[Planning, Building Codes - Development Impact Fee Indexing, Deferral, and Waivers; Adoption of Nexus Study]

Ordinance amending the Planning Code to 1) modify the annual indexing of certain development impact fees, with the exception of inclusionary housing fees; 2) provide that the type and rates of applicable development impact fees, with the exception of inclusionary housing fees, shall be determined at the time of project approval; 3) exempt eligible development projects in PDR (Production, Distribution, and Repair) Districts, and the C-2 (Community Business) and C-3 (Downtown Commercial) Zoning Districts from all development impact fees for a three-year period; 4) allow payment of development impact fees, with the exception of fees deposited in the Citywide Affordable Housing Fund, to be deferred until issuance of the first certificate of occupancy; and 5) adopt the San Francisco Citywide Nexus Analysis supporting existing development impact fees for recreation and open space, childcare facilities, complete streets, and transit infrastructure and making conforming revisions to Article 4 of the Planning Code; amending the Building Code to allow payment of development impact fees, with the exception of fees deposited in the Citywide Affordable Housing Fund, to be deferred until issuance of the first certificate of occupancy and repealing the fee deferral surcharge; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.

Mayor Breed; Supervisors Peskin, Mandelman, Dorsey, Stefani, Safai

Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Land Use and Environmental Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 230764 and is incorporated herein by reference. The Board affirms this determination.

(b) On July 13, 2023, the Planning Commission, in Resolution No. 21354, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 230764, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, the Board finds that this Planning Code amendment will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 21354, and the Board incorporates such reasons herein by reference. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File No. 230764.

Section 2. Background and Findings.

(a) Article 4 of the Planning Code contains many of the City's development impact fees. Under Planning Code Section 409, the Controller is charged with reviewing development impact fees and adjusting the fees annually on January 1. The purpose of the

annual adjustment is to "establish a reasonable estimate of construction cost inflation for the next calendar year for a mix of public infrastructure and facilities in San Francisco."

(b) Based on the adjustment factor, the Planning Department and the Development Fee Collection Unit at the Department of Building Inspection (DBI) provide notice of the annual adjustments. The Planning Department calculates the type and amount of any applicable development impact fees no later than the issuance of the building or site permit for a development project. The Planning Department sends written or electronic notification to the Development Fee Collection Unit at DBI.

(c) The Development Fee Collection Unit collects payment of all impact fees, which are due and payable no later than issuance of the "first construction document" as defined in Section 107A.13.1 of the Building Code.

(d) For years, the City has relied upon the Annual Infrastructure Construction Cost Inflation Estimate ("AICCIE") as the index for annual development fee adjustments, with the exception of the Inclusionary Housing Fee that is subject to adjustment in Planning Code Section 415 *et seq*. The City uses the AICCIE to forecast construction costs for the City's two-year capital budget and the 10-year capital plan. Developed by the Office of the City Administrator's Capital Planning Group, the AICCIE relies on past construction cost inflation data, market trends, and a variety of national, state, and local commercial and institutional construction cost inflation indices. Since 2010, the AICCIE has fluctuated between 3 percent and 6 percent annually.

(e) The AICCIE is designed to ensure that the City budgets sufficient funding for capital projects many years into the future. Because of this forward-looking budgeting function, the AICCIE does not always reflect near-term trends in cost escalation. This can create barriers to the economic feasibility of private development projects during economic downturns. Additionally, the unpredictability of variable impact fee escalation can discourage

development and reduce the likelihood that the City will achieve key policy goals, like the production of housing, growing the tax base, and creating jobs.

(f) It is reasonable to consider alternative indexing options. The Board finds that a 2 percent escalation rate would provide certainty and predictability for all parties involved in the development impact fee process, including developers, City staff collecting fees, and City staff budgeting and spending the fee revenue. Though the 2 percent escalation rate is lower than AICCIE rates over the last decade, this flat rate will enable the fees to escalate along with near term construction cost increases, while still providing predictability to third parties.

(g) To provide further certainty to project sponsors, it is reasonable to calculate the types of applicable impact fees and the rates of those fees at the time the Planning Commission or Zoning Administrator approves a development application, or for projects that do not require such an approval, at the time the City issues the building permit. In addition, it is reasonable to not escalate those fees between the time they are calculated and the time the project sponsor pays the fees, which is most commonly just prior to the issuance of the first construction document.

(h) While it is reasonable to provide certainty in the calculation of fees at the time of project approval or building permit issuance, and not escalate the fees after they are calculated, in some circumstances it may be appropriate to revisit the fee calculation, especially in instances of prolonged delay or major revisions to a project. The Board finds that it is reasonable to require recalculation of fees when a previously approved project is modified, extended, or renewed.

(i) This ordinance does not modify any aspect of the Inclusionary Affordable Housing Fee, set forth in Planning Code section 415 *et seq*.

(j) Economic cycles create volatility in the building and construction industries, negatively impacting the availability of financing and the viability of a range of development

projects. In addition to typical economic volatility, rising interest rates and high construction costs have complicated the City's financial recovery from the COVID-19 pandemic. Currently, the Development Fee Collection Unit requires payment of any applicable development impact fees prior to the issuance of the first construction document. By giving project sponsors the option to defer payment of impact fees, the City will help mitigate the financial hardships caused by economic cycles generally, in addition to current market conditions. The Board finds that allowing developers the option to defer payment of development impact fees to a time no later than the first certificate of occupancy, as that term is defined in Building Code 107A.13.1, is reasonable to allow project sponsors to obtain financing for development projects that would otherwise be unable to proceed under adverse economic conditions.

(k) Rising interest rates and high construction costs have created challenges for previously-approved projects to secure a complete financing package and initiate construction. These adverse economic conditions are impacting PDR (Production, Distribution, and Repair) and Retail projects in the PDR Districts, and hotel, restaurant, entertainment, and outdoor activity projects in the C-2 and C-3 Districts, and delaying the job opportunities and other community benefits associated with these developments. Waiving development fees for these types of projects will allow those developments to proceed; such short-term waivers will economically stimulate similar projects in the upcoming three-year period. The Board finds that a limited and short-term fee waiver is reasonable to enable these projects to proceed to construction and incentivize similar proposals.

(l) Pursuant to Planning Code Section 410, the Planning Department, the Office of Resilience and Capital Planning, and the City Attorney's Office retained Hatch Consulting to update the nexus analysis and level of service analysis for various existing development impact fees. These studies were conducted prior to January 1, 2022, analyze the impacts to public facilities created by new development, and calculate the nexus between the new

development and the need for new public facilities. The nexus studies calculate the potential fees on a square footage basis. Consistent with the California Mitigation Fee Act, Government Code Section 66000 *et seq.*, the Board adopts the San Francisco Citywide Nexus Analysis prepared by Hatch Associates Consultants, Inc., dated December 2021, and the San Francisco Infrastructure Level of Service Analysis prepared by Hatch Associates Consultants, Inc., dated December 2021, both of which are on file with the Clerk of the Board of Supervisors in File No. 150149.

(m) Additionally, on May 9, 2023 the Board adopted the Capital Plan Update for Fiscal Years 2024-2033, on file with the Clerk of the Board of Supervisors in File No. 230265, which details the City's capital improvement plan for the next decade. The Board incorporates this plan by reference.

(n) This ordinance does not establish, increase, or impose a fee within the meaning of Government Code Section 66001(a).

(o) On July 19, 2023, at a duly noticed public hearing, the Building Inspection Commission considered this ordinance in accordance with Charter Section D3.750-5 and Building Code Section 104A.2.11.1.1. A copy of a letter from the Secretary of the Building Inspection Commission regarding the Commission's recommendation is on file with the Clerk of the Board of Supervisors in File No. 230764.

(p) No local findings are required under California Health and Safety Code Section 17958.7 because the amendments to the Building Code contained in this ordinance do not regulate materials or manner of construction or repair, and instead relate in their entirety to administrative procedures for implementing the code, which are expressly excluded from the definition of a "building standard" by California Health and Safety Code Section 18909(c).

Section 3. Article 4 of the Planning Code is hereby amended by revising Sections 401, 402, 403, 406, and 409, to read as follows:

SEC. 401. DEFINITIONS.

