



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution No. 18015

HEARING DATE: JANUARY 21, 2010

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*Project Name:* **Development Stimulus and Fee Reform**

*Case Number:* 2009.1065T [Board File No.s 09-1251-2 and 09-1275-2]  
*Initiated by:* Mayor Newsom  
Revised Ordinances  
[BF 091275/BF 091275-2 Development Impact and In-Lieu Fees & BF 091251/BF 091251-2 Development Fee Collection Procedure; Administrative Fee]  
Introduced December 15, 2009

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*Reviewed By:* Lawrence Badiner, Assistant Director and  
Alicia John-Baptiste, Assistant Director

*90-day Deadline:* March 15, 2010

*Recommendation:* **Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS THREE PROPOSED ORDINANCES INTRODUCED BY MAYOR NEWSOM THAT COMPRISE A LEGISLATIVE PACKAGE INTENDED TO STIMULATE DEVELOPMENT AND CONSTRUCTION IN SAN FRANCISCO. THE PROPOSED PACKAGE SEEKS TO CREATE OPPORTUNITIES TO LINK PAYMENT OF PERMITTING FEES TO FIRST CONSTRUCTION PERMIT, WHEN LOANS ARE MORE READILY AVAILABLE FOR CONTRACTORS, WHILE PROTECTING THE CITY'S REVENUE STREAM OF DEVELOPMENT IMPACT AND PROCESSING FEES.

### PREAMBLE

Whereas, on October 27, 2009 and November 3, 2009, Mayor Newsom introduced three proposed Ordinance under Board of Supervisors (hereinafter "Board") File Numbers 09-1275 Development Impact and In-Lieu Fees, 09-1251 Development Fee Collection Procedure; Administrative Fee, and 09-1252 Affordable Housing Transfer Fee Restriction Alternative for Inclusionary and Jobs Housing Linkage Programs.

Whereas, on December 15, 2009 revised ordinances were introduced for the Development Fee Collection Procedure; Administrative Fee and the Development Impact and In-Lieu Fees Ordinances [Board File No.s 09-1251-2 and 09-1275-2].

Whereas, respectively, these proposed Ordinances would

1. **BF 091275-2 Development Impact and In-Lieu Fees** would create a new Article Four in the Planning Code to consolidate fee and in-lieu controls in one article; add Section 402 to provide that all impact fees and in-lieu fees will be collected by DBI prior to issuance of the first construction permit, with the option to defer payment to prior to issuance of the first certificate of occupancy in exchange for a deferral surcharge; provide that physical improvements would be confirmed by the regulating department prior to first certificate of occupancy; and where possible, create standard definitions, procedures, appeals, and reporting standards while deleting duplicative language.

The following fees would be placed in the new Article Four:

- a. Downtown Park Special Fund (Section 139);
  - b. Van Ness and Market Downtown Residential Special Use District (Section 249.33);
  - c. Housing Requirements for Large-Scale Development Projects, Jobs-Housing Linkage Program (Sections 313-313.15);
  - d. Child-Care Requirements for Office and Hotel Developments (Sections 314-314.8);
  - e. Inclusionary Affordable Housing Program (Sections 315-315.9);
  - f. Residential Community Improvements Fund and the SoMa Community Stabilization Fund (Section 318-318.9);
  - g. Housing Requirements for Residential Development Projects in the UMU Zoning Districts of the Eastern Neighborhoods and the Land Dedication Alternative in the Mission NCT District (Section 319-319.7);
  - h. Market and Octavia Community Improvements Fund (Sections 326-326.8);
  - i. Eastern Neighborhoods Public Benefit Fund (Section 327-327.6);
  - j. Balboa Park Community Improvement Fund (Sections 331-331.6);
  - k. Visitacion Valley Community Facilities and Infrastructure Fee (Sections 420 – 420.5.) and
  - l. Transit Impact Development Fee (Chapter 36 of the Administrative Code).
2. **BF 091251-2 Development Fee Collection Procedure; Administrative Fee** would amend the Building Code to establish a procedure for the Department of Building Inspection (DBI) to collect all development impact fees. The proposed Ordinance would ensure that fees are paid prior to the issuance of the first construction permit or allow the project sponsor to defer payment until issuance of first certificate of occupancy in exchange for paying a fee deferral surcharge. These fee procedures would be implemented by a new "Fee Collection Unit" within DBI that would ensure fee payment prior to issuance periods; would require a Project Development Fee Report prior to issuance of building or site permits; and would provide an appeal opportunity to the Board of Appeals.
  3. **BF 091252 Affordable Housing Transfer Fee Restriction Alternative for Inclusionary and Jobs Housing Linkage Programs** would amend Sections 313.4 and 315.5 and add 313.16 to add an alternative for both the Jobs Housing Linkage Program and the Residential Inclusionary Affordable Housing Program. The new option would allow a project sponsor to defer 33% of its obligation under either program in exchange for recording an Affordable Housing Transfer Fee

Restriction on the property. This fee restriction would require 1% of the value of the property at every future sale to be paid to the Citywide Affordable Housing Fund.

Whereas, In March, 2008, San Francisco published its Citywide Development Impact Fee Study Consolidated Report. The purpose of the Study was to evaluate the overall state, effectiveness, and consistency of the City's impact fee collection process and to identify improvements. Among other things, the Study cited the City's decentralized process as a problem. Centralizing the collection of development impact and in-lieu fees within the Department of Building Inspection and providing for an auditing and dispute-resolution function within DBI will further the City's goals of streamlining the process, ensuring that fees are accurately assessed and collected in a timely manner, informing the public of the fees assessed and collected, and implementing some suggestions in the Consolidated Report.

Whereas, the current economic climate has dramatically slowed the development of new commercial and residential projects in California, including in the City and County of San Francisco. In the construction sector, working hours among the trades have declined between 30% and 40% from a year ago.

Whereas, The Controller's Office has verified that the amount of the reduction in obligations under Jobs-Housing Linkage Program and the Residential Inclusionary Affordable Housing Program and the expected value of the Affordable Housing Transfer Fee are substantially equivalent. The Controller's Office derived the 33% reduction in obligations under the two ordinances by discounting a reasonably conservative estimate of average citywide sales prices, property turnover rates and appreciation rates for the three major types of land use subject to affordable housing fees and exactions in San Francisco: (1) for-sale residential; (2) rental residential; and (3) commercial office.

Whereas, on January 21, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance;

Whereas, at that hearing the Commission requested to hear and vote on two of the Ordinances first [BF 091275/BF 091275-2 Development Impact and In-Lieu Fees & BF 091251/BF 091251-2 Development Fee Collection Procedure; Administrative Fee] and then consider and vote on the third Ordinance [BF 091252/BF Affordable Housing Transfer Fee Restriction Alternative for Inclusionary and Jobs Housing Linkage Programs].

Whereas, this resolution pertains solely to [BF 091275/BF 091275-2 Development Impact and In-Lieu Fees & BF 091251/BF 091251-2 Development Fee Collection Procedure; Administrative Fee] and Resolution Number 18017 pertains to [BF 091252/BF Affordable Housing Transfer Fee Restriction Alternative for Inclusionary and Jobs Housing Linkage Programs].

Whereas, the proposed Ordinances have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15273; and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of City department, and other interested parties; and

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

Whereas, the Commission has reviewed the proposed Ordinances; and

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

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The proposal would result in better gate-keeping with consolidation of fee collection & permit issuance under one agency;
2. Administratively, the proposal represents a dramatic improvement in fee collection that the Planning Department and DBI are both comfortable implementing;
3. The proposal establishes more uniform procedures in a consolidated Article resulting in better understanding for the public, project sponsors and the departments;
4. The proposal would add transparency resulting in an improved process for developers and the public;
5. Most importantly, the revisions to the fee collection process greatly increase the City's ability to collect fees; and
6. Impact fees are traditionally collected when development commences, to insure that the City can build the necessary infrastructure to support new residents and employees within a reasonable amount of time. The proposed deferral program may not reduce the City's ability to provide the necessary infrastructure, however it could cause infrastructure to be staggered, disassociating new development and the related infrastructure. Given the current economic situation, the Commission has evaluated this potential impact to infrastructure funding against the potential benefit of spurring stalled construction.
7. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

### Commerce & Industry Element POLICY I.I:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

**Commerce & Industry Element OBJECTIVE 2:**

Maintain and enhance a sound and diverse economic base and fiscal structure for the city.

**Commerce & Industry Element POLICY 2.1**

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

**Recreation and Open Space Element Introductory Text**

Maintaining the City's existing open space system is a continuing challenge. Maintenance continues to be a problem due to rising costs and limitations on staffing and equipment. In addition, many of the parks are old and both park landscapes and recreation structures are in need of repair or renovation. Heavily used parks and recreation facilities require additional maintenance. However, the number of recreation facilities has increased and their use intensified, often without a corresponding increase in the budget necessary to maintain facilities and offer the desired recreation programs.

