 800 square feet or more to an existing Non-Residential ~~or PDR~~ use; or

13 (4) New construction of a PDR use in excess of 1,500 gross square feet, or
14 additions of 1,500 square feet or more to an existing PDR use; or

15 (45) Change or Replacement of Use, such that the rate charged for the new use is
16 higher than the rate charged for the existing use, regardless of whether the existing use previously paid
17 the TSF or TIDF.

18 (b) Exemptions: Notwithstanding Subsection (a), the TSF shall not apply to the following:

19 (1) City projects. Development Projects on property owned by the City, except for
20 that portion of a Development Project that may be developed by a private sponsor and not intended to
21 be occupied by the City or other agency or entity exempted under Section 411A, in which case the TSF
22 shall apply only to such non-exempted portion. Development Projects on property owned by a private
23 person or entity and leased to the City shall be subject to the fee, unless such Development Project is
24 otherwise exempted under Section 411A.

1 (2) Redevelopment Projects and Projects with Development Agreements.
2 Development Projects in a Redevelopment Plan Area or in an area covered by a Development
3 Agreement in existence at the time a building or site permit is issued for the Development Project, to
4 the extent payment of the TSF would be inconsistent with such Redevelopment Plan or Development
5 Agreement.

6 (3) Projects of the United States. Development Projects located on property owned
7 by the United States or any of its agencies to be used exclusively for governmental purposes.

8 (4) Projects of the State of California. Development Projects located on property
9 owned by the State of California or any of its agencies to be used exclusively for governmental
10 purposes.

11 (5) Affordable Housing Projects. Affordable housing, pursuant to the provisions of
12 Planning Code Section 406(b), other than that required by Planning Code Sections 415 or 419 et seq.,
13 or any units that trigger a Density Bonus under California Government Code Sections 65915-65918,

14 (6) Small Businesses. Each Change of Use from PDR to Non-Residential, or
15 expansion of an existing PDR or Non-Residential use through an addition that adds new gross floor
16 area to an existing building, shall be exempt from the TSF, provided that: (A) the gross square footage
17 of the resulting individual unit of PDR or Non-Residential use is not greater than 5,000 gross square
18 feet, and (B) the resulting use is not a Formula Retail use, as defined in Section 303.1 of this Code. This
19 exemption shall not apply to new construction or Replacement of Use.

20 (7) Charitable Exemptions.

21 (A) The TSF shall not apply to any portion of a project located on a property
22 or portion of a property that will be exempt from real property taxation or possessory interest taxation
23 under California Constitution, Article XIII, Section 4, as implemented by California Revenue and
24 Taxation Code Section 214. However, any Hospital ~~Post-Secondary Educational Institution~~ that

1 requires an Institutional Master Plan under Section 304.5 of the Planning Code shall not be eligible for
2 this charitable exemption.

3 ~~(B)~~ — It is anticipated that by January 1, 2030, the hospital seismic
4 retrofitting process mandated by Article 8 (commencing with Section 15097.100) of Chapter 1,
5 Division 12.5 of the California Health and Safety Code will have been completed, although the
6 State Legislature may extend the deadline. It is the intention of the Board of Supervisors to
7 consider, when that process is completed, whether hospitals that require an Institutional
8 Master Plan under Section 304.5 of the Planning Code should be subject to the TSF.

9 ~~(C)~~ Any project receiving a Charitable Exemption shall maintain its tax
10 exempt status, as applicable, for at least 10 years after the issuance of its Certificate of Final
11 Completion. If the property or portion thereof loses its tax exempt status within the 10-year period, then
12 the property owner shall be required to pay the TSF that was previously exempted. Such payment shall
13 be required within 90 days of the property losing its tax exempt status.

14 ~~(D)~~ If a property owner fails to pay the TSF within the 90-day period, a
15 notice for request of payment shall be served by the Development Fee Collection Unit at DBI under
16 Section 107A.13 of the San Francisco Building Code. Thereafter, upon nonpayment, a lien proceeding
17 shall be instituted under Section 408 of this Article and Section 107A.13.15 of the San Francisco
18 Building Code.

19 ~~(E)~~ The Zoning Administrator shall approve and order the recordation of a
20 Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject
21 property prior to the issuance of a building or site permit. This Notice shall state the amount of the TSF
22 exempted per this subsection (b)(7). It shall also state the requirements and provisions of subsections
23 (b)(7)(A) and (b)(7)(C) above.

24 (c) Timing of Payment. The TSF shall be paid at the time of and in no event later than when
25 the City issues a first construction document, with an option for the project sponsor to defer payment to

1 prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge in
2 accordance with Section 107A.13.3 of the San Francisco Building Code.

3 (d) — ~~Relationship between the TSF and Area Plan Fees Devoted to Transit. Except~~
4 ~~as provided in subsection (e), all Development Projects subject to the TSF shall pay the full~~
5 ~~TSF. Where Development Projects are subject to both the TSF and an Area Plan Impact Fee,~~
6 ~~a portion of which is dedicated to transit improvements, the Development Projects shall pay~~
7 ~~the fees as follows:~~

8 ————— (1) ~~Non-Residential portions of developments shall pay both the TSF and the~~
9 ~~Area Plan Impact Fee.~~

10 ————— (2) ~~Residential portions of developments shall pay the TSF. The transit~~
11 ~~component of an Area Plan Impact Fee applicable to the Residential portion of such~~
12 ~~development may be reduced by the amount of TSF due, up to the full amount, as set forth in~~
13 ~~Sections 421.3, 422.3, 423.3 and 424 of this Code.~~

14 ————— (3) ~~The Planning Department shall maintain a master fee schedule that clearly~~
15 ~~identifies, for each Area Plan Impact Fee: the transit portion of the Area Plan Impact Fee, the~~
16 ~~amount of such Area Plan Impact Fee that may be reduced in accordance with subsection~~
17 ~~(d)(2), above, and the resulting net Area Plan Impact Fee after taking the TSF reduction into~~
18 ~~account.~~

19 (ed) Application of the TSF to Projects in the Approval Process at the Effective Date of
20 Section 411A. The TSF shall apply to Development Projects that are in the approval process at the
21 effective date of Section 411A, except as modified below:

22 (1) Projects that have a Development Application approved before the effective date
23 of this Section shall not be subject to the TSF, but shall be subject to the TIDF at the rate applicable
24 per Planning Code Sections 411.3(e) and 409, as well as any other applicable fees.