* * * *

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"Final Approval." For the purposes of this Section shall mean 1) approval of a project's first Development Application, unless such approval is appealed; or 2) if a project only requires a building permit, issuance of the first site or building permit, unless such permit is appealed; or 3) if the first Development Application or first site or building permit is appealed, then the final decision upholding the Development Application, or first site or building permit, on the appeal by the relevant City Board or Commission.

"First Certificate of Occupancy." Either a temporary Certificate of Occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco Building Code Section 109A, whichever is issued first.

* * * *

SEC. 402. PROCEDURE FOR PAYMENT AND COLLECTION OF DEVELOPMENT FEES.

(a) **Collection by the Development Fee Collection Unit.** Except as otherwise authorized in Section 411.9, all development impact and in-lieu fees authorized by this Code shall be collected by the Development Fee Collection Unit at DBI in accordance with Section 107A.13 of the San Francisco Building Code.

(b) **Required Department Notice to Development Fee Collection Unit** ~~*Prior to Issuance of Building or Site Permit*~~**; Request to Record Notice of Fee.**

(1) **Required Notice**. When the Planning Department determines that a development project is subject to one or more development fees or development impact requirements *as set forth in Section 402(e),* ~~*but in any case no later than prior to issuance of the building or site permit for a development project,*~~ the Department shall send written or electronic notification to the Development Fee Collection Unit at DBI, and also to MOH, MTA or other applicable agency that administers an applicable development fee or development impact requirement, that:

(i) identifies the development project,

(ii) lists which specific development fees and/or development impact requirements are applicable and the legal authorization for their application,

(iii) specifies the dollar amount of the development fee or fees that the Department calculates is owed to the City or that the project sponsor has elected to satisfy a development impact requirement through the provision of physical or "in-kind" improvements, and

(iv) lists the name and contact information for the staff person at each agency or department responsible for calculating the development fee or monitoring compliance with the development impact requirement for physical or in-kind improvements.

(2) **Amended Notices**. The Department shall send an amended notice to the Development Fee Collection Unit, and also to any department or agency that received the initial notice, if at any time subsequent to its initial notice:

(i) any of the information required by subsection (1) above is changed or modified, or

(ii) the development project is modified by the Department or Commission during its review of the project and the modifications change the dollar amount of the development fee or the scope of any development impact requirement.

(3) **Optional Recordation of Notice of Special Restrictions Prior to Issuance of Building or Site Permit**. Prior to issuance of a building or site permit for a development project subject to a development fee or development impact requirement, the Department may request the Project Sponsor to record a notice with the County Recorder that a development project is subject to a development fee or development impact requirement. The County Recorder shall serve or mail a copy of such notice to the persons liable for payment of the fee or satisfaction of the requirement and the owners of the real property described in the notice. The notice shall include:

(i) a description of the real property subject to the development fee or development impact requirement,

(ii) a statement that the development project is subject to the imposition of the development fee or development impact requirement, and

(iii) a statement that the dollar amount of the fee or the specific development impact requirement to which the project is subject has been determined under Article 4 of this Code and citing the applicable section number.

(c) **Process for Revisions of Determination of Development Impact Fee(s) or Development Impact Requirement(s).** In the event that the Department or the Commission takes action affecting any development project subject to this Article and such action is subsequently modified, superseded, vacated, or reversed by the Board of Appeals, the Board of Supervisors, or by court action, the building permit or building permit application for such development project shall be remanded to the Department to determine whether the development project has been changed in a manner which affects the calculation of the amount of development fees or development impact requirements required under this Article and, if so, the Department shall revise the requirement imposed on the permit application in compliance with this Article within 30 days of such remand and notify the project sponsor in

writing of such revision or that a revision is not required. The Department shall notify the Development Fee Collection Unit at DBI if the revision materially affects the development fee requirements originally imposed under this Article so that the Development Fee Collection Unit update the Project Development Fee Report and re-issue the associated building or site permit for the project, if necessary, to ensure that any revised development fees or development impact requirements are enforced.

(d) **Timing of Fee Payments**. All impact fees are due and payable to the Development Fee Collection Unit at DBI at the time of, and in no event later than, issuance of the "first construction document" as defined in Section 401 of this Code and Section 107A.13.1 of the Building Code *provided that a project sponsor may defer payment of the fee, excluding any fees that must be deposited in the Citywide Affordable Housing Fund (Administrative Code Section 10.100-49), to a later date pursuant to Section 107A.13.3 of the Building Code.* ~~*The project sponsor's option to defer payment of the fee to a later date pursuant to Section 107A.13.3 of the Building Code expired on July 1, 2013 and is not available unless and until the Board of Supervisors re-authorizes this deferral option.*~~

*(e) **Amount and Applicability of Impact Fees**. When the Planning Department determines that a project is subject to development impact fees established in the Planning Code, with the exception of the Inclusionary Housing Fee as set forth in Section 415 et seq., the assessment shall be based on the types of fees and the rates of those fees in effect at the time of Final Approval. After Final Approval, the City shall not impose subsequently established development impact fees or increase the rate of existing fees on the development project, including annual inflation adjustments pursuant to Section 409, except as provided in subsection (e)(1)-(2) of this Section 402. The Planning Department shall transmit the fee assessment to the Development Fee Collection Unit at DBI in accordance with this Section 402.*

*(1) **Modification, Renewal, Extension for Projects.** After the Final Approval, if a development project requires a modification to, renewal, or extension of a previously approved Development Application, the Planning Department shall reassess development impact fees pursuant to subsection (e)(2). For the purposes of this subsection (e)(1), a "modification" shall not include a legislatively-authorized reduction or waiver of fees, including any waivers pursuant to Section 406.*

*(2) **Amount of Reassessment**. For any development project that requires a modification to, renewal, or extension pursuant to subsection (e)(1), the Planning Department shall reassess fees as follows:*

*(A) **Modified Projects**. For projects increasing Gross Floor Area of any use, the Planning Department shall assess the new or increased Gross Floor Area by applying the types of impact fees in effect at the time of Final Approval at the rates in effect at the time of modification. For projects reducing Gross Floor Area, the Planning Department shall assess the types and rates of fees in effect at the time of Final Approval only on the remaining Gross Floor Area. If the modified project would result in a new type of fee or a different rate based on applicable thresholds in effect at the time of Final Approval, the entire project square footage is subject to the new type of fee or different rate in effect at the time of modification. The City shall refund fees, if any, without interest, based on the fees in effect at the time of Final Approval.*

*(B) **Renewal and Extended Projects**. For projects receiving a renewal or extension, the Planning Department shall reassess fees for the entire project's Gross Floor Area based on the type of fees and rates of those fees in effect at the time of renewal or extension.*

*(3) **Projects Approved Prior to Effective Date of Ordinance in Board File No. 230764**. For projects that have obtained a Final Approval, but that have not yet obtained a first site or building permit prior to the effective date of the ordinance in Board File No. 230764, the assessed types and rates of impact fees shall not be increased after that effective date, unless such project requires a modification, extension, or renewal pursuant to subsection (e)(1)-(2) of this Section 402. For projects*

that have obtained a Final Approval and a site or building permit prior to the effective date of the ordinance in Board File No. 230764, the types and rate of fees are those assessed at the time of site or building permit issuance, subject to legislative reduction or waiver of fees, unless such project requires a modification, extension, or renewal pursuant to subsection (e)(1)-(2) of this Section 402.

*(4) **Applicability to Development Agreements.***

(A) For projects subject to development agreements executed prior to the effective date of the ordinance in Board File No. 230764, the Planning Department shall assess the applicable fees pursuant to the development agreement and no later than the earlier of site or building permit issuance.

(B) Except as may otherwise be agreed to by the parties, for a project subject to a development agreement executed on or after the effective date of the ordinance in Board File No. 230764, the Planning Department shall assess the applicable fees at the earlier of site or building permit issuance.

(C) The procedures set forth in subsection (e)(1)-(2) shall govern the modification, renewal, or extension of a project subject to a development agreement.

(D) In the event of a conflict between this Section 402(e) and the terms of a development agreement, the terms of the development agreement shall apply, unless the development agreement is modified pursuant to the terms of that agreement.

SEC. 403. PAYMENT OF DEVELOPMENT FEE(S) OR SATISFACTION OF DEVELOPMENT IMPACT REQUIREMENT(S) AS A CONDITION OF APPROVAL ~~*PLANNING COMMISSION REVIEW*~~; ~~*RECOMMENDATION CONCERNING EFFECTIVENESS OF*~~ FEE DEFERRAL PROGRAM.