**Recreation and Open Space Element POLICY 2.1**

Provide an adequate total quantity and equitable distribution of public open spaces throughout the City.

**Recreation and Open Space Element POLICY 2.7**

Acquire additional open space for public use.

**Recreation and Open Space Element POLICY 4.4**

Acquire and develop new public open space in existing residential neighborhoods, giving priority to areas which are most deficient in open space.

**Community Facilities Element Objective 3**

ASSURE THAT NEIGHBORHOOD RESIDENTS HAVE ACCESS TO NEEDED SERVICES AND A FOCUS FOR NEIGHBORHOOD ACTIVITIES.

**Community Facilities Element Policy 3.1**

Provide neighborhood centers in areas lacking adequate community facilities.

**Community Facilities Element Policy 3.4**

Locate neighborhood centers so they are easily accessible and near the natural center of activity.

**Community Facilities Element Policy 3.6**

Base priority for the development of neighborhood centers on relative need.

**Community Facilities Element Objective 8**

ASSURE THAT PUBLIC SCHOOL FACILITIES ARE DISTRIBUTED AND LOCATED IN A MANNER THAT WILL ENHANCE THEIR EFFICIENT AND EFFECTIVE USE.

**Transportation Element POLICY 1.1:**

Involve citizens in planning and developing transportation facilities and services, and in further defining objectives and policies as they relate to district plans and specific projects.

**Air Quality Element POLICY 3.1**

Take advantage of the high density development in San Francisco to improve the transit infrastructure and also encourage high density and compact development where an extensive transportation infrastructure exists.

**Air Quality Element POLICY 3.4**

Continue past efforts and existing policies to promote new residential development in and close to the downtown area and other centers of employment, to reduce the number of auto commute trips to the city and to improve the housing/job balance within the city.

**Air Quality Element POLICY 3.6**

Link land use decision making policies to the availability of transit and consider the impacts of these policies on the local and regional transportation system.

**Urban Design Element POLICY 3.9**

Encourage a continuing awareness of the long-term effects of growth upon the physical form of the city.

8. **The Commission supports the following modifications to the revised Ordinances as introduced on December 15, 2009:**

- Modification of the proposed Fee Deferral Surcharge to a blended rate based on 50% of the City's floating investment rate and 50% of a floating construction cost index as determined by the Controller's Office.
- Clarification of the limited scope of the Board of Appeals jurisdiction.
- Creation of a mechanism to provide for universal indexing of fees for cost of inflation across all fee programs.
- Ensure fee waiver opportunities are not increased through the proposal. Under current controls, each existing fee has its own unique "fee waiver" procedures.

9. **The Commission is recommending the following modifications to the proposed Ordinances:**

1. Clarify that this new ability to defer fees is offered only to those projects that have not yet paid development impact fees. Since the adoption of the Area Plans, City agencies have been working to plan and build infrastructure for new development. Collected impact fees have been programmed and are needed to complete planned infrastructure. The administrative burden of providing *fee refunds* to then allow *fee deferrals* is disproportionate to the relative benefit to the projects that fall within in this category. Further, DBI has advised that offering refunds would be administratively infeasible.
  
2. Correct the ordinance to ensure that each of the effective dates for individual impact fee programs are the original date of those programs and not the effective date of this new ordinance. This change would facilitate administration of the various fee programs, especially in the event that refunds are requested. The original effective dates that should be noted in Article Four are as follows:
  - Section 249.33 Van Ness and market Downtown Residential Special Use District FAR Bonus & the Van Ness and Market Affordable Housing and Neighborhood Infrastructure Program both have an original effective date of 5/30/2008;
  - Section 313 Affordable Housing Job/Housing Linkage Fee has an effective date of 3/28/1996;
  - Section 315 Market & Octavia Affordable Housing Fee & Section 326.3-6 Market & Octavia Community Benefits Fee both have an effective date of 5/30/2008;
  - Section 318 Rincon Hill Community Infrastructure Impact Fee & SoMa Community Stabilization Fee both have effective date of 8/19/2005;
  - Section 319.7 Visitacion Valley Community Facilities and Infrastructure Fee has an effective date of 11/18/2005;
  - Section 327 Eastern Neighborhoods (Mission) has an effective date of 12/19/2008;
  - Section 331 Balboa Park Fee has an effective date of 4/17/2009; and
  - Administrative Code Chapter 38 Transit Impact Development Fee was originally enacted 1981 and a major revision became effective in 2004. Both of these dates have implications to pipeline projects and should be maintained.

For the remaining fees (Section 139 Downtown Park Fee, Section 149 Downtown C-3 Artwork, Section 314 Childcare, Section 315 Inclusionary Housing Fee, State Educational Code Section 17620 School Impact Fee, Administrative Code Sewer Connection Fee and Wastewater Capacity Charge), the Department requests that OWED or the City Attorney research the original effective date for inclusion or in the event that cannot be determined use a de facto effective date of 1985 to ensure that no pipeline projects are exempted from fees.
  
3. Maintain SFMTA's role as "implementer" of the TIDE. This fund has been implemented by SFMTA with consultation of the Planning Department, and should remain so. Any changes which would place planning staff into a mediator role between a project sponsor and the assessment of fees or implementation of the program should avoided. The proposed Ordinance establishes that "MTA is empowered to adopt such rules, regulations, and administrative procedures as it deems necessary to implement this Section 411.1 et seq. In the event of a conflict between any MTA rule, regulation or procedure and this Section 411.1 et

seq., this Section ordinance shall prevail.” The Department would request that the City Attorney explore adding further text to this Section to exempt this Section from the typical authority conveyed to the Zoning Administrator.

4. **Remove changes to procedures for in-kind contributions until the changes have been vetted with the agencies responsible for monitoring each in-kind contribution.** While the fee amendments contained in Article Four currently exist in the Planning Code and/or the Administrative Code, other agencies are responsible for the administration and monitoring of these contributions. In-kind provisions such as childcare or street-improvements must meet specifications that only DCYF or DPW are qualified to evaluate and should not be the responsibility of the Planning Department.
5. **Include all fee requirements in the new process.** Currently the proposal does not include the two alternative means of satisfying the open space requirement in South of Market and Eastern Neighborhoods by paying in-lieu fees identified in Section 135.3 (d) and 135.3 (e) as well as the payment in cases of a variance or exception to the open space requirement in Eastern Neighborhoods required by Section 135(j). Section 143, Street Tree Requirements, requires a type of physical improvement that according to Article 16 of the Public Works Code can be satisfied as a fee payment when utilities or other barriers prevent planting of trees. DBI's Fee Unit should be made aware of the street tree requirement at submittal for inclusion in the "Project Development Fee Report". The required planting or payment of the in-lieu fee should be confirmed prior to first certificate of occupancy.
6. **Provide further consolidation of fee "definitions".** The proposed Ordinance strives to consolidate fee-specific definitions to the greatest degree possible. While the revised Ordinance successfully added further consolidation of definitions, the current draft still contains a large amount of definitions that reside outside of the universal fee definition section in Section 401. The Department provided the Commission with proposed consolidation of additional definitions at the January 21<sup>st</sup>, 2010 hearing. The additional proposed definition consolidations are attached to this resolution as Exhibit B Technical Modifications.
7. **Include a legislative end-date for fee deferrals after three years.** As this legislative package is intended to counter the difficult economic times, an end-date should be added where the City would no longer allow the deferral of fees. The Planning Commission considered this issue at the hearing and recommended that the proposed infrastructure fee deferral automatically sunset after three years.
8. **Research additional mechanisms to secure "seed money" to begin infrastructure planning and avoid delays during the deferral period.** The Commission is interested in preserving a coordinated provision of new infrastructure to support new development. While the full impact fee charge is not needed to begin infrastructure planning, a small fraction of that fee could help avoid potential delay in the funding and timing of capital improvements

associated with the deferred impact fees. The Commission urges additional research of this topic.

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

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced;

*The proposed Ordinance would allow additional neighborhood serving retail and personal services.*

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

*The proposed Ordinance would not affect existing residential character or diversity of our neighborhoods.*

- C) The City's supply of affordable housing will be preserved and enhanced:

*According to the Mayor's Office of Housing, "After numerous discussions with interested parties and analysis of applicable data, the Mayor's Office of Housing believes this proposal provides an excellent opportunity in the midst of the current economic climate; accelerating quality development and its associated revenues while creating a lasting impact on San Francisco's chronic affordable housing crisis."*

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

*The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

*The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.*

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*Preparedness against injury and loss of life in an earthquake would not be impeded by the*

*proposed Ordinance.*

- G) That landmark and historic buildings will be preserved:

*Landmarks and historic buildings would be unaffected by the proposed amendments.*

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

*The City's existing parks and open space and their access to sunlight and vistas would not be affected by the proposed Ordinance.*

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on January 21, 2010.