1 (2) Projects that have filed a Development Application or environmental review
2 application on or before the effective date of this Section July 21, 2015, but and have not
3 received approval of any such application, shall be subject to the TSF as follows:

4 (A) Residential Uses subject to the TSF shall pay 50% of the applicable
5 residential TSF rate, as well as any other applicable fees.

6 (B) The Non-residential or PDR portion of any project shall be subject to the
7 TIDF and pay the applicable TIDF rate per Planning Code Sections 411.3(e) and 409, as well as any
8 other applicable fees.

9 (3) Projects that have filed a Development Application or environmental
10 review application after July 21, 2015, and have not received approval of any such
11 application, shall be subject to the TSF as follows:

12 (A) Residential Uses subject to the TSF shall pay 100% of the
13 applicable residential TSF rate, as well as any other applicable fees.

14 (B) The Non-residential or PDR portion of any project shall be subject
15 to the TIDF and pay the applicable TIDF rate per Planning Code Sections 411.3(e) and 409,
16 as well as any other applicable fees.

17 (fe) Effect of TSF on TIDF and Development Subject to TIDF.

18 (1) The provisions of this Section 411A are intended to supersede the provisions of
19 Section 411 et seq. as to new development in the City as of the effective date of Section 411A, except as
20 stated below. The provisions of Section 411 et seq. are hereby suspended, with the following
21 exceptions:

22 (A) Section 411 et seq. shall remain operative and effective with respect to
23 any Redevelopment Plan, Development Agreement, Interagency Cooperation Agreement, or any other
24 agreement entered into by the City, the former Redevelopment Agency or the Successor Agency to the
25 Redevelopment Agency, that is valid and effective on the effective date of Section 411A, and that by its

1 terms would preclude the application of Section 411A, and instead allow for the application of Section
2 411 et seq.

3 (B) Section 411 et seq. shall remain operative and effective with respect to
4 Development Projects that are in the approval process as of the effective date of Section 411A, and for
5 which the TIDF is imposed as set forth in Section 411A.3(ed).

6 (C) Section 411 et seq. shall remain operative and effective with respect to
7 imposition and collection of the TIDF for any new development for which a Development Application
8 was approved prior to the effective date of Section 411A, and for which TIDF has not been paid.

9 (2) Notwithstanding subsection (fe)(1) above, if the City Attorney certifies in writing
10 to the Clerk of the Board of Supervisors that a court has determined that the provisions of Section 411A
11 are invalid or unenforceable in whole or substantial part, the provisions of Section 411 shall no longer
12 be suspended and shall become operative as of the effective date of the court ruling. In that event, the
13 City Attorney shall cause to be printed appropriate notations in the Planning Code indicating that the
14 provisions of Section 411A are suspended, and the provisions of Section 411 are no longer suspended.

15 (3) The City Attorney's certification referenced in subsection (fe)(2) above shall be
16 superseded if the City Attorney thereafter certifies in writing to the Clerk of the Board of Supervisors
17 that the provisions of Section 411A are valid and enforceable in whole or in substantial part because
18 the court decision referenced in subsection (fe)(2) has been reversed, overturned, invalidated, or
19 otherwise rendered inoperative with respect to Section 411A. In that event, the provisions of Section
20 411A shall no longer be suspended and shall become operative as of the date the court decision no
21 longer governs, and the provisions of Section 411 shall be suspended except as specified in Section
22 411A. Further, the City Attorney shall cause to be printed appropriate notations in the Planning Code
23 indicating the same.

SEC. 411A.4. CALCULATION OF TSF.

(a) Calculation. The TSF shall be calculated on the basis of the number of gross square feet of the Development Project, multiplied by the TSF rate in effect at the issuance of the First Construction Document for each of the applicable land use categories within the Development Project, as provided in the Fee Schedule set forth in Section 411A.5, except as provided in subsection (b) below. An accessory use shall be charged at the same rate as the underlying use to which it is accessory. In reviewing whether a Development Project is subject to the TSF, the project shall be considered in its entirety. A project sponsor shall not seek multiple applications for building permits to evade paying the TSF for a single Development Project.

(b) Change or Replacement of Use. When calculating the TSF for a development project in which there is a Change or Replacement of Use such that the rate charged for the new land use category is higher than the rate charged for the category of the existing legal land use, the TSF per square foot rate shall be the difference between the rate charged for the new and the existing use.

SEC. 411A.5. TSF SCHEDULE.

Development Projects subject to the TSF shall pay the following fees, as adjusted annually in accordance with Planning Code Section 409(b).