~~*(a) Condition of Approval.*~~ In addition to any other condition of approval that may otherwise be applicable, the Department or Commission shall require as a condition of

approval of a development project subject to a development fee or development impact requirement under this Article that such development fee or fees be paid prior to the issuance of the first construction document for any building or buildings within the development project, in proportion to the amount required for each building if there are multiple buildings, with an option for the project sponsor to defer payment of 85 percent of the fees, or 80 percent of the fees if the project is subject to a neighborhood infrastructure impact development fee, to prior to issuance of the first certificate of occupancy ~~*upon agreeing to pay a Development Fee Deferral Surcharge on the amount owed*~~, as provided by Section 107A.13.3 of the San Francisco Building Code ("Fee Deferral Program"). *The Fee Deferral Program shall not apply to fees that must be deposited in the Citywide Affordable Housing Fund (Administrative Code Section 10.100-49). Projects subject to development agreements executed pursuant to Chapter 56 of the Administrative Code shall be eligible for the Fee Deferral Program, except as may otherwise be agreed to by the parties to the development agreement.* The Department or Commission shall also require as a condition of approval that any development impact requirement imposed on a development project under this Article shall be satisfied prior to issuance of the first certificate of occupancy for any building or buildings within the development project, in proportion to the amount required for each building if there are multiple buildings.

~~*(b) Hearing to Review Effectiveness of Fee Deferral Program. Under 107A.13.3 of the San Francisco Building Code, the option to defer the payment of development fees expires on July 1, 2013 unless the Board of Supervisors extends the Fee Deferral Program. Prior to the July 1, 2013 expiration date, the Planning Commission shall hold a public hearing to review the effectiveness of the Fee Deferral Program, the economy at large, and whether the simulative effects of the Fee Deferral Program are still necessary. Following the public hearing, the Commission shall forward a recommendation to the Board of Supervisors as to whether the Fee Deferral Program should be continued, modified, or terminated.*~~

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

* * * *

*(g) **Waiver for Projects in PDR Districts**. In a PDR District, a development project that meets the eligibility criteria in subsection (g)(1) of this Section 406 shall receive a waiver from any development impact fee or development impact requirement imposed by this Article.*

*(1) **Eligibility**. To be eligible for the waiver in this subsection (g), the project shall:*

(A) be located in a PDR District;

(B) contain a Retail Use or PDR Use and no residential uses;

(C) propose the new construction of at least 20,000 square feet of Gross Floor Area and no more than 200,000 square feet of Gross Floor Area;

(D) be located on a vacant site or site improved with buildings with less than a 0.25 to 1 Floor Area Ratio as of the date a complete Development Application is submitted;

(E) submit a complete Development Application on or before December 31, 2026, including any projects that have obtained Final Approval prior to the effective date of the ordinance in Board File No. 230764 that have not already paid development impact fees.

*(2) **Extent of Waiver**. The waiver in this subsection (g) shall be limited to development impact fees or development impact requirements for the establishment of any new Gross Floor Area of PDR or Retail Use.*

*(3) **Sunset.** This subsection (g) shall expire by operation of law on December 31, 2026, unless the duration of the subsection has been extended by ordinance effective on or before that date. Upon expiration, the City Attorney shall cause subsection (g) to be removed from the Planning Code.*

*(h) **Waiver for Projects in the C-2 and C-3 Districts**. In the C-2 and C-3 Districts, a development project that meets the eligibility criteria in subsection (h)(1) of this Section 406 shall*

receive a waiver from any development impact fee or development impact requirement imposed by this Article.

*(1) **Eligibility**. To be eligible for the waiver in this subsection (h), the project shall:*

(A) be located in a C-2 or C-3 District;

(B) contain any of the following uses: Hotel, Restaurant, Bar, Outdoor Activity, or Entertainment;

(C) submit a complete Development Application on or before December 31, 2026, including any projects that have obtained Final Approval prior to the effective date of the ordinance in Board File No. 230764 that have not already paid development impact fees.

*(2) **Extent of Waiver**. The waiver in this subsection (h) shall be limited to development impact fees or development impact requirements for the establishment of any new Gross Floor Area of the Hotel, Restaurant, Bar, Outdoor Activity, or Entertainment Use.*

*(3) **Sunset**. This subsection (h) shall expire by operation of law on December 31, 2026, unless the duration of the subsection has been extended by ordinance effective on or before that date. Upon expiration, the City Attorney shall cause subsection (h) to be removed from the Planning Code.*

SEC. 409. CITYWIDE DEVELOPMENT FEE REPORTING REQUIREMENTS AND COST INFLATION FEE ADJUSTMENTS.

* * * *

(b) **Annual Development Fee ~~*Infrastructure Construction Cost*~~ Inflation Adjustments.** Prior to issuance of the Citywide Development Fee and Development Impact Requirements Report referenced in subsection (a) above, the Controller shall review the amount of each development fee established in the Planning Code and, with the exception of the Inclusionary Affordable Housing Fee in Section 415 et seq., shall adjust the dollar amount of any development fee *by two percent* on an annual basis every January 1 ~~*based solely on the*~~

~~*Annual Infrastructure Construction Cost Inflation Estimate. The Office of the City Administrator's Capital Planning Group shall publish the Annual Infrastructure Construction Cost Inflation Estimate, as approved by the City's Capital Planning Committee, no later than November 1 every year, without further action by the Board of Supervisors. The Annual Infrastructure Construction Cost Inflation Estimate shall be updated no later than November 1 every year,*~~ in order to ~~*establish*~~ *maintain* a reasonabl*ye* ~~*estimate*~~ *conservative connection between construction costs and development fees* ~~*of construction cost inflation*~~ for the next calendar year for a mix of public infrastructure and facilities in San Francisco. ~~*The Capital Planning Group may rely on past construction cost inflation data, market trends, and a variety of national, state, and local commercial and institutional construction cost inflation indices in developing its annual estimates for San Francisco.*~~ The Planning Department and the Development Fee Collection Unit at DBI shall provide notice of the Controller's development fee adjustments, ~~*including the Annual Infrastructure Construction Cost Inflation Estimate formula used to calculate the adjustment,*~~ and MOHCD's separate adjustment of the Inclusionary Affordable Housing Fee on the Planning Department and DBI websites and to any interested party who has requested such notice at least 30 days prior to the adjustment taking effect each January 1. The Inclusionary Affordable Housing Fee shall be adjusted under the procedures established in Section 415.5(b)(3).

Section 4. The San Francisco Building Code is hereby amended by revising Section 107A.13, to read as follows:

107A.13 Development impact and in-lieu fees.

107A.13.1 Definitions.

(a) The following definitions shall govern interpretation of this Section:

* * * *

(10) "***Neighborhood Infrastructure Seed Fund***" shall mean the fund or funds established by the Controller's Office for the purpose of collecting the 20 percent pre-paid portion of the development fees intended to fund pre-development work on any neighborhood infrastructure project funded by any of the ~~six~~ neighborhood infrastructure impact development fees listed in Subsection 107A.13.13.1. In addition, third-party grant monies or loans may also be deposited into this fund for the purpose of funding pre-development or capital expenses to accelerate the construction start times of any neighborhood infrastructure project funded by any of the ~~six~~ neighborhood infrastructure impact development fees listed in Subsection 107A.13.13.1. 1

* * * *

107A.13.2 Collection by Department. The Department shall be responsible for collecting all development impact and in-lieu fees, including (a) fees levied by the San Francisco Unified School District if the District authorizes collection by the Department, and (b) fees levied by the San Francisco Public Utilities Commission, if the Commission's General Manager authorizes collection by the Department, deferral of payment of any development fee, and/or resolution of any development fee dispute or appeal in accordance with this Section 107A.13.

107A.13.3 Timing of development fee payments and satisfaction of development impact requirements.

(a) All development impact or in-lieu fees owed for a development project shall be paid by the protect sponsor prior to issuance of the first construction document; provided, however, that the project sponsor may elect to defer payment of said fees under Section 107A.13.3.1.

(b) Any development impact requirement shall be completed prior to issuance of the first certificate of occupancy for the development project.