Linda Avery  
Commission Secretary

AYES: Antonini, Borden, Lee and Miguel

NAYS: Moore, Sugaya, and Olague

ABSENT:

ADOPTED: January 21, 2010

**Exhibit B: Technical Modifications/ Definition Consolidation**

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Proposed Additions highlighted and double underlined

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

(a) "Balboa Park Community Improvements Fund" shall mean the fund that all fee revenue the City collects from the Balboa Park Impact Fee.

(b) "Balboa Park Community Improvements Program" shall mean the program intended to implement the community improvements identified in the Balboa Park Area Plan, as articulated in the Balboa Park Community Improvements Program Document (San Francisco Planning Department, Case No. \_\_\_\_\_ on file with the Clerk of the Board in File No. \_\_\_\_\_).

(c) "Balboa Park Impact Fee" shall mean the fee collected by the City to mitigate impacts of new development in the Balboa Park Program Area as described in the Findings in Section 331 J.

(d) "Balboa Park Community Improvements Program" shall mean the program intended to implement the community improvements identified in the Balboa Park Area Plan, as articulated in the Balboa Park Community Improvements Program Document (San Francisco Planning Department, Case No. \_\_\_\_\_ on file with the Clerk of the Board in File No. \_\_\_\_\_).

(e) "Balboa Park Program Area" shall mean the Balboa Park Plan Area in Figure I of the Balboa Park Station Area Plan of the San Francisco General Plan.

(1) "Board" or "Board of Supervisors." The Board of Supervisors of the City and County of San Francisco.

(f) "Child-care facility" shall mean a child day-care facility as defined in California Health and Safety Code Section 1596.750.

(2) "City" or "San Francisco." The City and County of San Francisco.

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

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

(5) "Commission" or "Planning Commission." The San Francisco Planning Commission.

(g) "Community facilities" shall mean all uses as defined under Section 209.4(a) and 209.3(d) of this Code.

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

(7) "DBI." The San Francisco Department of Building Inspection.

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

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

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

(10) "Development Fee Collection Unit" or "Unit." The Development Fee Collection Unit at DBI.

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

(12) "Development impact requirement." A requirement to provide physical improvements, facilities or below market rate housing units imposed on a development project as a condition of approval to mitigate the impacts of increased

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*demand for public services, facilities or housing caused by the development project that may or may not be governed by the California Mitigation Fee Act (California Government Code Section 66000 et seq.).*

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

(14) *"Director." The Director of Planning or his or her designee.*

(15) *"DPW." The Department of Public Works.*

(l) *"Eastern Neighborhoods Public Benefits Program" shall mean the program intended to implement the community improvements identified in the four Area Plans affiliated with the Eastern Neighborhoods (Central Waterfront, East SoMa, Mission, and Showplace Square Potrero Hill), as articulated in the Eastern Neighborhoods Public Benefits Program Document (San Francisco Planning Department, Case No. \_\_\_\_\_ on file with the Clerk of the Board in File No. 081155).*

(m) *"Eastern Neighborhoods Impact Fee" shall mean the fee collected by the City to mitigate impacts of new development in the Eastern Neighborhoods Program Area as described in the Findings in Section 327.1.*

(n) *"Eastern Neighborhoods Public Benefit Fund" shall mean the fund into which all fee revenue collected by the City from the Eastern Neighborhoods Impact Fee.*

(o) *"Eastern Neighborhoods Public Benefits Program" shall mean the program intended to implement the community improvements identified in the four Area Plans affiliated with the Eastern Neighborhoods (Central Waterfront, East SoMa, Mission, and Showplace Square Potrero Hill), as articulated in the Eastern Neighborhoods Public Benefits Program Document (San Francisco Planning Department, Case No. \_\_\_\_\_ on file with the Clerk of the Board in File No. 081155).*

(p) *"Eastern Neighborhoods Program Area" shall mean the Eastern Neighborhoods Plan Area in Map I (Land Use Plan) of the Eastern Neighborhoods Area Plan of the San Francisco General Plan.*

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

(17) *"Entertainment use." Space within a structure or portion thereof intended or primarily suitable for the operation of a nighttime entertainment use as defined in Section 102.17 of this Code, a movie theater use as defined in Sections 790.64 and 890.64 of this Code, an adult theater use as defined in Sections 790.36 and 890.36 of this Code, any other entertainment use as defined in Sections 790.38 and 890.37 of this Code, and, notwithstanding Section 790.38 of this Code, an amusement game arcade (mechanical amusement devices) use as defined in Sections 790.4 and 890.4 of this Code. Under this Article, "entertainment use" shall include all office and other uses accessory to the entertainment use, but excluding retail uses and office uses not accessory to the entertainment use.*

(18) *"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.*

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

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

(21) *"Hotel" or "Hotel use." Space within a structure or portion thereof intended or primarily suitable for rooms, or suites of two or more rooms, each of which may or may not feature a bathroom and cooking facility or kitchenette and is designed to be occupied by a visitor or visitors to the City who pays for accommodations on a daily or weekly basis but who do not remain for more than 31 consecutive days. Under this Article "hotel use" shall include all office and other uses accessory to the renting of guest rooms, but excluding retail uses and office uses not accessory to the hotel use.*

(s) *"Improvements Fund" shall mean the fund into which all revenues are collected by the City for each Program Area's impact fees.*

(t) *"In-Kind Agreement" shall mean an agreement acceptable in form and substance to the City Attorney and the Director of Planning between a project sponsor and the Planning Commission subject to the approval of the Planning Commission in its sole discretion to provide a specific set of community improvements, at a specific phase of construction, in lieu of contribution to the relevant Improvements Fund. The In-Kind Agreement shall also mandate a covenant of the project sponsor to reimburse all City agencies for their administrative and staff costs in negotiating, drafting, and monitoring compliance with the In-Kind Agreement. The City also shall require the project sponsor to provide a letter of credit or other*

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~~instrument, acceptable in form and substance to the Planning Department and the City Attorney, to secure the City's right to receive payment as described in the preceding sentence.~~

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

(u) "Infrastructure" shall mean open space and recreational facilities; public realm improvements such as pedestrian improvements and streetscape improvements; public transit facilities; and community facilities such as libraries, childcare facilities, and community centers.

(v) "Low Income" shall mean, for purposes of this ordinance, up to 80% of median family income for the San Francisco PMSA, as calculated and adjusted by the United States Department of Housing and Urban Development (HUD) on an annual basis, except that as applied to housing-related purposes such as the construction of affordable housing and the provision of rental subsidies with funds from the SOMA Stabilization Fund established in Section 318.7, it shall mean up to 60% of median family income for the San Francisco PMSA, as calculated and adjusted by the United States Department of Housing and Urban Development (HUD) on an annual basis.

(w) "Market and Octavia Community Improvements Fund" shall mean the fund into which all fee revenue collected by the City from the Market and Octavia Community Improvements Impact Fee.

(x) "Market and Octavia Community Improvements Impact Fee" shall mean the fee collected by the City to mitigate impacts of new development in the Market & Octavia Program Area as described in the Findings in Section 326.1.

(y) "Market and Octavia Community Improvements Program" shall mean the program intended to implement the community improvements identified in the Market and Octavia Area Plan, as articulated in the Market and Octavia Community Improvements Program Document (San Francisco Planning Department, Case No. \_\_\_\_\_ on file with the Clerk of the Board in File No. 071157).

(z) "Market and Octavia Program Area" shall mean the Market and Octavia Plan Area in Map I (Land Use Plan) of the Market and Octavia Area Plan of the San Francisco General Plan, which includes those districts zoned RTO, NCT, or any neighborhood specific NCT, a few parcels zoned RH-1 or RH-2, and those parcels within the Van Ness and Market Downtown Residential Special Use District (FMDRSUD).

(23) "MOCD." The Mayor's Office of Community Development.

(24) "MOH." The Mayor's Office of Housing.

(25) "MTA." The Municipal Transportation Agency.

(cc) "Net addition" shall mean the total amount of gross floor area (as defined in Planning Code Section 102.9) to be occupied by a development project, less the gross floor area existing in any structure demolished or retained as part of the proposed development project that had been occupied by, or primarily serving, any residential, non-residential, or PDR use for five years prior to Planning Commission or Planning Department approval of the development project subject to this Section, or for the life of the structure demolished or retained, whichever is shorter.

(dd) "Non-residential use" shall mean any structure or portion thereof intended for occupancy by retail, office, commercial or other nonresidential uses defined in Planning Code Section 209.3, 209.8, 217, 218, 219 and 221; except that residential components of uses defined in Section 209.3 (a)–(c) and (e)–(f) shall be defined as a "residential use" for purposes of this Section. For the purposes of this section, non-residential use shall not include PDR and publicly owned and operated community facilities.