Table 411A.5. TSF Schedule

<u>Land Use Categories</u>	<u>TSF Per Gross Square Foot of Development Project</u>
<u>Residential, 21-99 units</u>	<u>\$ 7.74</u>
<u>Residential, any unit above 99 units</u>	<u>\$ 8.74</u>
<u>Non-Residential, 800-99,999 gsf</u>	<u>\$ 18.04</u>
<u>Non-Residential, any gsf above 99,999 gsf</u>	<u>\$ 19.04</u>
<u>Production, Distribution and Repair</u>	<u>\$ 7.61</u>

SEC. 411A.6. TSF EXPENDITURE PROGRAM

As set forth in the TSF Nexus Study, on file with the Clerk of the Board of Supervisors File No. 150790, TSF funds may only be used to reduce the burden imposed by Development Projects on the City's transportation system. Expenditures shall be allocated as follows, giving priority to specific projects identified in the different Area Plans:

Table 411A.6A. TSF Expenditure Program

<u>Transit Capital Maintenance</u>	
<u>Subtotal</u>	<u>61%</u>
<u>Transit Service Expansion & Reliability Improvements – San Francisco</u>	
<u>Subtotal</u>	<u>32%</u>
<u>Transit Service Expansion & Reliability Improvements – Regional Transit Providers</u>	
<u>Subtotal</u>	<u>2%</u>
<u>Complete Streets (Bicycle and Pedestrian) Improvements</u>	
<u>Subtotal</u>	<u>3%</u>
<u>Program Administration</u>	<u>2%</u>
<u>Total</u>	<u>100.0%</u>

Within the Rincon Hill Community Improvements Program Area, per Planning Code Section 418 and the Visitacion Valley Fee Area, per Planning Code Section 420, expenditures shall be allocated as follows:

Table 411A.6B. TSF Expenditure Program in Rincon Hill and Visitacion Valley

<u>Transit Capital Maintenance</u>	
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1	<u>Subtotal</u>	<u>61%</u>
2	<u>Transit Service Expansion & Reliability Improvements – San Francisco</u>	
3	<u>Subtotal</u>	<u>35%</u>
4	<u>Transit Service Expansion & Reliability Improvements – Regional Transit</u>	
5	<u>Providers</u>	
6	<u>Subtotal</u>	<u>2%</u>
7	<u>Complete Streets (Bicycle and Pedestrian) Improvements</u>	
8	<u>Subtotal</u>	<u>0%</u>
9	<u>Program Administration</u>	<u>2%</u>
10	<u>Total</u>	<u>100.0%</u>

11

12 **SEC. 411A.7. TSF FUND**

13 Money received from collection of the TSF, including earnings from investments of the TSF,
14 shall be held in trust by the Treasurer of the City and County of San Francisco under California
15 Government Code Section 66006 of the Mitigation Fee Act. It shall be distributed according to the
16 fiscal and budgetary provisions of the San Francisco Charter and the Mitigation Fee Act, subject to the
17 following conditions and limitations. As reasonably necessary to mitigate the impacts of new
18 development on the City’s public transportation system, TSF funds may be used to fund transit capital
19 maintenance projects, transit capital facilities and fleet, and complete streets (pedestrian and bicycle)
20 infrastructure. These expenditures may include, but are not limited to: capital costs associated with
21 establishing new transit routes, expanding transit routes, and increasing service on existing transit
22 routes, including, but not limited to, procurement of related items such as rolling stock, and design and
23 construction of bus shelters, stations, tracks, and overhead wires; capital or maintenance costs
24 required to add revenue service hours or enhanced capacity to existing routes; capital costs of
25 pedestrian and bicycle facilities, including, but not limited to, sidewalk paving and widening,

1 pedestrian and bicycle signalization of crosswalks or intersection, bicycle lanes within street right-of-
2 way, physical protection of bicycle facilities from motorized traffic, bike sharing, bicycle parking, and
3 traffic calming. Proceeds from the TSF may also be used to administer, enforce, or defend Section
4 411A.

5 **SEC. 411A.8. FIVE THREE YEAR REVIEW OF ECONOMIC FEASIBILITY STUDY.**

6 Every ~~five~~ three years, or sooner if requested by the Mayor, the Planning Commission, or
7 the Board of Supervisors, the SFMTA shall update the TSF Economic Feasibility Study. This update
8 shall analyze the impact of the TSF on the feasibility of development, throughout the City. This update
9 shall be in addition to the five-year evaluation of all development fees mandated by Section 410 of this
10 Code.

11
12 Section 3. The Planning Code is hereby amended by amending Section 411, to read
13 as follows:

14 **SEC. 411. TRANSIT IMPACT DEVELOPMENT FEE.**

15 (a) Sections 411.1 through 411.9, hereafter referred to as Section 411.1 *et seq.*, set
16 forth the requirements and procedures for the TIDF. The effective date of these requirements
17 shall be the date the requirements were originally effective or were subsequently modified,
18 whichever applies.

19 (b) Partial Suspension of Section 411 et seq. In accordance with Planning Code Section
20 411A.3(e), the provisions of Section 411A are intended, with certain exceptions, to supersede the
21 provisions of Section 411 et seq., as to new development in the City as of the effective date of Section
22 411A. Accordingly, Section 411A.3(e) suspends, with certain exceptions, the operation of Section 411
23 et seq., and states the circumstances under which such suspension shall be lifted.

1 Section 4. The Planning Code is hereby amended by revising Section 401, to read as
2 follows:

3 **SEC. 401. DEFINITIONS.**

4 * * * *

5 “Area Plan Impact Fee” shall mean a development impact fee collected by the City to mitigate
6 impacts of new development in the Area Plans of the San Francisco General Plan, under Article 4 of
7 the Planning Code.

8 * * * *

9 “Development Application” shall mean any application for a building permit, site permit,
10 Conditional Use, Variance, Large Project Authorization, or any application pursuant to Planning Code
11 Sections 309, 309.1, or 322.

12 * * * *

13 “Hope SF Project Area” shall mean an area owned by or previously owned by the San
14 Francisco Housing Authority that is currently undergoing, or planned to undergo redevelopment,
15 whereby existing affordable dwelling units will be replaced, new affordable housing units will be
16 constructed, and market-rate units may be constructed as a means to cross-subsidize newly needed
17 infrastructure and affordable units. Hope SF Project Area shall include the Hunters View project,
18 which is located within the Hunters View Special Use District, the Potrero Terrace and Annex Project,
19 which includes Assessor’s Block 4367, Lots 004 and 004A; Block 4220A, Lot 001, Block 4222, Lot 001;
20 and Block 4223, Lot 001; and the Sunnydale / Velasco Project, which includes Assessor’s Block 6310,
21 Lot 001; Block 6311, Lot 001; Block 6312, Lot 001; Block 6313, Lot 001; Block 6314, Lot 001; and
22 Block 6315, Lot 001.