107A.13.3.1 Fee deferral program*~~; development fee deferral surcharge~~*. A project sponsor may elect to defer payment of any development impact or in-lieu fee*, excluding any fees that must be deposited into the Citywide Affordable Housing Fund (Administrative Code Section 10.100-49),* collected by the Department to a due date prior to issuance by the Department of the first certificate of occupancy; provided, however, that the project sponsor shall pay 15 percent of the total amount of the development fees owed*, excluding any fees that must be deposited into the Citywide Affordable Housing Fund (Administrative Code Section 10.100-49),* prior to issuance of the first construction document. If a project is subject to one of the ~~six~~ neighborhood infrastructure impact development fees listed in Subsection 107A.13.3.1.1, the project sponsor shall pay 20 percent of the total amount of the development fees owed prior to issuance of the first construction document. These pre-paid funds shall be deposited as provided in Subsection 107A.13.3.1.1 below. A project sponsor that *has not obtained its First Construction Document* ~~*received project approval*~~ prior to ~~*July 1, 2010*~~ *the Effective Date of the ordinance in Board File No. 230764* and has not yet paid a development impact or in-lieu fee may elect to defer payment under the provisions of this Section notwithstanding a condition of approval that required the fee to be paid prior to issuance of ~~*a building or site permit*~~ *the First Construction Document*.

This option to defer payment may be exercised by ~~*(1)*~~ submitting a deferral request to the Department on a form provided by the Department prior to issuance of the first construction document~~*, and (2) agreeing to pay a Development Fee Deferral Surcharge*~~. This deferral option shall not be available to a project sponsor who paid the fee prior to the ~~*operative*~~ *Effective Date* of ~~*July 1, 2010*~~ *the ordinance in Board File No. 230764*; the project sponsor's reapplication for a building or site permit after expiration of the original permit and

refund of the development fees paid shall not authorize the project sponsor to elect the deferral option. ~~*The deferral option shall expire on July 1, 2013 unless the Board of Supervisors extends it.*~~

107A.13.3.1.1 Deposit of pre-paid portion of deferred development fees. If a development project is not subject to one of the ~~*six*~~ neighborhood infrastructure impact fees listed below, the pre-paid portion of the development fees shall be deposited into the appropriate fee account. If there is more than one fee account, the pre-paid portion of the fees shall be apportioned equally.

If a development project is subject to one of the ~~*six*~~ neighborhood infrastructure impact development fees listed below, the entire 20 percent development fee pre-payment shall be deposited in the appropriate neighborhood infrastructure impact fee account. These pre-paid funds shall be dedicated solely to replenishing the Neighborhood Infrastructure Seed Fund for that specific neighborhood infrastructure impact fee account. In no event shall a neighborhood infrastructure impact fee specific to one Area Plan be mixed with neighborhood infrastructure impact fees specific to a different Area Plan. If the 20 percent development fee pre-payment exceeds the total amount owed for the neighborhood infrastructure impact fee account, the remaining pre-paid portion of the 20 percent development fee pre-payment shall be apportioned equally among the remaining applicable development fees.

The neighborhood infrastructure development fees subject to the 20 percent pre-payment provision of this Subsection 107A.13.3.1.1 are as follows: (1) the Rincon Hill Community Infrastructure Impact Fee, as set forth in Planning Code Section 418.3(b)(1); (2) the Visitacion Valley Community Facilities and Infrastructure Fee, as set forth in Planning Code Section 420.3(b); (3) the Market and Octavia Community Infrastructure Fee, as set forth in Planning Code Section 421.3(b); (4) the Balboa Park Community Infrastructure Impact Fee, as set forth in Planning Code Section 422.3(b); (5) the Eastern Neighborhoods Infrastructure

Impact Fee, as set forth in Planning Code Section 423.3(b); ~~and~~ (6) the Van Ness and Market Neighborhood Infrastructure Impact Fee, as set forth in Planning Code Section 424.3(b)(ii); *and (7) the Central SoMa Infrastructure Impact Fee, as set forth in Planning Code Section 433*.

107A.13.3.2 ***Reserved.*** ~~*Payment of development fees; payment and calculation of Development Fee Deferral Surcharge. Except for any pre-paid fees, all deferred development fees remaining unpaid shall be paid in full prior to issuance of the first certificate of occupancy at the end of the deferral period. The Development Fee Deferral Surcharge shall be paid when the deferred fees are paid and shall accrue at the Development Fee Deferral Surcharge Rate.*~~

~~*The Development Fee Deferral Surcharge Rate shall be calculated monthly by the Unit as a blended interest rate comprised of 50% of the Treasurer's yield on a standard two-year investment and 50% of the latest updated Monthly Earned Income Yield Rate for the City and County of San Francisco's Pooled Funds, as posted on the San Francisco Treasurer's website and 50% of the Annual Infrastructure Construction Cost Inflation Estimate published by the Office of the City Administrator's Capital Planning Group and approved by the City's Capital Planning Committee consistent with its obligations under Section 409(b) of the San Francisco Planning Code. The annual Infrastructure Construction Cost Inflation Estimate shall be updated by the Office of the City Administrator's Capital Planning Group on an annual basis, in consultation with the Capital Planning Committee, with the goal of establishing a reasonable estimate of construction cost inflation for the next calendar year for a mix of public infrastructure and facilities in San Francisco. The Capital Planning Group may rely on past construction cost inflation data, market trends, and a variety of national, state and local commercial and institutional construction cost inflation indices in developing their annual estimates for San Francisco. Commencing on the effective date of this ordinance, the Unit shall publish the Development Fee Deferral Surcharge on the Department of Building Inspection website at or near the beginning of each month. The accrual of any deferred development fees begins on the first day that a project sponsor elects to defer development fees, but never later than immediately after issuance of the*~~

~~*first construction document. The Development Fee Collection Unit shall calculate the final Development Fee Deferral Surcharge for individual projects by multiplying the total development fees otherwise due prior to issuance of the construction document by the Development Fee Deferral Surcharge Rate by the actual day count of the entire Development Fee Deferral Period, which shall be the number of days between the project sponsor's election to defer to final payment of the deferred development fees. The Development Fee Deferral Surcharge shall be apportioned among all development fee funds according to the ratio of each development fee as a percentage of the total development fees owed on the specific project.*~~

* * * *

Section 5. Article 4 of the Planning Code is hereby amended by revising Sections 401A, 411A.1, 411A.6, 412.1, 412.4, 413.1, 414.1, 414A.1, 418.1, 420.1, 421.1, 422.1, 423.1, 424.1, 424.6.1, 424.7.1, 430, 433.1, and 435.1, to read as follows:

SEC. 401A. FINDINGS.

(a) **General Findings.** The Board makes the following findings related to the fees imposed under Article 4.

(1) **Application.** The California Mitigation Fee Act, Government Code Section 66000 et seq. may apply to some or all of the fees in this Article 4. While the Mitigation Fee Act may not apply to all fees, the Board has determined that general compliance with its provisions is good public policy in the adoption, imposition, collection, and reporting of fees collected under this Article 4. By making findings required under the Act, including the findings in this Subsection and findings supporting a reasonable relationship between new development and the fees imposed under this Article 4, the Board does not make any finding or determination as to whether the Mitigation Fee Act applies to all of the Article 4 fees.

(2) **Timing of Fee Collection.** For any of the fees in this Article 4 collected prior to the issuance of the certificate of occupancy, the Board of Supervisors makes the following findings set forth in California Government Code Section 66007(b): the Board of Supervisors finds, based on information from the Planning Department in Board File No. 150149, that it is appropriate to require the payment of the fees in Article 4 at the time of issuance of the first construction document because the fee will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the City has adopted a proposed construction schedule or plan prior to the final inspection or issuance of the certificate of occupancy or because the fee is to reimburse the City for expenditures previously made for such public improvements or facilities.

(3) **Administrative Fee.** The Board finds, based on information from the Planning Department in Board File No. 150149, that the City agencies administering the fee will incur costs equaling 5% or more of the total amount of fees collected in administering the funds established in Article 4. Thus, the 5% administrative fee included in the fees in this Article 4 do not exceed the cost of the City to administer the funds.