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

(27) "Office use." Space within a structure or portion thereof intended or primarily suitable for occupancy by persons or entities which perform, provide for their own benefit, or provide to others at that location services including, but not limited to, the following: Professional; banking; insurance; management; consulting; technical; sales; and design; and the non-accessory office functions of manufacturing and warehousing businesses; all uses encompassed within the definition of "office" in Section 219 of this Code; multimedia, software, development, web design, electronic commerce, and information technology; all uses encompassed within the definition of "administrative services" in Section 890.106 of this Code; and all "professional services" as proscribed in Section 890.108 of this Code excepting only those uses which are limited to the Chinatown Mixed Use District.

(ee) "PDR use" shall mean those uses contained in Sections 220, 222, 223, 224, 225, and 226 of the Planning Code.

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~~(ff) "Replacement" shall mean the total amount of gross floor area (as defined in Planning Code Section 102.9) to be demolished and reconstructed by a development project, given that the space demolished had been occupied by, or primarily serves, any residential, non-residential, or PDR use for five years prior to Planning Commission or Planning Department approval of the development project subject to this Section, or for the life of the structure demolished or retained, whichever is shorter.~~

~~(28) "Research and Development ("R&D") project." Any new construction, addition, extension, conversion, or enlargement, or combination thereof, of an existing structure which includes any gross square feet of R&D use.~~

~~(29) "Research and development use." Space within any structure or portion thereof intended or primarily suitable for basic and applied research or systematic use of research knowledge for the production of materials, devices, systems, information or methods, including design, development and improvement of products and processing, including biotechnology, which involves the integration of natural and engineering sciences and advanced biological techniques using organisms, cells, and parts thereof for products and services, excluding laboratories which are defined as light manufacturing uses consistent with Section 226 of this Code.~~

~~(30) "Residential development project." Any new construction, addition, extension, conversion or enlargement, or combination thereof, of an existing structure which includes any occupied floor area of residential use; provided, however, that for projects that solely comprise an addition to an existing structure which would add occupied floor area in an amount less than 20 percent of the occupied floor area of the existing structure, the provisions of this Article shall only apply to the new occupied square footage.~~

~~(31) "Residential use." Any any structure or portion thereof intended for occupancy by uses as defined in Sections 209.1, 790.88, and 890.88 of the Planning Code as relevant for the subject zoning district or containing group housing as defined in Section 209.2(a)-(c) of the Planning Code and residential components of institutional uses as defined in Section 209.3 (a)-(c) and (g) - (i) of the Planning Code.~~

~~type of use containing dwellings as defined in Section 209.1 of this Code or containing group housing as defined in Section 209.1(a)-(c), Section 790.88, and Section 890.88 of this Code, as relevant for the subject zoning district. It shall include any use which qualifies as an accessory use as defined and regulated in Sections 204 through 204.5.~~

~~(32) "Retail development project." Any new construction, addition, extension, conversion, or enlargement, or combination thereof, of an existing structure which includes any gross square feet of retail use.~~

~~(33) "Retail use." Space within any structure or portion thereof intended or primarily suitable for occupancy by persons or entities which supply commodities to customers on the premises including, but not limited to, stores, shops, restaurants, bars, eating and drinking businesses, and the uses defined in Sections 218 and 220 through 225 of this Code, and also including all space accessory to such retail use.~~

~~(hh) "Rincon Hill Community Improvements Fund" shall mean the fund into which all fee revenue collected by the City from the Rincon Hill Community Infrastructure Impact Fee.~~

~~(ii) "Rincon Hill Community Infrastructure Impact Fee" shall mean the fee collected by the City to mitigate impacts of new development in the Rincon Hill Program Area as described in the Findings in Section 318.1.~~

~~(jj) "Rincon Hill Program Area" shall mean those districts identified as the Rincon Hill Downtown Residential (RH DTR) Districts in the Planning Code and on the Zoning Maps.~~

~~(kk) "SOMA" shall mean the area bounded by Market Street to the north, Embarcadero to the east, King Street to the south, and South Van Ness and Division to the west.~~

~~(ll) "SOMA Community Stabilization Fee" shall mean the fee collected by the City to mitigate impacts of new development in the Rincon Hill Program on the residents and businesses of SOMA, as described in the Findings in Section 318.1.~~

~~(mm) "SOMA Community Stabilization Fund" shall mean the fund into which all fee revenue collected by the City from the SOMA Community Stabilization Fee.~~

~~(34) (34) "Sponsor" or "project sponsor." An applicant seeking approval for construction of a development project subject to this Article, such applicant's successor and assigns, and/or any entity which controls or is under common control with such applicant.~~

~~"Treasurer" shall mean the Treasurer for the City and County of San Francisco.~~

~~(pp) "Waiver Agreement" shall mean an agreement acceptable in form and substance to the Planning Department and the City Attorney, under which the City agrees to waive all or a portion of the Community Improvements Impact Fee.~~

~~SEC 411.2, SEC 38.7, DEFINITIONS. (a) In addition to the definitions set forth in Section 401 of this Article, For the purposes of this Chapter, the following definitions shall govern interpretation of Section 411.1 et seq. apply:~~

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- ~~(1) A.~~ Accessory Use. A related minor use which is either necessary to the operation or enjoyment of a lawful principal use or conditional use, or is appropriate, incidental and subordinate to any such use and is located on the same lot as the principal or conditional use.
- ~~(2) B.~~ Base Service Standard. The relationship between revenue service hours offered by the Municipal Railway and the number of automobile and transit trips estimated to be generated by certain non-residential uses, expressed as a ratio where the numerator equals the average daily revenue service hours offered by MUNI, and the denominator equals the daily automobile and transit trips generated by non-residential land uses as estimated by the TIDF Study or updated under Section ~~411.5 35.7~~ of this Chapter.
- ~~(3) C.~~ Base Service Standard Fee Rate. The ~~TIDF transit impact development fee~~ that would allow the City to recover the estimated costs incurred by the Municipal Railway to meet the demand for public transit resulting from new development in the economic activity categories for which the fee is charged, after deducting government grants, fare revenue, and costs for non-vehicle maintenance and general administration.
- ~~D.~~ ~~Board. The Board of Supervisors of the City and County of San Francisco.~~
- ~~E.~~ ~~Certificate of Final Completion and Occupancy. A certificate of final completion and occupancy issued by any authorized entity or official of the City, including the Director of the Department of Building Inspection, under the Building Code.~~
- ~~F.~~ ~~City or San Francisco. The City and County of San Francisco.~~
- ~~(4) G.~~ Covered Use. Any use subject to the TIDF.
- ~~(5) H.~~ Cultural/Institution/Education (CIE). An economic activity category that includes, but is not limited to, schools, as defined in subsections (g), (h), and (i) of Section 209.3 of the ~~Planning this~~ Code and subsections (f)-(i) of Section 217 of ~~this the Planning~~ Code; child care facilities, as defined in subsections (e) and (f) of Section 209.3 of ~~this the Planning~~ Code and subsection (e) of Section 217 of ~~this the Planning~~ Code; museums and zoos; and community facilities, as defined in Section 209.4 of ~~this the Planning~~ Code and subsections (a)-(c) of Section 221 of ~~this the Planning~~ Code.
- ~~(6) I.~~ ~~Director of MTA or MTA Director. The Director of Transportation of the MTA, or his or her designee.~~
- ~~(7) J.~~ Economic Activity Category. One of the following six categories of nonresidential uses: Cultural/Institution/Education (CIE), Management, Information and Professional Services (MIPS), Medical and Health Services, Production/Distribution/Repair (PDR), Retail/Entertainment, and Visitor Services.
- ~~(8) K.~~ Gross Floor Area. The total area of each floor within the building's exterior walls, as defined in Section 102.9 of ~~this the San Francisco~~ Planning Code, except that for purposes of determining the applicability of the TIDF, the exclusion from this definition set forth in Section 102.9(b)(12) of ~~that this~~ Code shall not apply.
- ~~(9) L.~~ Gross Square Feet of Use. The total square feet of gross floor area in a building and/or space within or adjacent to a structure devoted to all covered uses, including any common areas exclusively serving such uses and not serving residential uses. Where a structure contains more than one use, areas common to two or more uses, such as lobbies, stairs, elevators, restrooms, and other ancillary space included in gross floor area that are not exclusively assigned to one use shall be apportioned among the two or more uses in accordance with the relative amounts of gross floor area, excluding such space, in the structure or on any floor thereof directly assignable to each use.
- ~~(10) M.~~ Management, Information and Professional Services (MIPS). An economic activity category that includes, but is not limited to, office use as defined in Section ~~343.1(35) 413.1(24)~~ of ~~this the Planning~~ Code; medical offices and clinics, as defined in Section 890.114 of ~~this the Planning~~ Code; business services, as defined in Section 890.111 of ~~this the Planning~~ Code, Integrated PDR, as defined in Section 890.49 of the Planning Code, and Small Enterprise Workspaces, as defined in Section 227(t) of ~~this the Planning~~ Code.
- ~~(11) N.~~ Medical and Health Services. An economic activity category that includes, but is, not limited to, those non-residential uses defined in Sections 209.3(a) and 217(a) of ~~this the Planning~~ Code; animal services, as defined in subsections (a) and (b) of Section 224 of ~~this the Planning~~ Code; and social and charitable services, as defined in subsection (d) of Section 209.3 of ~~this the Planning~~ Code and subsection (d) of Section 217 of ~~this the Planning~~ Code.
- ~~(12) O.~~ Municipal Railway; MUNI. The public transit system owned by City and under the jurisdiction of the Municipal Transportation Agency.
- ~~(13) P.~~ ~~Municipal Transportation Agency; MTA. The agency of City created under Article 8A of the San Francisco Charter.~~
- ~~(14) Q.~~ ~~Municipal Transportation Agency Board of Directors; MTA Board. The governing board of the MTA.~~
- ~~(15) R.~~ New Development. Any new construction, or addition to or conversion of an existing structure under a building or site permit issued on or after September 4, 2004, that results in 3,000 gross square feet or more of a covered use. In the case of mixed use development that includes residential development, the term "new development" shall refer to only the non-residential portion of such development. "Existing structure" shall include a structure for which a sponsor already paid a fee under the prior TIDF ordinance, as well as a structure for which no TIDF was paid.
- ~~S.~~ ~~Office Space Development Fee; OSDF. A fee imposed under Section 38.3-1 of this Chapter.~~
- ~~T.~~ ~~Planning Code. The Planning Code of the City and County of San Francisco, as it may be amended from time to time.~~
- ~~(16) U.~~ ~~Production/Distribution/Repair (PDR). An economic activity category that includes, but is not limited to, manufacturing and processing, as defined in Section 226 of this the Planning Code; those uses listed in Section 222 of this the Planning Code; automotive services, as defined in Section 223(a) (k) of this the Planning Code; arts activities and spaces, as defined in Section 102.2 of this the Planning Code; and research and development, as defined in Section 313.1(42) 401(27) of this Article the Planning Code.~~
- ~~(17) V.~~ ~~Residential. Any type of use containing dwellings as defined in Section 209.1 of this the Planning Code or containing group housing as defined in Section 209.2(a) (e) of this the Planning Code.~~
- ~~(18) W.~~ Retail/Entertainment. An economic activity category that includes, but is not limited to, retail use, as defined in Section 218 of ~~this the Planning~~ Code; entertainment use, as defined in Section ~~343.1(15) 401(16)~~ of ~~this Article the Planning~~ Code; massage establishments, as defined in Section 218.1 of ~~this the Planning~~ Code; laundering, and cleaning and pressing, as defined in Section 220 of ~~this the Planning~~ Code.