23
24 Section 5. The Planning Code is hereby amended by revising Section 406, to read as
25 follows:

1 **SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT**
2 **PROJECT REQUIREMENTS.**

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

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

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

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

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

24 (b) Waiver or Reduction, Based on Housing Affordability.
25

1 (1) An affordable housing unit shall receive a waiver from the Rincon Hill
2 Community Infrastructure Impact Fee, the Market and Octavia Community Improvements
3 Impact Fee, the Eastern Neighborhoods Infrastructure Impact Fee, the Balboa Park Impact
4 Fee, and the Visitacion Valley Community Facilities and Infrastructure Impact Fee, and the
5 Transportation Sustainability Fee, if the affordable housing unit:

6 (A) is affordable to a household at or below 80% of the Area Median Income (as
7 published by HUD), including units that qualify as replacement Section 8 units under the
8 HOPE SF program;

9 (B) is subsidized by MOH, the San Francisco Housing Authority, and/or the San
10 Francisco Redevelopment Agency; and

11 (C) is subsidized in a manner which maintains its affordability for a term no less
12 than 55 years, whether it is a rental or ownership opportunity. Project sponsors must
13 demonstrate to the Planning Department staff that a governmental agency will be enforcing
14 the term of affordability and reviewing performance and service plans as necessary.

15 (2) Projects that meet the requirements of this subsection are eligible for a 100
16 percent fee reduction until an alternative fee schedule is published by the Department.

17 (3) Projects that are located within a HOPE SF Project Area are eligible for a 100 percent
18 fee reduction from the TSF, applicable both to the affordable housing units and the market-rate units
19 within such projects, and to any Non-Residential or PDR uses. Projects within a HOPE SF Project
20 Area are otherwise subject to all other applicable fees per Article 4 of the Planning Code.

21 (4) Residential uses within projects where all residential units are affordable to households
22 at or below 150% of the Area Median Income (as published by HUD) shall not be subject to the TSF.
23 Non-residential and PDR uses within those projects shall be subject to the TSF. All uses shall be
24 subject to all other applicable fees per Article 4 of the Planning Code.

1 (35) This waiver clause shall not be applied to units built as part of a developer's
2 efforts to meet the requirements of the Inclusionary Affordable Housing Program, ~~and~~ Sections
3 415 *or 419* of this Code. ~~or any units that trigger a Density Bonus under California Government~~
4 Code Sections 65915-65918.

5 (c) Waiver for Homeless Shelters. A Homeless Shelter, as defined in Section 102 of
6 this Code, is not required to pay the Rincon Hill Community Infrastructure Impact Fee, the
7 Transit Center District Impact Fees, the Market and Octavia Community Improvements Impact
8 Fee, the Eastern Neighborhoods Infrastructure Impact Fee, the Balboa Park Impact Fee, ~~and~~
9 the Visitation Valley Community Facilities and Infrastructure Impact Fee. ~~and the Transportation~~
10 Sustainability Fee.

11 (d) Waiver Based on Duplication of Fees. The City shall make every effort not to
12 assess duplicative fees on new development. In general, project sponsors are only eligible for
13 fee waivers under this Subsection if a contribution to another fee program would result in a
14 duplication of charges for a particular type of community infrastructure. The Department shall
15 publish a schedule annually of all known opportunities for waivers and reductions under this
16 clause, including the specific rate. Requirements under Section 135 and 138 of this Code do
17 not qualify for a waiver or reduction. Should future fees pose a duplicative charge, such as a
18 Citywide open space or childcare fee, the same methodology shall apply and the Department
19 shall update the schedule of waivers or reductions accordingly.

20
21 Section 6. The Planning Code is hereby amended by revising Section 410, to read as
22 follows:

23 **SEC. 410. COMPREHENSIVE FIVE-YEAR EVALUATION OF ALL DEVELOPMENT**
24 **FEES AND DEVELOPMENT IMPACT REQUIREMENTS.**

1 Commencing on July 1, 2011, and every five fiscal years thereafter in conjunction with
2 the Annual Citywide Development Fee and Development Impact Requirements Report
3 described in Section 409, above, the Director and the Controller shall jointly prepare and
4 publish a comprehensive report on the status of compliance with this Article, compliance of
5 any development fees in this Article with the California Mitigation Fee Act, Government Code
6 section 66001 et seq., including making specific findings regarding any unexpended funds,
7 the efficacy of existing development fees and development impact requirements in mitigating
8 the impacts of development projects, and the economic impacts of existing development fees
9 and development impact requirements on the financial feasibility of projects and housing
10 affordability in particular, taking into account feasibility of the fees in different City
11 neighborhoods. In such report, the Director and Controller may recommend any changes in
12 the formulae or requirements or enforcement of any area-specific or Citywide development
13 fee or development impact requirement in this Code, prepare additional economic impact
14 studies on such changes or recommend that additional nexus studies or financial feasibility
15 analyses be done, to improve the efficacy of such fees or requirements in mitigating
16 development impacts or to reduce any unintended deleterious economic or social effects
17 associated with such fees or requirements. In making their joint report and recommendations,
18 the Director and the Controller shall consult with the Directors of OEWD, MOH, the MTA, or
19 other agency whose fees are affected and shall coordinate the report required by this Section
20 with any other development fee evaluations and reports that this Article requires to be
21 performed. The Director and the Controller shall present the Report to the Commission at a
22 public hearing and to the Land Use & Economic Development Committee of the Board of
23 Supervisors at a separate public hearing.