(b) **Specific Findings.** The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis ~~*prepared by AECOM dated March 2014*~~ ("Nexus Analysis"); *and* the San Francisco Infrastructure Level of Service Analysis *("Level of Service Analysis")* ~~*prepared by AECOM dated March 2014, and the Transportation Sustainability Fee Nexus Study (TSF Nexus Study), dated May, 2015*~~, *both* on file with the Clerk of the Board in File~~s~~ No~~s~~. *230764* ~~*150149 and 150790,*~~ and adopts the findings and conclusions of those studies, specifically the sections of those studies establishing levels of service for and a nexus between new development and ~~*five*~~ *four* infrastructure categories: Recreation and Open Space, Childcare, ~~*Streetscape and Pedestrian Infrastructure, Bicycle Infrastructure,*~~ *Complete Streets,* and Transit Infrastructure. The Board of Supervisors finds that, as required by California Government Code Section 66001, for each

infrastructure category analyzed, the Nexus Analysis and Infrastructure Level of Service Analysis: identify the purpose of the fee; identify the use or uses to which the fees are to be put, *including a reasonable level of service*; determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed; determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed; and determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the facility attributable to the development. Specifically, as discussed in more detail in and supported by the Nexus Analysis and Infrastructure Level of Service Analysis the Board adopts the following findings:

(1) **Recreation and Open Space Findings.**

(A) **Purpose.** The fee will help maintain adequate park capacity required to serve new service population resulting from new development.

(B) **Use.** The fee will be used to fund projects that directly increase park capacity in response to demand created by new development. Park and recreation capacity can be increased either through the acquisition of new park land, or through capacity enhancements to existing parks and open space. Examples of how development impact fees would be used include: acquisition of new park and recreation land; lighting improvements to existing parks, which extend hours of operation on play fields and allow for greater capacity; recreation center construction, or adding capacity to existing facilities; and converting passive open space to active open space including but not limited to through the addition of trails, play fields, and playgrounds.

(C) **Reasonable Relationship**. As new development adds more employment and/or residents to San Francisco, it will increase the demand for park facilities and park capacity. Fee revenue will be used to fund the acquisition and additional capacity of these

park facilities. Each new development project will add to the incremental need for recreation and open space facilities described above. Improvements considered in the Nexus Study are estimated to be necessary to maintain the City's effective service standard.

(D) **Proportionality.** The new facilities and costs allocated to new development are based on the existing ratio of the City's service population to *acres of existing recreation and open space* ~~*a conservative estimate of its current recreation and open space capital expenditure to date*~~. The scale of the capital facilities and associated costs are proportional to the projected levels of new development and the existing relationship between service population and recreation and open space ~~*infrastructure*~~. The cost of the deferred maintenance required to address any operational shortfall within the City's recreation and open space provision will not be financed by development fees.

(2) **Childcare Findings.**

(A) **Purpose**. The fee will support the provision of childcare facility needs resulting from an increase in San Francisco's residential and employment population.

(B) **Use**. The childcare impact fee will be used to fund capital projects related to infant, toddler, and preschool-age childcare. Funds will pay for the expansion of childcare slots for infant, toddler, and preschool children.

(C) **Reasonable Relationship**. New residential and commercial development in San Francisco will increase the demand for infant, toddler and preschool-age childcare. Fee revenue will be used to fund the capital investment needed for these childcare facilities. Residential developments will result in an increase in the residential population, which results in growth in the number of children requiring childcare. Commercial development results in an increase of the employee population, which similarly require childcare near their place of work. Improvements considered in this study are estimated to be necessary to maintain the City's provision of childcare at its effective service standard.

(D) **Proportionality.** The ~~*new facilities and*~~ costs allocated to new development are based on *estimated childcare demand generated by future development*. ~~*existing service ratio of the total number of infants, toddler, and preschoolers needing care in San Francisco to the number of spaces available to serve them. The total numbers of children reflect both resident children and non-resident children of San Francisco employees needing care.*~~ *Capital costs required to provide these childcare spaces to accommodate the new population are based on the City's cost of funding new childcare facilities and assigned to new housing units and new non-residential development on a per-square-foot basis.* The scale of the capital facilities and associated costs are directly proportional to the expected levels of new development and the corresponding increase in childcare demands.

(3) ***Complete Streets*** ~~*Streetscape and Pedestrian Infrastructure*~~ **Findings.** ~~*The infrastructure covered by Pedestrian and Bicycle Infrastructure and Bicycle Infrastructure may be referred to in certain Area Plans collectively as "Complete Streets Infrastructure."*~~

(A) **Purpose.** *"Complete Streets" encompass sidewalk improvements, such as lighting, landscaping, and safety measures, and sustainable street elements more broadly, including bike lanes, sidewalk paving and gutters, lighting, street trees and other landscaping, bulb-outs, and curb ramps.* The primary purpose of the *Complete Streets* ~~*streetscape and pedestrian infrastructure development*~~ impact fee is to fund *capital investments in bicycle,* streetscape, and pedestrian infrastructure to accommodate the growth in street activity.

(B) **Use.** The ~~*streetscape infrastructure*~~ *Complete Streets* fees will be used to *implement the Better Streets Plan (2010), on file in Board File No. 230764, including* enhance*ment of* the pedestrian network in the areas surrounding new development – whether through sidewalk improvements, construction of complete streets, or pedestrian safety improvements *– and development of new premium bike lanes, upgraded intersections, additional bicycle parking, and new bicycle sharing program stations.*

(C) **Reasonable Relationship**. *New residential and non-residential development brings an increased demand for new or expanded and improved Complete Streets infrastructure. This relationship between new development, an influx of residents and workers, and a demand for complete streets infrastructure provides the nexus for an impact fee. Complete Streets impact fees, imposed on new development, fund the construction of new and enhanced complete streets infrastructure for the additional residents and workers directly attributable to new development.* ~~*New development in San Francisco will increase the burden on the City's pedestrian infrastructure. Fee revenue will be used to increase pedestrian infrastructure capacity and facilities. Residential and commercial development will add to the incremental need for streetscape and pedestrian infrastructure. Improvements considered in this study are estimated to be necessary to maintain the City's effective service standard, reflecting the City's investment to date.*~~

(D) **Proportionality.** The fees allocated to new development are based on the existing ratio of the City's service population to a conservative estimate of its current ~~*streetscape and pedestrian*~~ *Complete Streets* infrastructure provision to date – in the form of square feet of *Complete Streets* sidewalk per thousand service population units. The costs associated with this level of improvement are drawn from the cost per square foot associated with ~~*improving sidewalk under the Department of Public Works' standard repaving and bulbouts cost structure*~~ *constructing Complete Streets elements based on data from the San Francisco Planning Department, Department of Public Works, Public Utilities Commission, and Municipal Transportation Agency. Due to the locational variation in the cost of building Complete Street elements, the fee calculation includes a 20 percent markup for the downtown area.* The scale of the capital facilities and associated costs are directly proportional to the expected levels of new development and the existing relationship between service population and ~~*pedestrian*~~ *Complete Streets* infrastructure. The cost of the deferred maintenance required to address any operational shortfall is not allocated to be funded by new development.

~~*(4) Bicycle Infrastructure Findings. The infrastructure covered by Pedestrian and Bicycle Infrastructure and Bicycle Infrastructure may be referred to in certain Area Plans collectively as "Complete Streets Infrastructure."*~~

~~*(A) Purpose. The primary purpose of bicycle infrastructure development impact fee is to fund capital improvements to San Francisco's bicycle infrastructure.*~~

~~*(B) Use. The bicycle fee will be used to implement the SFMTA's Bicycle Plan set forth in the 2013 Bicycle Strategy. The fee will support development of new premium bike lanes, upgraded intersections, additional bicycle parking, and new bicycle sharing program stations.*~~

~~*(C) Reasonable Relationship. New residential and commercial development in San Francisco will increase trips in San Francisco, of which a share will travel by bicycle. Fee revenue will be used to fund the capital investment needed for these bicycle facilities. Both residential and commercial developments result in an increased need for bicycle infrastructure, as residents and employees rely on bicycle infrastructure for transportation, and to alleviate strain on other transportation modes.*~~

~~*(D) Proportionality. The facilities and costs allocated to new development are based on the proportional distribution of the Bicycle Plan Plus investments between existing and new service population units. The scale of the capital facilities and associated costs are directly proportional to the expected levels of new development and the existing relationship between service population and bicycle facility demands.*~~

(~~*5*~~*4*) **Transit *Infrastructure* Findings**. ~~*See Section 411A.*~~

*(A) **Purpose.** Transit Infrastructure funds will be used to meet the demand for transit capital maintenance, transit capital facilities and fleet, and pedestrian and bicycle infrastructure generated by new development in the City.*

*(B) **Use.** Transit Infrastructure fees will fund transit capital maintenance and transit capital facilities to maintain the existing level of service. Revenues for capital maintenance operating costs will*

improve vehicle reliability to expand transit services. Revenues for capital facilities will be used for transit fleet expansion, improvements to increase SFMTA transit speed and reliability, and improvements to regional transit operators. Though the fees are calculated based on transit maintenance and facilities, fee revenues may be used for pedestrian and bicycle improvements to complement revenue from the Complete Streets fee, including Area Plan complete street fees.