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~~(19) X.~~ Revenue Service Hours. The number of hours that the Municipal Railway provides service to the public with its entire fleet of buses, light rail (including streetcars), and cable cars.

~~Y. Sponsor. An applicant seeking approval for construction of new development subject to this chapter, such applicant's successors and assigns, and/or any person or entity that controls or is under common control with such applicant.~~

~~(20) Z.~~ TIDF Study. The study commissioned by the San Francisco Planning Department and performed by Nelson/Nygaard Associates entitled "Transit Impact Development Fee Analysis--Final Report," dated May 2001, including all the Technical Memoranda supporting the Final Report and the Nelson/Nygaard update materials contained in Board of Supervisors File No. 040141.

~~(21) AA.~~ Transit Impact Development Fee; TIDF. The development fee that is the subject of Section 411.1 et seq. this Chapter.

~~BB. Treasurer. Treasurer of the City and County of San Francisco.~~

~~(22) CC.~~ Trip Generation Rate. The total number of automobile and Municipal Railway trips generated for each 1,000 square feet of development in a particular economic activity category as established in the TIDF Study, or pursuant to the five-year review process established in Section 411.5 38.7 of this Chapter.

~~(23) DD.~~ Use. The purpose for which land or a structure, or both, are legally designed, constructed, arranged or intended, or for which they are legally occupied or maintained, let or leased.

~~(24) EE.~~ Visitor Services. An economic activity category that includes, but is not limited to, hotel use, as defined in Section 313.1(18) 401(20) of this Article the Planning Code; motel use, as defined in subsections (c) and (d) of Section 216 of this the Planning Code; and time-share projects, as defined in Section 11003.5(a) of the California Business and Professions Code.

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

Sections 418.2 through 418.7 318.1-318.9, hereafter referred to as Section 418.1 et seq., set forth the requirements and procedures for the Downtown Residential Rincon Hill Community Improvements Fund and the SOMA Community Stabilization Fund.

SEC. 418.2. 318.2. DEFINITIONS. (a) In addition to ~~see~~ the definitions set forth in Section 401 of this Article, the following definitions shall govern interpretation of this ordinance Section 418.1 et seq.:

(1) (a) "Child care facility" shall mean a child day care facility as defined in California Health and Safety Code Section 1596.750.

(b) "DBI" shall mean the Department of Building Inspection.

(c) "DPW" shall mean the Department of Public Works.

(d) "First certificate of occupancy" shall mean either a temporary certificate of occupancy or a Certificate of Final Completion and Occupancy, as defined in San Francisco Building Code Section 109, whichever is issued first.

(2) (c) "Infrastructure" shall mean street paving, crosswalks, signs, medians, bulbouts, sidewalks, trees, parks and open space, day care centers, libraries or library materials, and community centers.

(2) (f) "Infrastructure fee" shall mean a monetary contribution based upon the cost to provide infrastructure under this program.

(4) (c) "Low income" shall mean, for purposes of Section 418 et seq. this ordinance, up to 80% of median family income for the San Francisco PMSA, as calculated and adjusted by the United States Department of Housing and Urban Development (HUD) on an annual basis, except that as applied to housing-related purposes such as the construction of affordable housing and the provision of rental subsidies with funds from the SOMA Stabilization Fund established in Section 418.6 318.7 it shall mean up to 60% of median family income for the San Francisco PMSA, as calculated and adjusted by the United States Department of Housing and Urban Development (HUD) on an annual basis.

(h) "MOCD" shall mean the Mayor's Office of Community Development.

(i) "MOH" shall mean the Mayor's Office of Housing.

(5) (f) "Net addition of occupiable square feet of residential use" shall mean occupied floor area, as defined in Section 102.10 of this Code, including bathrooms provided as part of dwelling units, to be occupied by or primarily serving residential use excluding common areas such as hallways, fitness centers and lobbies, less the occupied floor area in any structure demolished or rehabilitated as part of the proposed residential development project which occupied floor area was used primarily and continuously for residential use and was not accessory to any use other than residential use for at least five years prior to Planning Department approval of the residential development project subject to this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.

(6) (k) "Program" shall mean the Downtown Residential Community Improvements Neighborhood Program.

(7) (f) "Program Area" shall mean those districts identified as Downtown Residential (DTR) Districts in the Planning Code and on the Zoning Maps.

(m) "Residential development project" shall mean any new construction, addition, extension, conversion or enlargement, or combination thereof, of an existing structure which includes any occupied floor area of residential use;

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provided, however, that for projects that solely comprise an addition to an existing structure which would add occupied floor area in an amount less than 20 percent of the occupied floor area of the existing structure, the provisions of this Section shall only apply to the new occupied square footage.

(n) "Residential use" shall mean any structure or portion thereof intended for occupancy by uses as defined in Section 890.88 of this Code and shall not include any use which qualifies as an accessory use as defined and regulated in Sections 204 through 204.5.

(8) (c) "SOMA" shall mean ~~The area bounded by Market Street to the north, Embarcadero to the east, King Street to the south and South Van Ness and Division to the west.~~

(p) "Sponsor" shall mean an applicant seeking approval for construction of a residential development project subject to this Section and such applicant's successors and assigns.

(2) (g) "Waiver Agreement" means ~~a~~ an agreement acceptable in form and substance to the Planning Department and the City Attorney, under which the City agrees to waive all or a portion of the Community Improvements Impact Fee, conditioned upon the project sponsor's covenant to make a good faith effort to secure the formation of a Community Facilities (Mello-Roos) District, if such a district has not already been successfully formed, and to take all steps necessary to support the construction of a portion of the improvements described in Sections ~~418.6~~ 418.6 (the "CFD Improvements") using the proceeds of one or more series of special tax bonds or moneys otherwise made available by such a district ("CFD Funds"). Such agreement shall include a specific description of the CFD Improvements and a specific date for the commencement of such improvements. Such agreement shall also provide that the project sponsor shall pay the full amount of the waived Community Improvements Impact Fee in the event that CFD Funds are not received in amounts necessary to commence construction of the CFD Improvements on the stated commencement date. The City also shall require the project sponsor to provide a letter of credit or other instrument to secure the City's right to receive payment as described in the preceding sentence.

SEC. ~~418.3~~ 418.3. APPLICATION.

(a) Application. ~~Section 418.1 et seq. shall apply to any development project located in the Rincon Hill~~ DTR Community Improvements Program Area ~~which includes all properties zoned DTR and The Downtown Residential Community Improvements Neighborhood Program is hereby established and shall be implemented through district specific community improvements funds which apply in the following downtown residential areas~~ is hereby established.