24

25

1 Section 67. The Planning Code is hereby amended by revising Sections 418.3, 420.3
2 and 424.7.2, to read as follows:

3 **SEC. 418. RINCON HILL COMMUNITY IMPROVEMENTS FUND AND SOMA**
4 **COMMUNITY STABILIZATION FUND.**

5 * * * *

6 **SEC. 418.3. APPLICATION.**

7 * * * *

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

11 (1) Any net addition of gross square feet shall pay per the Fee Schedule in Table
12 418.3A, and

13 (2) Any replacement of gross square feet or change of use shall pay per the Fee
14 Schedule in Table 418.3B.

15 ~~(3) No Reduction of Residential Fee. The transit component of this fee applicable~~
16 ~~to the Residential portion of a Development Project shall not be reduced by the amount of~~
17 ~~TSF due for the same Residential portion, pursuant to Planning Code Section 411A.3(b).~~

18 * * * *

19 **SEC. 420. VISITATION VALLEY COMMUNITY FACILITIES AND**
20 **INFRASTRUCTURE FEE AND FUND.**

21 * * * *

22 **SEC. 420.3 APPLICATION OF VISITACION VALLEY COMMUNITY**
23 **IMPROVEMENTS FACILITIES AND INFRASTRUCTURE FEE**

24 * * * *

1 ~~(e) No Reduction of Residential Fee. The transit component of this fee applicable to~~
2 ~~the Residential portion of a Development Project shall not be reduced by the amount of TSF~~
3 ~~due for the same Residential portion, pursuant to Planning Code Section 411A.3(b).~~

4 * * * *

5 **SEC. 424.7. TRANSIT CENTER DISTRICT TRANSPORTATION AND STREET**
6 **IMPROVEMENT IMPACT FEE AND FUND.**

7 * * * *

8 **SEC. 424.7.2. APPLICATION OF TRANSIT CENTER DISTRICT**
9 **TRANSPORTATION AND STREET IMPROVEMENT IMPACT FEE.**

10 * * * *

11 (c) **Fee Calculation for the Transit Center District Transportation and Street**
12 **Improvement Impact Fee.** For development projects for which the Transit Center District
13 Transportation and Street Improvement Impact Fee is applicable the corresponding fee for net
14 addition of gross square feet is listed in Table 424.7A. Where development project includes
15 more than one land use, the overall proportion of each use relative to other uses on the lot
16 shall be used to calculate the applicable fees regardless of the physical distribution or location
17 of each use on the lot. If necessary, the Director shall issue a Guidance Statement clarifying
18 the methodology of calculating fees.

19 (1) **Transit Delay Mitigation Fee.** The fee listed in Column A shall be assessed
20 on all applicable gross square footage for the entire development project.

21 (2) **Base Fee.** The fee listed in Column B shall be assessed on all applicable
22 gross square footage for the entire development project.

23 (3) **Projects Exceeding FAR of 9:1.** For development projects that result in the
24 Floor Area Ratio on the lot exceeding 9:1, the fee listed in Column C shall be assessed on all
25 applicable gross square footage on the lot above an FAR of 9:1.

1 (4) **Projects Exceeding FAR of 18:1.** For development projects that result in the
2 Floor Area Ratio on the lot exceeding 18:1, the fee listed in Column D shall be assessed on all
3 applicable gross square footage on the lot above an FAR of 18:1.

4 (5) For projects that are eligible to apply TDR units to exceed an FAR of 9:1
5 pursuant to Section 123(e)(1), the fee otherwise applicable to such square footage according
6 to subsections (3) and (4) above shall be waived.

7 ~~(6) No Reduction of Residential Fee. The transit component of this fee applicable to~~
8 ~~the Residential portion of a Development Project shall not be reduced by the amount of TSF~~
9 ~~due for the same Residential portion, pursuant to Planning Code Section 411A.3(b).~~

10 * * * *

11
12 Section ~~7~~8. The Planning Code is hereby amended by revising Sections 421.3, 422.3,
13 423.3, 423.5 and 424.3, and deleting Section 421.7, to read as follows:

14 **SEC. 421. MARKET AND OCTAVIA COMMUNITY IMPROVEMENTS FUND.**

15 * * * *

16 **SEC. 421.3. APPLICATION OF COMMUNITY IMPROVEMENTS IMPACT FEE.**

17 * * * *

18 (c) Fee Calculation for the Market and Octavia Community Improvement Impact Fee.
19 For development projects for which the Market and Octavia Community Improvements Impact
20 Fee is applicable:

21 (1) Any net addition of gross square feet shall pay per the Fee Schedule in Table
22 421.3A, and

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

1 (3) ~~Reduction of Residential Fee.~~ The transit component of this fee applicable to the
2 Residential portion of a Development Project shall be reduced, up to the full amount, by the
3 amount of TSF due for the same Residential portion, pursuant to Planning Code Section
4 411A.3(b).

5 * * * *

6 **~~SEC. 421.7. TRANSPORTATION STUDIES AND FUTURE FEES.~~**

7 ~~(a) Purpose. Studies conducted by the City including the Transit Impact Development Fee~~
8 ~~nexus study, the ongoing Eastern Neighborhoods studies, and others indicate that new residential~~
9 ~~development and the creation of new non-residential or residential parking facilities negatively impact~~
10 ~~the City's transportation infrastructure and services. The purpose of this Section is to authorize a nexus~~
11 ~~study establishing the impact of new residential development and new parking facilities, in nature and~~
12 ~~amount, on the City's transportation infrastructure and parking facilities and, if justified, to impose~~
13 ~~impact fees on residential development and projects containing parking facilities.~~

14 ~~(b) Timing. No later than October 15, 2008, the City shall initiate a study as described below.~~
15 ~~The agencies described in subsection (c) shall develop a comprehensive scope and timeline of this study~~
16 ~~which will enable the Board of Supervisors to pursue policy recommendations through the legislative~~
17 ~~process as soon as twelve months after the study's initiation.~~