(C) ***Reasonable Relationship.*** *The Transit Infrastructure fee is reasonably related to the financial burden that development projects impose on the City. As development generates new trips, the SFMTA must increase the supply of transit services and therefore capital maintenance expenditures to maintain the existing transit level of service. Development also increases the need for expanded transit facilities due to increased transit and auto trips.*

(D) ***Proportionality.*** *The existing level of service for transit capital maintenance is based on the current ratio of the supply of transit services (measured by transit revenue service hours) to the level of transportation demand (measured by number of automobile plus transit trips). The fair share cost of planned transit capital facilities is allocated to new development based on trip generation from new development as a percent of total trip generation served by the planned facility, including existing development. The variance in the fee by economic activity category based on trip generation, and the scaling of the fee based on the size of the development project, supports proportionality between the amount of the fee and the share of transit capital maintenance and facilities attributable to each development project.*

(~~6~~*5*) **Additional Findings.** The Board finds that the Nexus *Analysis~~es~~ and Level of Service Analysis* establish that the fees are less than the cost of mitigation and do not include the costs of remedying any existing deficiencies. The City may fund the cost of remedying existing deficiencies through other public and private funds. The Board also finds that the Nexus *Analysis~~es~~ and Level of Service Analysis* establish that the fees do not duplicate other City requirements or fees. *The Board further finds that there is no duplication in fees applicable on a*

Citywide basis and fees applicable within an Area Plan. Moreover, the Board finds that these fees are only one part of the City's broader funding strategy to address these issues. Residential and non-residential impact fees are only one of many revenue sources necessary to address the City's infrastructure needs.

SEC. 411A.1. FINDINGS.

* * * *

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

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

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

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

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

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

(i) More recently, the City adopted the San Francisco Citywide Nexus Analysis ("Nexus Analysis") and the San Francisco Infrastructure Level of Service Analysis, both on file with the Clerk of the Board in File No. 230764. The Nexus Analysis evaluated the TSF, in addition to other transportation impact fees. In Section 401A, the Board adopted the findings and conclusions of those

studies and the general and specific findings in that Section, specifically including the Transit Infrastructure Findings, and incorporates those by reference herein to support the imposition of the fees under this Section.

SEC. 411A.6. TSF EXPENDITURE PROGRAM.

As set forth in the ~~*TSF*~~ Nexus ~~*Study*~~ *Analysis*, on file with the Clerk of the Board of Supervisors File No. ~~*150790*~~ *230764*, ~~*1*~~ 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:

* * * *

SEC. 412.1. PURPOSE AND FINDINGS SUPPORTING DOWNTOWN PARK FEE.

* * * *

(b) **Findings.** The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis ~~*prepared by AECOM dated March 2014*~~ ("Nexus Analysis"), and the San Francisco Infrastructure Level of Service Analysis ~~*prepared by AECOM dated March 2014*~~, both on file with the Clerk of the Board in File No. ~~*150149*~~ *230764* and, under Section 401A, adopts the findings and conclusions of those studies and the general and specific findings in that Section, specifically including the Recreation and Open Space Findings, and incorporates those by reference herein to support the imposition of the fees under this Section.

SEC. 412.4. IMPOSITION OF DOWNTOWN PARK FEE REQUIREMENT.

* * * *

(b) **Amount of Fee.** The amount of the fee shall be $2 per square foot ~~*(this fee amount is increased annually per the Consumer Price Index and the currently applicable fee is listed in the Fee*~~

~~*Register)*~~ of the Net Addition of Gross Floor Area of Office Use to be constructed as set forth in the final approved building or site permit.

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SEC. 413.1. FINDINGS.

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(h) The Board of Supervisors has reviewed the Jobs Housing Nexus Analysis ~~*prepared by Keyser Marsten Associates, Inc., dated May 2019*~~ *("Jobs Housing Nexus Analysis")*, which is on file with the Clerk of the Board in Board File No. 190548, and adopts the findings and conclusions of that study, and incorporates the findings by reference herein to support the imposition of the fees under Section 413.1 et seq.

SEC. 414.1. PURPOSE AND FINDINGS SUPPORTING CHILDCARE REQUIREMENTS FOR OFFICE AND HOTEL DEVELOPMENT PROJECTS.

* * * *

(b) **Findings.** The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis ~~*prepared by AECOM dated March 2014*~~ ("Nexus Analysis"), and the San Francisco Infrastructure Level of Service Analysis ~~*prepared by AECOM dated March 2014*~~, both on file with the Clerk of the Board in File No. *230764*~~*150149*~~ and, under Section 401A, adopts the findings and conclusions of those studies and the general and specific findings in that Section, specifically including the Childcare Findings, and incorporates those by reference herein to support the imposition of the fees under this Section.

SEC. 414A.1. PURPOSE AND FINDINGS.

* * * *

(b) **Findings.** ~~*In adopting Ordinance No. 50-15, t*~~The Board of Supervisors reviewed the San Francisco Citywide Nexus Analysis ~~*prepared by AECOM dated March 2014*~~ ("Nexus Analysis"), and the San Francisco Infrastructure Level of Service Analysis ~~*prepared by AECOM dated March 2014*~~, both on file with the Clerk of the Board of Supervisors in File No. ~~*150149*~~*230764*. The Board of Supervisors reaffirms the findings and conclusions of those studies as they relate to the impact of residential development on childcare and hereby readopts ~~*the findings contained in Ordinance 50-15, including*~~ the General Findings in Section 401A(a) of the Planning Code and the Specific Findings in Section 401A(b) of the Planning Code relating to childcare.

SEC. 418.1. PURPOSE AND FINDINGS SUPPORTING RINCON HILL COMMUNITY IMPROVEMENTS FUND AND SOMA COMMUNITY STABILIZATION FUND.

* * * *

(b) **Findings.** The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis ~~*prepared by AECOM dated March 2014*~~ ("Nexus Analysis"), and the San Francisco Infrastructure Level of Service Analysis ~~*prepared by AECOM dated March 2014*~~, both on file with the Clerk of the Board in File No. ~~*150149*~~ *230764* and, under Section 401A, adopts the findings and conclusions of those studies and the general and specific findings in that Section, specifically including the Recreation and Open Space Findings *and Complete Streets findings*, ~~*Pedestrian and Streetscape Findings, and Bicycle Infrastructure Findings*~~ and incorporates those by reference herein to support the imposition of the fees under this Section.

The Board takes legislative notice of the findings supporting the fees in former Planning Code Section 418.1 (formerly Section 318.1) and the materials associated with Ordinance No. 217-05 in Board File No. 050865. To the extent that the Board previously adopted fees in this Area Plan that are not covered in the analysis of the ~~*4*~~*four* infrastructure areas analyzed in the

Nexus Analysis, including but not limited to fees related to transit, the Board continues to rely on its prior analysis and the findings it made in support of those fees.

* * * *

SEC. 420.1. PURPOSE AND FINDINGS SUPPORTING VISITACION VALLEY COMMUNITY IMPROVEMENTS FEE AND FUND.

* * * *

(b) **Findings.** The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis ~~*prepared by AECOM dated March 2014*~~ ("Nexus Analysis"), and the San Francisco Infrastructure Level of Service Analysis ~~*prepared by AECOM dated March 2014*~~, both on file with the Clerk of the Board in File No. ~~*150149*~~ *230764* and, under Section 401A, adopts the findings and conclusions of those studies and the general and specific findings in that Section, specifically including the Recreation and Open Space Findings, ~~*Pedestrian and Streetscape*~~ *Complete Streets* Findings, *and* Childcare Findings, ~~*and Bicycle Infrastructure Findings*~~ and incorporates those by reference herein to support the imposition of the fees under this Section.