(i) Properties identified as "Residential Mixed Use" in Map 3 (Land Use Plan) of the Rincon Hill Area Plan of the San Francisco General Plan.

(b) Amount of Fees.

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

(2) The SOMA Community Stabilization Fee shall be \$14.00 per net addition of occupiable square feet of residential use in any development project with a residential use within the Program Area.

(4) The Community Improvements Infrastructure Impact Fee shall be revised effective January 1st of the year following the effective date of Section 418.1 et seq. this ordinance and on January 1st each year thereafter by the percentage increase or decrease in the construction cost of providing these improvements.

(c) (e) Option for In-Kind Provision of Community Improvements Infrastructure and Fee Credits. The Planning Commission ~~may~~ shall reduce the Community Improvements Infrastructure Impact Fee or SOMA Stabilization Fee owed ~~described in (b) above~~ for specific residential development projects proposals in cases where ~~the Director has recommended approval and the~~ a project sponsor has entered into an In-Kind Improvements Agreement with the City. In-kind community improvements may only be accepted if they are improvements prioritized in the Rincon Hill Plan, meet identified community needs, and serve as a substitute for improvements funded by impact fee revenue such as street improvements, transit improvements, and community facilities. Open space or streetscape improvements proposed to satisfy the usable open space requirements of Section 135 are not eligible as in-kind improvements. No proposal for in-kind community improvements shall be accepted that does not conform to the criteria above. Project sponsors that pursue In-Kind Community Agreements with the City will be charged time and materials for any additional administrative costs that the Department or any other City agency incurs in processing the request to provide in-kind improvements in the form of streetscaping, sidewalk widening, neighborhood open space, community center, and other improvements that result in new public infrastructure and facilities described in Section 418.6 below.

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(1) The Rincon Hill Community ~~Improvements~~ **Infrastructure** Impact Fee and SOMA Stabilization Fee may be reduced by the total dollar value of the community improvements provided through an In-Kind Improvements Agreement recommended by the Director and approved by the Commission. For the purposes of calculating the total dollar value of in-kind community improvements, the project sponsor shall provide the Planning Department with a cost estimate for the proposed in-kind community improvement(s) from two independent ~~contractors sources or, if relevant, real estate appraisers. If the City has completed a detailed site-specific cost estimate for a planned improvement, this may serve as one of the cost estimates, provided it is indexed to current cost of construction.~~ Based on these estimates, the Director of Planning shall determine ~~their~~ the appropriate value of the in-kind improvements and the Planning Commission shall reduce the Rincon Hill Community Improvements Impact Fee or SOMA Stabilization Fee otherwise due by an equal amount assessed to that project proportionally. No credit shall be made for land value unless ownership of the land is transferred to the City or a permanent public easement is granted, the acceptance of which is at the sole discretion of the City.

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

~~(d) (f) Option for Provision of Community Improvements via a Community Facilities (Mello-Roos) District. The Planning Commission shall waive the Community Improvements Impact Fee described in (b) above, either in whole or in part, for specific residential development proposals in cases where one or more project sponsors have entered into a Waiver Agreement with the City. Such waiver shall not exceed the value of the improvements to be provided under the Waiver Agreement. For purposes of calculating the total value of such improvements, the project sponsor shall provide the Planning Department with a cost estimate for the proposed in-kind community improvements from two independent contractors. Based on these estimates, the Director of Planning shall determine their appropriate value.~~

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

~~The sponsor shall pay to the Treasurer a Community Improvements Impact Fees of the following amounts for each net addition of occupiable square-foot of residential use:~~

~~(i) Prior to the issuance by DBI of the first site or building permit for a residential development project within the Program Area, an \$11.00 Community Improvement Impact Fee in the Rincon Hill downtown residential area, as described in (a)(1) above, for the Rincon Hill Community Improvements Fund;~~

~~(ii) Prior to the issuance by DBI of a final certificate of occupancy for a residential development project within the Program Area, a \$13.75 SOMA Community Stabilization Fee in the Rincon Hill downtown residential area, as described in (a)(1) above for the SOMA Community Stabilization Fund or provide to the City an irrevocable letter of credit in a form approved in advance by the City Attorney to secure the payment of the \$13.75 Community Stabilization Fee within six months from the date of issuance by the Director of DBI of a final certificate of occupancy for the Rincon Hill Mitigation Fund; and prior to the issuance by DBI of the first site or building permit for a residential development project within the Program Area, a \$-25 SOMA Community Stabilization Fee in the Rincon Hill downtown residential area, as described in (a)(1) above for the SOMA Community Stabilization Fund;~~

~~(e) Upon payment of the Community Improvements Impact Fees in full to the Treasurer or upon the execution of a Waiver Agreement and upon request of the sponsor, the Treasurer shall issue a certification that the fee has been paid or a Waiver Agreement executed. The sponsor shall present such certification to the Planning Department, and MOH prior to the issuance by DBI of the first site or building permit for the residential development project. DBI shall not issue the site or building permit without the Treasurer's certification. A failure of the Treasurer, DBI, or the Planning Department to give any notice under this Section shall not relieve a sponsor from compliance with this Section. Where DBI inadvertently issues a site or building permit without payment of the fee, DBI shall not issue any certificate of occupancy for the project without notification from the Treasurer that the fees required by this Section have been paid. The procedure set forth in this Subsection is not intended to preclude enforcement of the provisions of this Section under any other section of this Code, or other authority under the laws of the State of California.~~

~~(f) (g) Waiver or Reduction,~~

~~(1) A project applicant of any project subject to the requirements in this Section may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of development and the amount of the fee charged.~~

~~(2) A project applicant subject to the requirements of this Section who has received an approved building permit, conditional use permit or similar discretionary approval and who submits a new or revised building permit, conditional use permit or similar discretionary approval for the same property may appeal for a reduction, adjustment or waiver of the requirements with respect to the square footage of construction previously approved.~~

~~(3) Any such appeal shall be made in writing and filed with the Clerk of the Board no later than 15 days after the date the sponsor is required to pay to the Treasurer the fee as required in Section 318.3(b). The appeal shall set forth in detail the factual and legal basis for the claim of waiver, reduction, or adjustment. The Board of Supervisors shall consider the appeal at the hearing within 60 days after the filing of the appeal. The appellant shall bear the burden of presenting substantial evidence to support the appeal, including comparable technical information to support appellant's position. The decision of the Board shall be by a simple majority vote and shall be final. If a reduction, adjustment, or waiver is granted, any change in use within the project shall invalidate the waiver, adjustment, or reduction of the fee. If the Board grants a reduction, adjustment or waiver, the Clerk of the Board shall promptly transmit the nature and extent of the reduction, adjustment or waiver to the Treasurer.~~

~~(4) In the event that the Board of Supervisors grants a waiver or reduction under Section 408 of this Article Section, it shall be the policy of the Board of Supervisors that it shall adjust the percentage of inclusionary housing in lieu fees in Planning Code Section 827(b)(5)(C) of this Code such that a~~

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greater percentage of the in lieu fees will be spent in SOMA with the result that the waiver or reduction under this Section shall not reduce the overall funding to the SOMA community.

**SEC. 420.2 318-12. DEFINITIONS.** *(a) In addition to the definitions set forth in Section 401 of this Article, The following definitions shall govern interpretation of this Section 420.1 et seq. this ordinance:*

*(1) (a) "Community facilities" shall mean all uses as defined under Section 200.4(a) of this Code.*

*(2) (b) "Net addition of occupiable square foot of residential use" shall mean occupied floor area, as defined in Section 102.10 of this Code, including bathrooms provided as part of dwelling units, to be occupied by or primarily serving residential use excluding common areas such as hallways, fitness centers and lobbies, less the occupied floor area in any structure demolished or rehabilitated as part of the proposed residential development project which occupied floor area was used primarily and continuously for residential use and was not accessory to any use other than residential use for at least five years prior to Planning Department approval of the residential development project subject to this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.*

*(c) "Residential development project" shall mean any new construction, addition, extension, conversion or enlargement, or combination thereof, of an existing structure which includes any occupied floor area of residential use and which has twenty (20) residential units or more; provided, however, that for projects that solely comprise an addition to an existing structure which would add occupied floor area in an amount less than 20 percent of the occupied floor area of the existing structure, the provisions of this Section shall only apply to the new occupied square footage.*

*(d) "Residential use" shall mean any structure or portion thereof intended for occupancy by uses as defined in Section 890.88 of this Code and shall not include any use which qualifies as an accessory use, as defined and regulated in Sections 204 through 204.5.*

*(e) "Spponsor" shall mean an applicant seeking approval for construction of a residential development project subject to this Section and such applicant's successors and assigns.*

*(f) "Townhome" shall mean a dwelling unit that: (i) either is a freestanding building, or shares only walls with other dwelling units; and (ii) has an entrance directly on a sidewalk used by members of the public or residents of the residential development project. "Townhome" shall not mean a dwelling unit of any type located on a podium over garage, community facility, commercial or other space.*

*(3) (g) "Visitacion Valley" shall mean the area bounded by Carter Street and McLaren Park to the west, Mansell Street to the north, Route 101 between Mansell Street and Bayshore Boulevard to the northeast, Bayview Park to the north, Candlestick Park and Candlestick Point Recreation Area to the east, the San Francisco Bay to the southeast, and the San Francisco County line to the south.*

**SEC. 421.1 326-f. FINDINGS.**

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

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

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

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

The City should encourage new housing production in a manner that enhances existing neighborhoods and creates new high-density residential and mixed-use neighborhoods. One solution to the housing crisis is to encourage the construction of higher density housing in areas of the City best able to accommodate such housing. Areas like the Plan Area can better accommodate growth because of easy access to public transit, proximity to downtown, convenience of neighborhood shops to meet daily needs, and the availability of development opportunity sites. San Francisco's land constraints, as described in Section 418.1(A) 318-1(A), limit new housing construction to areas of the City not previously designated as residential areas, infill sites, or areas that can absorb increased density.