18 ~~(c) Process. The study shall be coordinated by the Municipal Transportation Agency (MTA)~~
19 ~~and the City Attorney's Office. The study shall build on existing Nexus Study work including recently~~
20 ~~published nexus studies for parks and recreation, childcare facilities, the existing Transit Development~~
21 ~~Impact Fee Nexus Study, and all relevant area plan nexus analysis. The MTA shall coordinate with all~~
22 ~~relevant government agencies including the San Francisco County Transportation Authority, the~~
23 ~~Planning Department, the Mayor's Office of Housing, the Controller's Office, the City Attorney's Office~~
24 ~~and the City Administrator by creating a task force that meets regularly to discuss the study and~~
25

1 *resultant policy and program recommendations. The MTA shall hire consultants as deemed*
2 *appropriate to complete the technical analysis.*

3 *(d) Scope. The study shall determine the impact, in nature and amount, of new residential*
4 *development and new parking facilities, including new individual parking spaces, on transportation*
5 *infrastructure and services within the City and County of San Francisco. The study shall not consider*
6 *or develop specific transportation infrastructure improvement recommendations. The study shall make*
7 *policy and/or program recommendations to the Board of Supervisors on the most appropriate*
8 *mechanisms for funding new transportation infrastructure and services including but not limited to new*
9 *residential transit impact fees and new parking impact fees.*

10 *(e) Springing Condition Projects Subject to Future Fees. Based on the findings of the above-*
11 *referenced study the City anticipates that the Board may adopt new impact fees to offset the impact of*
12 *new parking facilities and residential development on San Francisco's transportation network. As the*
13 *Market and Octavia Plan Area is one of the first transit oriented neighborhood plans in the City and*
14 *County of San Francisco the City should strive for a successful coordination of transit oriented*
15 *development with adequate transportation infrastructure and services. All residential and non-*
16 *residential development projects in the Market and Octavia Plan Area that receive Planning*
17 *Department or Commission approval on or after the effective date of this Section shall be subject to any*
18 *future Citywide or Plan specific parking impact fees or residential transit impact fees that are*
19 *established before the project receives a first certificate of occupancy. The Planning Department and*
20 *Planning Commission shall make payment of any future residential transit impact fee or parking*
21 *impact fee a condition of approval of all projects in the Market and Octavia Plan Area that receive*
22 *Planning Department or Commission approval on or after the effective date of this Section, with the*
23 *following maximum amounts;*

24 *(1) Parking Impact fee no more than \$5.00 per square foot of floor area dedicated to parking.*
25

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

3 * * * *

4 **SEC. 422. BALBOA PARK COMMUNITY IMPROVEMENTS FUND.**

5 * * * *

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

7 * * * *

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

10 (1) Any net addition of gross square feet shall pay per the Fee Schedule in Table
11 422.3A, and

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

14 ~~(3) Reduction of Residential Fee. The transit component of this fee applicable to the~~
15 ~~Residential portion of a Development Project shall be reduced, up to the full amount, by the~~
16 ~~amount of TSF due for the same Residential portion, pursuant to Planning Code Section~~
17 ~~411A.3(b).~~

18 * * * *

19 **SEC. 423. EASTERN NEIGHBORHOODS IMPACT FEES AND PUBLIC BENEFITS**
20 **FUND.**

21 * * * *

22 **SEC. 423.3. APPLICATION OF EASTERN NEIGHBORHOODS INFRASTRUCTURE**
23 **IMPACT FEE.**

24 * * * *

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

(1) Any net addition of gross square feet shall pay per the Fee Schedule in Table 423.3A. and

(2) Any replacement of gross square feet or change of use shall pay per the Fee Schedule in Table 423.3B.

~~(3) Reduction of Residential Fee. The transit component of this fee applicable to the Residential portion of a Development Project shall be reduced, up to the full amount, by the amount of TSF due for the same Residential portion, pursuant to Planning Code Section 411A.3(b).~~

* * * *

SEC. 423.5. THE EASTERN NEIGHBORHOODS COMMUNITY IMPROVEMENTS FUND.

* * * *

Table 423.5 BREAKDOWN OF USE OF EASTERN NEIGHBORHOODS COMMUNITY IMPROVEMENTS FEE/FUND BY IMPROVEMENT TYPE*		
<i>Improvement Type</i>	<i>Dollars Received From Residential Development</i>	<i>Dollars Received From Non-Residential/Commercial Development</i>
Complete Streets: Pedestrian and Streetscape Improvements, Bicycle Facilities	31%	34%
Transit	10%	53%
Recreation and Open Space	47.5%	6%

Childcare	6.5%	2%
Program Administration	5%	5%

* Does not apply to Designated Affordable Housing Zones, which are addressed in Table 423.5A

Table 423.5A BREAKDOWN OF USE OF EASTERN NEIGHBORHOODS PUBLIC BENEFIT-FEE/FUND BY IMPROVEMENT TYPE FOR DESIGNATED AFFORDABLE HOUSING ZONES		
<i>Improvement Type</i>	<i>Dollars Received From Residential Development</i>	<i>Dollars Received From Non-Residential/Commercial Development</i>
Affordable Housing preservation and development	75%	n/a
<i>Complete Streets: Pedestrian and Streetscape Improvements, Bicycle Facilities</i>	<u>4%</u>	<u>36%</u>
<i>Open Space and Recreation</i>	<u>10%</u>	<u>6%</u>
Transit	6%	<u>53.85%</u>
<i>Recreation and Open Space</i>	<u>10%</u>	<u>6%</u>
<i>Pedestrian and Streetscape Improvements</i>	4%	4%
Program administration	5%	5%

* * * *

1 **SEC. 424. VAN NESS AND MARKET AFFORDABLE HOUSING AND**
2 **NEIGHBORHOOD INFRASTRUCTURE FEE AND PROGRAM.**

3 * * * *

4 **SEC. 424.3. APPLICATION OF VAN NESS AND MARKET AFFORDABLE**
5 **HOUSING AND NEIGHBORHOOD INFRASTRUCTURE FEE AND PROGRAM.**

6 * * * *

7 (b) Amount of Fee.