The Board takes legislative notice of the findings supporting these fees in former Planning Code Section 420.1 (formerly Section 318.10 et seq.) and the materials associated with Ordinance No. 3-11 in Board File No. 101247. To the extent that the Board previously adopted fees in this Area Plan that are not covered in the analysis of the *4four* infrastructure areas analyzed in the Nexus Analysis, including but not limited to tees related to transit, the Board continues to rely on its prior analysis and the findings it made in support of those fees.

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

* * * *

(b) **Findings.** The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis ~~*prepared by AECOM dated March 2014*~~ ("Nexus Analysis"), *and* the San Francisco Infrastructure Level of Service Analysis ~~*prepared by AECOM dated March 2014, and the Transportation Sustainability Fee Nexus Study (TSF Nexus Study), dated May, 2015*~~, *both* on file with the Clerk of the Board in File~~s~~ No~~s~~. *230764* ~~*150149 and 150790,*~~ and, under Section 401A, adopts the findings and conclusions of those studies and the general and specific findings in that Section, specifically including the Recreation and Open Space Findings, ~~*Pedestrian and Streetscape*~~ *Complete Streets* Findings, Childcare Findings, ~~*Bicycle Infrastructure Findings,*~~ and Transit *Infrastructure* Findings, and incorporates those by reference herein to support the imposition of the fees under this Section.

SEC. 422.1. PURPOSE AND FINDINGS IN SUPPORT OF BALBOA PARK COMMUNITY IMPROVEMENTS FUND.

* * * *

(b) **Findings.** The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis ~~*prepared by AECOM dated March 2014*~~ ("Nexus Analysis"), *and* the San Francisco Infrastructure Level of Service Analysis ~~*prepared by AECOM dated March 2014, and the Transportation Sustainability Fee Nexus Study (TSF Nexus Study), dated May, 2015*~~, *both* on file with the Clerk of the Board in File~~s~~ No~~s~~. *230764* ~~*150149 and 150790,*~~ and, under Section 401A, adopts the findings and conclusions of those studies and the general and specific findings in that Section, specifically including the Recreation and Open Space Findings, ~~*Pedestrian and Streetscape*~~ *Complete Streets* Findings, Childcare Findings, ~~*Bicycle Infrastructure Findings,*~~ and Transit *Infrastructure* Findings, and incorporates those by reference herein to support the imposition of the fees under this Section.

SEC. 423.1. PURPOSE AND FINDINGS SUPPORTING EASTERN NEIGHBORHOODS IMPACT FEES AND COMMUNITY IMPROVEMENTS FUND.

* * * *

(b) **Findings.** The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis ~~*prepared by AECOM dated March 2014*~~ ("Nexus Analysis"), *and* the San Francisco Infrastructure Level of Service Analysis ~~*prepared by AECOM dated March 2014, and the Transportation Sustainability Fee Nexus Study (TSF Nexus Study), dated May, 2015*~~, *both* on file with the Clerk of the Board in File~~s~~ No~~s~~. *230764* ~~*150149 and 150790,*~~ and, under Section 401A, adopts the findings and conclusions of those studies and the general and specific findings in that Section, specifically including the Recreation and Open Space Findings, ~~*Pedestrian and Streetscape*~~ *Complete Streets* Findings, Childcare Findings, ~~*Bicycle Infrastructure Findings,*~~ and Transit *Infrastructure* Findings, and incorporates those by reference herein to support the imposition of the fees under this Section.

SEC. 424.1. FINDINGS SUPPORTING THE VAN NESS & MARKET AFFORDABLE HOUSING AND NEIGHBORHOOD INFRASTRUCTURE FEE AND PROGRAM

* * * *

(b) **Neighborhood Infrastructure.** The Van Ness & Market Residential SUD enables the creation of a very dense residential neighborhood in an area built for back-office and industrial uses. Projects that seek the FAR bonus above the maximum cap would introduce a very high localized density in an area generally devoid of necessary public infrastructure and amenities, as described in the Market and Octavia Area Plan. While envisioned in the Plan, such projects would create localized levels of demand for open space, streetscape improvements, and public transit above and beyond the levels both existing in the area today

and funded by the Market and Octavia Community Improvements Fee. Such projects also entail construction of relatively taller or bulkier structures in a concentrated area, increasing the need for offsetting open space for relief from the physical presence of larger buildings. Additionally, the FAR bonus provisions herein are intended to provide an economic incentive for project sponsors to provide public infrastructure and amenities that improve the quality of life in the area. The bonus allowance is calibrated based on the cost of responding to the intensified demand for public infrastructure generated by increased densities available through the FAR density bonus program.

The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis ~~*prepared by AECOM dated March 2014*~~ ("Nexus Analysis"), *and* the San Francisco Infrastructure Level of Service Analysis ~~*prepared by AECOM dated March 2014, and the Transportation Sustainability Fee Nexus Study (TSF Nexus Study), dated May, 2015*~~, *both* on file with the Clerk of the Board in File~~s~~ No~~s~~. *230764* ~~*150149 and 150790,*~~ and, under Section 401A, adopts the findings and conclusions of those studies and the general and specific findings in that Section, specifically including the Recreation and Open Space Findings, ~~*Pedestrian and Streetscape*~~ *Complete Streets* Findings, Childcare Findings, ~~*Bicycle Infrastructure Findings,*~~ and Transit *Infrastructure* Findings, and incorporates those by reference herein to support the imposition of the fees under this Section.

SEC. 424.6.1. FINDINGS.

(a) **General.** Existing public park and recreational facilities located in the downtown area are at or approaching capacity utilization by the population of the area. There is substantial additional population density, both employment and residential, planned and projected in the Transit Center District. This district, more than other parts of the downtown, is lacking in existing public open space amenities to support population growth. The need for

additional public park and recreation facilities in the downtown area, and specifically in the Transit Center District, will increase as the population increases due to continued office, retail, institutional, and residential development. Additional population will strain and require improvement of existing open spaces both downtown and citywide, and will necessitate the acquisition and development of new public open spaces in the immediate vicinity of the growth areas. While the open space requirements imposed on individual commercial developments address the need for plazas and other local outdoor sitting areas to serve employees and visitors in the districts, and requirements imposed on individual residential developments address the need for small-scale private balconies, terraces, courtyards or other minor common space such as can be accommodated on individual lots, such open space cannot provide the same recreational opportunities as a public park. In order to provide the City and County of San Francisco with the financial resources to acquire and develop public park and recreation facilities necessary to serve the burgeoning population in the downtown area, a Transit Center District Open Space Fund shall be established as set forth herein. The Board of Supervisors adopts the findings of the ~~*Downtown Open Space Nexus Study*~~ *the San Francisco Citywide Nexus Analysis ("Nexus Analysis"), on file with the Clerk of the Board in File No. 230764,* in accordance with the California Mitigation Fee Act, Government Code *Section* 66001(a) ~~*on file with the Clerk of the Board in File No. _____*~~.

(b) **Transit Center District Open Space Impact Fee**. Development impact fees are an effective approach to mitigate impacts associated with growth in population. The proposed Transit Center District Open Space Impact Fee shall be dedicated to fund public open space improvements in the Transit Center District Plan Area and adjacent downtown areas that will provide direct benefits to the property developed by those who pay into the fund, by providing necessary open space improvements needed to serve new development.

The Planning Department has calculated the fee rate using accepted professional methods for calculating such fees. The calculations are described fully in the *Nexus Analysis, ~~Downtown Open Space Nexus Study, San Francisco Planning Department, Case No. 2007.0558U~~* on file with the Clerk of the Board in File No. 230764.

The proposed fee, in combination with the Downtown Park Fee established in Section 412 et seq., *~~is less than the maximum justified fee amount as calculated by the Downtown Open Space Nexus Study~~ is supported by the Nexus Analysis.* While no project sponsor would be required to pay more than the maximum amount justified for that project as calculated in the Nexus Study, the Transit Center District Open Space Fee is tiered such that denser projects are assessed higher fees because it is economically feasible for such projects to pay a higher proportion of the maximum justified amount. The proposed fee covers impacts caused by new development only and is not intended to remedy existing deficiencies. The cost to remedy existing deficiencies will be paid for by public, community, and other private sources as described in the *~~Downtown Open Space Nexus Study~~ Nexus Analysis* and the Transit Center District Plan Program Implementation Document. Impact fees are only one of many revenue sources funding open space in the Plan Area.