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

To respond to the identified need for housing, repair the fabric of the neighborhood, and support transit-oriented development, the Market and Octavia Plan Area is zoned for the appropriate residential and commercial uses. The Planning Department is adding a Van Ness Market Downtown Residential Special Use District (VNMDR-SUD) in the Plan Area and establishing a Residential Transit-oriented (RTO) district and several Neighborhood Commercial Transit (NCT) districts. New zoning controls encourage housing and commercial development appropriate to each district.

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

San Francisco is experiencing a severe shortage of housing available to people at all income levels, especially to those with the lowest incomes while seeing a sharp increase in housing prices. The Association of Bay Area Governments' (ABAG) Regional Housing Needs Determination (RHND) forecasts that San Francisco must produce 2,716 new units of housing annually to meet projected needs. At least 5,639 of these new units should be available to moderate income households. New affordable units are funded through a variety of sources, including inclusionary housing and in lieu fees

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leveraged by new market rate residential development pursuant to Sections ~~411.345~~ and ~~412.345~~. The Planning Department projects that approximately 1,400 new units of affordable housing will be developed as a result of the plan. New Development Requires new Community Infrastructure.

The purpose for new development in the Plan Area is established above (Section ~~421.1(A)~~ ~~326.1(a)~~). New construction should not diminish the City's open space, jeopardize the City's Transit First Policy, or place undue burden on the City's service systems. The new residential and ~~commercial~~ ~~non-residential~~ construction should preserve the existing neighborhood services and character, as well as increase the level of service for all modes necessary to support transit-oriented development. New development in the area will create additional impact on the local infrastructure, thus generating a substantial need for community improvements as the district's population and workforce grows.

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

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

In order to enable the City and County of San Francisco to provide necessary public services to new residents; to maintain and improve the Market and Octavia Plan Area character; and to increase neighborhood livability and investment in the district, it is necessary to upgrade existing streets and streetscaping; acquire and develop neighborhood parks, recreation facilities and other community facilities to serve the new residents and workers.

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

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

National and international transportation studies (such as the Dutch Pedestrian Safety Research Review, T. Hummel, SWOV Institute for Road Safety Research (Holland), and University of North Carolina Highway Safety Research Center for the U.S. Department of Transportation, 1999 on file with the Clerk of the Board in *File No. \_\_\_\_\_*) have demonstrated that pedestrian, traffic-calming and streetscape improvements of the type proposed for the Market and Octavia Plan Area result in safer, more attractive pedestrian conditions. These types of improvements are essential to making pedestrian activity a viable choice, thereby helping to mitigate traffic impacts associated with excess automobile trips that could otherwise be generated by new development.

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

**Library Resources:** New residents in Plan Area will generate a substantial new need for library services. The San Francisco Public Library does not anticipate adequate demand for a new branch library in the Market and Octavia Plan Area at this time. However, the increase in population in Plan Area will create additional demand at other libraries, primarily the Main Library and the Eureka Valley Branch Library. The Market and Octavia Community Infrastructure Impact Fee includes funding for library services equal to \$69.00 per new resident, which is consistent with the service standards used by the San Francisco Public Library for allocating resources to neighborhood branch libraries. **Child Care Facilities:** New households in the Plan Area will generate a need for additional childcare facilities. Childcare services are integral to the financial and social success of families. Nationwide, research and policies are strengthening the link between childcare and residential growth, many Bay Area counties are leading in efforts to finance new childcare through new development. San Mateo has conducted detailed research linking housing to childcare needs. Santa Clara County has developed exemplary projects that provide childcare facilities in proximity to transit stations, and Santa Cruz has levied a fee on residential development to fund childcare. Similarly many research efforts have illustrated that adequate childcare services are crucial in supporting a healthy local economy, see research conducted by Louise Stoney, Mildred Warner, PPIC, County of San Mateo, CA on file with the Clerk of the Board in *File No. \_\_\_\_\_*. MOCD's Project Connect Report identified childcare as an important community service in neighboring communities. Project connect did not survey the entire Market and Octavia Plan Area, it focused on low income communities, including Market and Octavia's neighbors in the Mission, Western Addition, and the Tenderloin. The Department of Children Youth and Their Families projects new residents of Market and Octavia will generate demand for an additional 435 childcare spaces, of those 287 will be serviced through new child care development centers.

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D. Programmed Improvements and Costs. Community improvements to mitigate the impact of new development in the Market and Octavia Plan Area were identified through a community planning process, based on proposals in the Market and Octavia Area Plan on file with the Clerk of the Board ~~in file No. \_\_\_\_\_~~, and on a standards based analysis, and on community input during the Plan adoption process. The Planning Department developed cost estimates to the extent possible for all proposed improvements. These are summarized by use type in Table 1. Cost projections in Table 1 are realistic estimates made by the Planning Department of the actual costs for improvements needed to support new development. More information on these cost estimates is located in the Market and Octavia Community Improvements Program Document. Cost estimates for some items on Table 1 are to be determined through ongoing analyses conducted in coordination with implementation of the Market and Octavia Plan Community Improvements Program. In many cases these projects require further design work, engineering, and environmental review, which may alter the nature of the improvements; the cost estimates are still reasonable approximates for the eventual cost of providing necessary community improvements to respond to identified community needs. The Board of Supervisors is not committing to the implementation of any particular project at this time. Projects may be substituted for like projects should new information from the Citizens Advisory Committee, the Interagency Plan Implementation Committee, other stakeholders, or the environmental review process illustrate that substitute projects should be prioritized. Cost projections will be updated at a minimum approximately every five years after adoption.

Table 1.  
Cost of proposed community improvements in the Market and Octavia Plan Area.

Market and Octavia Community Improvements	
Greening	\$58,310,000
Parks	\$6,850,000
Park Improvements	\$ TBD
Vehicle	\$49,260,000
Pedestrian	\$23,760,000
Transportation	\$81,180,000
Transit User Infrastructure	\$ TBD
Bicycle	\$1,580,000
Childcare	\$17,170,000
Library Materials	\$690,000
Recreational Facilities	\$15,060,000
Future Studies	\$460,000
Program Administration	\$4,730,000
Total	\$258,900,000

Provision of affordable housing needs are addressed in Sections ~~413 343~~ and ~~415 345~~ of the ~~Planning~~ the Code. Additionally subsidized affordable housing may be granted a waiver from the Market and Octavia Community Improvement Fee as provided for in ~~Section 406 of this Article 326.3 (b)(3)~~. This waiver may be leveraged as a local funding 'match' to Federal and State affordable housing subsidies enabling affordable housing developers to capture greater subsidies for projects in the Plan Area.

E. Sharing the Burden. As detailed above, new development in the Plan Area will clearly generate new infrastructure demands. To fund such community infrastructure and amenities, new development in the district shall be assessed development impact fees proportionate to the increased demand for such infrastructure and amenities. The City will use the proceeds of the fee to build new infrastructure and enhance existing infrastructure, as described in preceding sections. A Community Improvements Impact Fee shall be established for the Van Ness and Market Downtown Residential Special Use District (VNMDR-SUD), and the Neighborhood Commercial Transit (NCT) and Residential Transit Oriented (RTO) Districts as set forth herein.

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

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

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

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

The Market and Octavia community improvements program relies on public, private, and community capital. Since 2000, when the Market and Octavia planning process was initiated, the area has seen upwards of \$100 million in public investment, including the development of Octavia Boulevard, the new Central freeway ramp, Patricia's Green in Hayes Valley and related projects. Additionally private entities have invested in the area by improving private property and creating new commercial establishments. Community members have invested by creating a Community Benefits District in the adjacent Castro neighborhood, organizing design competitions, and lobbying for community programming such as a rotating arts program on Patricia's Green in Hayes Valley. Project sponsor contributions to the Market and Octavia Community Improvements Fund will help leverage additional public and community investment.