8 (i) All uses in any development project within the Van Ness and Market Downtown
9 Residential Special Use District shall pay \$30.00 per net additional gross square foot of floor
10 area in any portion of building area exceeding the base development site FAR of 6:1 up to a
11 base development site FAR of 9:1.

12 (ii) All uses in any Development Project within the Van Ness and Market
13 Downtown Residential Special Use District shall pay \$15.00 per net additional gross square
14 foot of floor area in any portion of building area exceeding the base development site FAR of
15 9:1.

16 ~~—(iii) Reduction of Residential Fee. The transit component of this fee applicable to~~
17 ~~the Residential portion of a development project shall be reduced, up to the full amount, by~~
18 ~~the amount of TSF due for the same Residential portion, pursuant to Planning Code Section~~
19 ~~411A.3(b).~~

20 * * * *

21
22 Section ~~89~~. The Planning Code is hereby amended by revising Sections 421.1, 422.1,
23 423.1, and 424.1, to read as follows:

24 **SEC. 421.1. PURPOSE AND FINDINGS SUPPORTING THE MARKET AND**
25 **OCTAVIA COMMUNITY IMPROVEMENTS FUND.**

1 * * * *

2 (b) Findings. The Board of Supervisors has reviewed the San Francisco Citywide
3 Nexus Analysis prepared by AECOM dated March 2014 (“Nexus Analysis”), *and* the San
4 Francisco Infrastructure Level of Service Analysis prepared by AECOM dated March 2014,
5 *and the Transportation Sustainability Fee Nexus Study (TSF Nexus Study), dated May, 2015, both* on
6 file with the Clerk of the Board in File Nos. 150149 and 150790, and, under Section 401A,
7 adopts the findings and conclusions of those studies and the general and specific findings in
8 that Section, specifically including the Recreation and Open Space Findings, Pedestrian and
9 Streetscape Findings, Childcare Findings, *and* Bicycle Infrastructure Findings, *and Transit*
10 *Findings*, and incorporates those by reference herein to support the imposition of the fees
11 under this Section.

12 *The Board takes legislative notice of the findings supporting these fees in former Planning Code*
13 *Section 421.1 (formerly Section 326 et seq.) and the materials associated with Ordinance No. 72-08 in*
14 *Board File No. 071157. To the extent that the Board previously adopted fees in this Area Plan that are*
15 *not covered in the analysis of the 4 infrastructure areas analyzed in the Nexus Analysis, including but*
16 *not limited to fees related to transit, the Board continues to rely on its prior analysis and the findings it*
17 *made in support of those fees.*

18 * * * *

19
20 **SEC. 422.1. PURPOSE AND FINDINGS IN SUPPORT OF BALBOA PARK**
21 **COMMUNITY IMPROVEMENTS FUND.**

22 * * * *

23 (b) Findings. The Board of Supervisors has reviewed the San Francisco Citywide
24 Nexus Analysis prepared by AECOM dated March 2014 (“Nexus Analysis”), *and* the San
25 Francisco Infrastructure Level of Service Analysis prepared by AECOM dated March 2014,

1 and the Transportation Sustainability Fee Nexus Study (TSF Nexus Study), dated May, 2015, both on
2 file with the Clerk of the Board in File_s No_s. 150149 and 150790, and, under Section 401A,
3 adopts the findings and conclusions of those studies and the general and specific findings in
4 that Section, specifically including the Recreation and Open Space Findings, Pedestrian and
5 Streetscape Findings, Childcare Findings, *and* Bicycle Infrastructure Findings and Transit
6 Findings, and incorporates those by reference herein to support the imposition of the fees
7 under this Section.

8 ~~*The Board takes legislative notice of the findings supporting these fees in former Planning Code*~~
9 ~~*Section 422.1 (formerly Section 331 et seq.) and the materials associated with Ordinance No. 61-09 in*~~
10 ~~*Board File No. 090181 and the Balboa Park Community Improvements Program, on file with the Clerk*~~
11 ~~*of the Board in File No. 090179. To the extent that the Board previously adopted fees in this Area Plan*~~
12 ~~*that are not covered in the analysis of the four infrastructure areas analyzed in the Nexus Analysis,*~~
13 ~~*including but not limited to fees related to transit, the Board continues to rely on its prior analysis and*~~
14 ~~*the findings it made in support of those fees.*~~

15 * * * *

16
17 **SEC. 423.1. PURPOSE AND FINDINGS SUPPORTING EASTERN**
18 **NEIGHBORHOODS IMPACT FEES AND COMMUNITY IMPROVEMENTS FUND.**

19 * * * *

20 (b) Findings. The Board of Supervisors has reviewed the San Francisco Citywide
21 Nexus Analysis prepared by AECOM dated March 2014 (“Nexus Analysis”), *and* the San
22 Francisco Infrastructure Level of Service Analysis prepared by AECOM dated March 2014,
23 and the Transportation Sustainability Fee Nexus Study (TSF Nexus Study), dated May, 2015, both on
24 file with the Clerk of the Board in File_s No_s. 150149 and 150790, and, under Section 401A,
25 adopts the findings and conclusions of those studies and the general and specific findings in

1 that Section, specifically including the Recreation and Open Space Findings, Pedestrian and
2 Streetscape Findings, Childcare Findings, ~~and~~ Bicycle Infrastructure Findings, and Transit
3 Findings, and incorporates those by reference herein to support the imposition of the fees
4 under this Section.