SEC. 424.7.1. FINDINGS.

(a) **General.** New development in the Transit Center District Plan area will create substantial new burdens on existing streets and transportation systems and require the need for new and enhanced transportation services and improvements to rights-of-way for all modes of transportation. The downtown is a very dense urban environment with limited roadway capacity and is already substantially congested and impacted by existing patterns of movement. To accommodate the substantial growth anticipated in the Transit Center District Plan Area, public transit investments must be made, circulation patterns adjusted, and limited

right-of-way space reallocated such that trips to and through the area are primarily made by public transit, walking, bicycling, and carpooling and such that these modes are enabled to maintain or improve efficiency and attractiveness in the face of increasing traffic congestion. The Transit Center District Plan identified necessary investments and improvements to achieve these modal objectives and ensure that growth in trips resulting from new development and population increase in the Plan area does not degrade existing services. The *San Francisco Citywide Nexus Analysis ("Nexus Analysis"),* ~~*Transit Center District Plan Transportation Nexus Study, San Francisco Planning Department Case No. 2007.0558U*~~ on file with the Clerk of the Board in File No. 230764, calculated the proportional share of the cost of these improvements attributable to new growth based on accepted professional standards. The investments and improvements identified in the Transit Center District Plan and allocated in the nexus study are distinct and in addition to improvements and services related to the Transit Impact Development Fee (TIDF) imposed by Section 411 et seq. Whereas the TIDF funds improvements to SFMTA Municipal Railway public transit services and facilities to provide sufficient capacity required to serve new development, the Transit Center District Transportation and Street Improvement Fee covers impacts of new development in the District on regional transit services and facilities that are distinct from and in addition to the need for SFMTA public transit services, and that will not funded by the TIDF, including necessary improvements to area streets to facilitate increases in all modes of transportation due to development, including walking, bicycling, and carpooling, and to regional transit facilities, including the Downtown Rail Extension and downtown BART stations. The Board finds that there is no duplication in these two fees. To provide the City and County of San Francisco and regional transit agencies with the financial resources to provide transportation facilities and street improvements necessary to serve the burgeoning population of downtown San Francisco, a Transit Center District Transportation and Street Improvement Fund shall be

established as set forth herein. The Board of Supervisors adopts the findings of the ~~*Downtown Open Space Nexus Study*~~ *Nexus Analysis,* in accordance with the California Mitigation Fee Act, Government Code *Section* 66001(a) ~~*on file with the Clerk of the Board in File No. _____*~~.

(b) **Transit Center District Transportation and Street Improvement Impact Fee.** Development impact fees are an effective approach to mitigate impacts associated with growth in population. The proposed Transit Center District Transportation and Street Improvement Impact Fee shall be dedicated to public transportation and public street improvements in the Transit Center District Plan Area and adjacent downtown areas that will provide direct benefits to the property developed by those who pay into the fund, by providing necessary transportation and street improvements needed to serve new development.

The fee rate has been calculated by the Planning Department based on accepted professional methods for the calculation of such fees, and described fully in the *Nexus Analysis,* ~~*Transit Center District Transportation and Street Improvement Nexus Study, San Francisco Planning Department, Case No. 2007.0558U*~~ on file with the Clerk of the Board in File No. 230764.

The proposed fee established in Sections 424.7 et seq., is less than the maximum justified fee amount as calculated by the ~~*Transit Center District Transportation and Street Improvement Nexus Study*~~ *Nexus Analysis* necessary to provide transportation and street improvements to increasing population in the area. While no project sponsor would be required to pay more than the maximum amount justified for that project as calculated in the Nexus Study, the Transit Center District Transportation and Street Improvement Fee is tiered such that denser projects are assessed higher fees because it is economically feasible for such projects to pay a higher proportion of the maximum justified amount. The proposed fee covers only the demand for transportation and street improvements created by new development and is not intended to remedy existing deficiencies. The cost to remedy existing deficiencies will be paid for by public, community, and other private sources as described in

the ~~*Transit Center District Transportation and Street Improvement Nexus Study*~~ *Nexus Analysis* and the Transit Center District Plan Implementation Document. Impact fees are only one of many revenue sources necessary to provide transportation and street improvements in the Plan Area.

SEC. 430. BICYCLE PARKING IN LIEU FEE.

* * * *

(b) **Amount of Fee.** The amount of the in lieu fee shall be $400 per Class 2 bicycle parking space. This fee shall be adjusted pursuant to Section~~s~~ 409 ~~*and 410*~~ of this Code.

* * * *

SEC. 433.1. PURPOSE AND FINDINGS.

* * * *

(b) **Findings.** The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis ~~*prepared by AECOM dated March 2014*~~ ("Nexus Analysis"), *and* the San Francisco Infrastructure Level of Service Analysis ~~*prepared by AECOM dated March 2014, and the Transportation Sustainability Fee Nexus Study (TSF Nexus Study), dated May, 2015*~~, *both* on file with the Clerk of the Board in File~~s~~ No~~s~~. *230764* ~~*150149 and 150790,*~~ and, under Section 401A, adopts the findings and conclusions of those studies and the general and specific findings in that Section, specifically including the Recreation and Open Space Findings, ~~*Pedestrian and Streetscape*~~ *Complete Streets* Findings, Childcare Findings, ~~*Bicycle Infrastructure Findings,*~~ and Transit *Infrastructure* Findings, and incorporates those by reference herein to support the imposition of the fees under this Section.

SEC. 435.1 PURPOSE AND FINDINGS SUPPORTING UNION SQUARE PARK, RECREATION, AND OPEN SPACE FEE.

* * * *

(b) **Findings.** The Board of Supervisors has reviewed the ~~*Downtown San Francisco Park, Recreation, and Open Space Development Impact Fee Nexus Study, prepared by Hausrath dated April 13, 2012*~~ *San Francisco Citywide Nexus Analysis* ("Nexus ~~*Study*~~*Analysis*"), on file with the Clerk of the Board of Supervisors in File No. *230764*~~*180916*~~. In accordance with the California Mitigation Fee Act, Government Code *Section* 66001(a), the Board of Supervisors adopts the findings and conclusions of that study, and incorporates those findings and conclusions by reference to support the imposition of the fees under this Section.

Section 6. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section 8. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be

invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 9. No Conflict with Federal or State Law. Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Giulia Gualco-Nelson
GIULIA GUALCO-NELSON
Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

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

File Number: 230764 **Date Passed:** September 05, 2023

Ordinance amending the Planning Code to 1) modify the annual indexing of certain development impact fees, with the exception of inclusionary housing fees; 2) provide that the type and rates of applicable development impact fees, with the exception of inclusionary housing fees, shall be determined at the time of project approval; 3) exempt eligible development projects in PDR (Production, Distribution, and Repair) Districts, and the C-2 (Community Business) and C-3 (Downtown Commercial) Zoning Districts from all development impact fees for a three-year period; 4) allow payment of development impact fees, with the exception of fees deposited in the Citywide Affordable Housing Fund, to be deferred until issuance of the first certificate of occupancy; and 5) adopt the San Francisco Citywide Nexus Analysis supporting existing development impact fees for recreation and open space, childcare facilities, complete streets, and transit infrastructure and making conforming revisions to Article 4 of the Planning Code; amending the Building Code to allow payment of development impact fees, with the exception of fees deposited in the Citywide Affordable Housing Fund, to be deferred until issuance of the first certificate of occupancy and repealing the fee deferral surcharge; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

July 24, 2023 Land Use and Transportation Committee - RECOMMENDED AS COMMITTEE REPORT

July 25, 2023 Board of Supervisors - PASSED ON FIRST READING

Ayes: 10 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Ronen, Safai, Stefani and Walton
Noes: 1 - Preston

September 05, 2023 Board of Supervisors - FINALLY PASSED

Ayes: 10 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Ronen, Safai, Stefani and Walton
Noes: 1 - Preston

File No. 230764

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 9/5/2023 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

9/15/23
Date Approved