5 ~~The Board takes legislative notice of the findings supporting these fees in former Planning Code~~
6 ~~Section 423.1 (formerly Section 327 et seq.) and the materials associated with Ordinance No. 298-08 in~~
7 ~~Board File No. 081153. To the extent that the Board previously adopted fees in this Area Plan that are~~
8 ~~not covered in the analysis of the four infrastructure areas analyzed in the Nexus Analysis, including~~
9 ~~but not limited to fees related to transit, the Board continues to rely on its prior analysis and the~~
10 ~~findings it made in support of those fees.~~

11 * * * *

12
13 **SEC. 424.1. FINDINGS SUPPORTING THE VAN NESS AND MARKET**
14 **AFFORDABLE HOUSING AND NEIGHBORHOOD INFRASTRUCTURE FEE AND**
15 **PROGRAM.**

16 * * * *

17 (b) **Neighborhood Infrastructure.** The Van Ness & Market Residential SUD enables
18 the creation of a very dense residential neighborhood in an area built for back-office and
19 industrial uses. Projects that seek the FAR bonus above the maximum cap would introduce a
20 very high localized density in an area generally devoid of necessary public infrastructure and
21 amenities, as described in the Market and Octavia Area Plan. While envisioned in the Plan,
22 such projects would create localized levels of demand for open space, streetscape
23 improvements, and public transit above and beyond the levels both existing in the area today
24 and funded by the Market and Octavia Community Improvements Fee. Such projects also
25 entail construction of relatively taller or bulkier structures in a concentrated area, increasing

1 the need for offsetting open space for relief from the physical presence of larger buildings.
2 Additionally, the FAR bonus provisions herein are intended to provide an economic incentive
3 for project sponsors to provide public infrastructure and amenities that improve the quality of
4 life in the area. The bonus allowance is calibrated based on the cost of responding to the
5 intensified demand for public infrastructure generated by increased densities available
6 through the FAR density bonus program.

7 The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis
8 prepared by AECOM dated March 2014 (“Nexus Analysis”), *and* the San Francisco
9 Infrastructure Level of Service Analysis prepared by AECOM dated March 2014, *and the*
10 *Transportation Sustainability Fee Nexus Study (TSF Nexus Study), dated May, 2015, both* on file with
11 the Clerk of the Board in File~~s~~ No~~s~~. 150149 and 150790, and, under Section 401A, adopts the
12 findings and conclusions of those studies and the general and specific findings in that Section,
13 specifically including the Recreation and Open Space Findings, Pedestrian and Streetscape
14 Findings, Childcare Findings, *and* Bicycle Infrastructure Findings, *and Transit Findings*, and
15 incorporates those by reference herein to support the imposition of the fees under this
16 Section.

17 ~~*The Board references the findings supporting these fees in former Planning Code Section 424 et*~~
18 ~~*seq. (formerly Section 249.33) and the materials associated with Ordinance No. 72-08 in Board File*~~
19 ~~*No. 071157. To the extent that the Board previously adopted fees in this Area Plan that are not*~~
20 ~~*covered in the analysis of the 4 infrastructure areas analyzed in the Nexus Analysis, including but not*~~
21 ~~*limited to fees related to transit, the Board continues to rely on its prior analysis and the findings it*~~
22 ~~*made in support of those fees.*~~

23 * * * *

1 Section 910. The Planning Code is hereby amended by revising Section 401A(b), to
2 read as follows:

3 **SEC. 401A. FINDINGS.**

4 * * * *

5 (b) Specific Findings: The Board of Supervisors has reviewed the San Francisco
6 Citywide Nexus Analysis prepared by AECOM dated March 2014 (“Nexus Analysis”), ~~and~~ the
7 San Francisco Infrastructure Level of Service Analysis prepared by AECOM dated March
8 2014, and the Transportation Sustainability Fee Nexus Study (TSF Nexus Study), dated May, 2015,
9 ~~both~~ on file with the Clerk of the Board in File Nos. 150149 and 150790, and adopts the findings
10 and conclusions of those studies, specifically the sections of those studies establishing levels
11 of service for and a nexus between new development and ~~four~~ five infrastructure categories:
12 Recreation and Open Space, Childcare, Streetscape and Pedestrian Infrastructure, ~~and~~
13 Bicycle Infrastructure, and Transit Infrastructure. The Board of Supervisors finds that, as
14 required by California Government Code Section 66001, for each infrastructure category
15 analyzed, the Nexus Analysis and Infrastructure Level of Service Analysis: identify the
16 purpose of the fee; identify the use or uses to which the fees are to be put; determine how
17 there is a reasonable relationship between the fee's use and the type of development project
18 on which the fee is imposed; determine how there is a reasonable relationship between the
19 need for the public facility and the type of development project on which the fee is imposed;
20 and determine how there is a reasonable relationship between the amount of the fee and the
21 cost of the public facility or portion of the facility attributable to the development. Specifically,
22 as discussed in more detail in and supported by the Nexus Analysis and Infrastructure Level
23 of Service Analysis the Board adopts the following findings:

24 * * * *

25 (5) Transit Findings: See Section 411A.

1 (56) Additional Findings. The Board finds that the Nexus ~~Analysis~~ Analyses
2 establishes ~~that~~ the fees are less than the cost of mitigation and do not include the costs of
3 remedying any existing deficiencies. The City may fund the cost of remedying existing
4 deficiencies through other public and private funds. The Board also finds that the Nexus ~~Study~~
5 Analyses establishes that the fees do not duplicate other City requirements or fees. Moreover,
6 the Board finds that ~~this~~ these ~~fees~~ is are only one part of the City’s broader funding strategy to
7 address these issues. Residential and non-residential impact fees are only one of many
8 revenue sources necessary to address the City’s infrastructure needs.

9
10 Section 4011. Effective Date. This ordinance shall become effective 30 days after
11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
13 of Supervisors overrides the Mayor’s veto of the ordinance.

14
15 Section 4412. Scope of Ordinance. In enacting this ordinance, the Board of
16 Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections,
17 articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the
18 Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board
19 amendment additions, and Board amendment deletions in accordance with the “Note” that
20 appears under the official title of the ordinance.

21
22 APPROVED AS TO FORM:
23 DENNIS J. HERRERA, City Attorney

24 By: _____
25 ANDREA RUIZ-ESQUIDE
 Deputy City Attorney

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