As a result of this new development, projected to occur over a 20-year period, property tax revenue is projected to increase by as much as \$28 million annually when projected housing production is complete. Sixteen million dollars of this new revenue will be diverted directly to San Francisco (see the Market and Octavia Community Improvements Program Document for a complete discussion of increased property tax revenue). These revenues will fund improvements and expansions to general City services, including police, fire, emergency, and other services needed to partially meet increased demand associated with new development. New development's local impact on community infrastructure will be greater in the Market and Octavia Plan Area, relative to those typically funded by City government through property tax revenues. Increased property taxes will contribute to continued maintenance and service delivery of new infrastructure and amenities. The City should pursue state enabling legislation that directs growth related increases in property tax directly to the neighborhood where growth is happening, similar to the redevelopment agencies' Tax Increment Financing tool. If such a revenue dedication tool does become available, the Planning Department should pursue an ordinance to adopt and apply a tax increment district to the Market and Octavia Plan Area even if the Plan is already adopted by the Board of Supervisors and in effect. The relative cost of capital improvements, along with the reduced role of State and Federal funding sources, increases the necessity for development impact fees to cover these costs. Residential and commercial impact fees are one of the many revenue sources necessary to mitigate the impacts of new development in the Market and Octavia Plan Area.

SEC. 421.2 ~~326-2~~. DEFINITIONS.

In addition to See the definitions set forth in Section 401 of this Article. ~~The~~ The following definitions shall govern interpretation of Section 421.1 et seq. this ordinance:

(a) Definitions from Section ~~418.2 318.2~~ shall apply unless otherwise noted in this Section.

(b) "Community facilities" shall mean all uses as defined under Section 209.4(a) and 209.3(d) of this Code.

(c) "Commercial use" shall mean any structure or portion thereof intended for occupancy by retail or office uses that qualify as an accessory use, as defined and regulated in Sections 204 through 204.5.

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

(e) (c) "In-Kind Agreement" shall mean a In agreement acceptable in form and substance to the City Attorney and the Director of Planning between a project sponsor and the Planning Commission subject to the approval of the Planning Commission in its sole discretion to provide a specific set of community improvements, at a specific phase of construction, in lieu of contribution to the Market and Octavia Community Improvement Fund. The In-Kind Agreement shall also mandate a covenant of the project sponsor to reimburse all City agencies for their administrative and staff costs in negotiating, drafting, and monitoring compliance with the In-Kind Agreement. The City also shall require the project sponsor to provide a letter of credit or other instrument, acceptable in form and substance to the Planning Department and the City Attorney, to secure the City's right to receive payment as described in the preceding sentence.

(f) (f) "Not addition of occupiable square foot of commercial use" shall mean a Occupied floor area, as defined in Section 102.10 of this Code, to be occupied by or primarily serving, non-residential use excluding common areas such as hallways, maintenance facilities and lobbies, less the occupied floor area in any structure demolished or rehabilitated as part of the proposed commercial development project which occupied floor area was used primarily and continuously for commercial use and was not accessory to any use other than residential use for at least five years prior to Planning Department approval of the residential development project subject to this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.

(g) (g) "Program" shall mean ~~The~~ The Market and Octavia Community Improvements as described in the Market and Octavia Community Improvements Program Document.

(h) (h) "Program Area" shall mean ~~The~~ The Market and Octavia Plan Area in Map 1 (Land Use Plan) of the Market and Octavia Area Plan of the San Francisco General Plan, which includes those districts zoned RTO, NCT, or any

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neighborhood specific NCT, a few parcels zoned RH-1 or RH-2, and those parcels within the Van Ness and Market Downtown Residential Special Use District (VMDRSUD).

~~(a) (i)~~ "Waiver Agreement" means a ~~an~~ agreement acceptable in form and substance to the Planning Department and the City Attorney, under which the City agrees to waive all or a portion of the Community Improvements Impact Fee, conditioned upon the project sponsor's covenant to make a good faith effort to secure the formation of a Community Facilities (Mello-Roos) District, if such a district has not already been successfully formed, and in any event to take all steps necessary to support the construction of a portion of the improvements described in Sections ~~421.5-326.6~~ (the "CFD Improvements") using the proceeds of one or more series of special tax bonds or ~~monies otherwise made available by such a district ("CFD Funds").~~ Such agreement shall include a specific description of the CFD Improvements and a specific date for the commencement of such improvements. Such agreement shall also provide that the project sponsor shall pay the full amount of the waived Community Improvements Impact Fee plus interest in the event that CFD Funds are not received in amounts necessary to commence construction of the CFD Improvements on the stated commencement date listed in the Waiver Agreement. The City also shall require the project sponsor to provide a letter of credit or other instrument, acceptable in form and substance to the Planning Department and the City Attorney, to secure the City's right to receive payment as described in the preceding sentence.

~~(b) (j)~~ "Residential Space Subject to the Community Improvement Impact Fee" means ~~a~~ each net addition of occupiable square feet within the Program Area which results in an additional residential unit or contributes to a 20 percent increase of residential space from the time that this ordinance is adopted within the Market and Octavia Community Improvements Fund.

~~(b) (k)~~ "Commercial Space Subject to the Community Improvement Impact Fee" means ~~For~~ each net addition of occupiable square feet within the Program Area which results in an additional commercial unit or any increased commercial capacity that is beyond 20 percent of the non-residential capacity at the time that ~~Section 421.1 et seq. this ordinance is adopted.~~

SEC. 421.3 ~~326-3~~. APPLICATION OF COMMUNITY IMPROVEMENTS INFRASTRUCTURE IMPROVEMENT IMPACT FEE.

(a) Application. ~~Section 421.1 et seq. shall apply to any development project located in the Program Area which Program Area. The Market and Octavia Community Improvements Neighborhood Program is hereby established and shall be implemented through district-specific community improvements funds which apply to the following areas: The Program Area includes properties identified as part of the Market and Octavia Improvements Infrastructure Program Area Plan Area in Map 1 (Land Use Plan) of the Market and Octavia Area Plan of the San Francisco General Plan.~~

(b) Amount of Market and Octavia Community Improvements Impact Fees; Timing of Payment. The sponsor shall pay ~~to the Treasurer~~ Market and Octavia Community ~~Improvements Infrastructure~~ Impact Fees of the following amounts:

(1) Unless a Waiver Agreement has been executed, prior to the issuance by DBI of the first construction document site or building permit for a residential development project, or residential component of a mixed use project within the Program Area, a \$10.00 Community Improvement Impact Fee in the Market and Octavia Plan Area, as described in (a) above, for the Market and Octavia Community Improvements Fund, for each net addition of occupiable square feet which results in an additional residential unit or contributes to a 20 percent increase of residential space from the time that ~~Section 421.1 et seq. this ordinance is adopted.~~

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

~~(c) Upon request of the sponsor and upon payment of the Community Improvements Impact Fee in full to the Treasurer, the execution of a Waiver Agreement or In-Kind Agreement approved as described herein, the Treasurer shall issue a certification that the obligations of this section of the Planning Code have been met. The sponsor shall present such certification to the Planning Department and DBI prior to the issuance by DBI of the first site or building permit for the development project. DBI shall not issue the site or building permit without the Treasurer's certification. Any failure of the Treasurer, DBI, or the Planning Department to give any notice under this Section shall not relieve a sponsor from compliance with this Section. Where DBI inadvertently issues a site or building permit without payment of the fee, Planning and DBI shall not issue any further permits or a certificate of occupancy for the project without notification from the Treasurer that the fees required by this Section have been paid or otherwise satisfied. The procedure set forth in this Subsection is not intended to preclude enforcement of the provisions of this Section under any other section of this Code, or other authority under the laws of the State of California.~~

~~(c) (d)~~ Fee Adjustments.

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(1) Inflation Adjustments. The Controller may make annual adjustments of the development fees for inflation in accordance with Section 409 of this Article. The Planning Commission may adjust the amount of the development impact fees set forth in the annual fee adjustments on an annual basis before the annual budget is approved. The Market and Octavia Community Improvements Infrastructure Impact Fee adjustments should be based on the following factors: (a) the percentage increase or decrease in the cost to acquire real property for public park and open space use in the area and (b) the percentage increase or decrease in the construction cost of providing these and other improvements listed in Section 421.1(E) § 326.1(E)(a). Fluctuations in the construction market can be gauged by indexes such as the Engineering News Record or a like index. Revision of the fee should be done in coordination with revision to other like fees, such as those detailed in Sections 247, 414 313, 414 314, 415 315, 418 318, and 419 319 of this the Planning Code. The Planning Department shall provide notice of any fee adjustment including the formula used to calculate the adjustment, on its website and to any interested party who has requested such notice at least 30 days prior to the adjustment taking effect.

(2) Program Adjustments. Upon Planning Commission and Board approval adjustments may be made to the fee to reflect changes to (a) the list of planned community improvements listed in Section 421.1(D) § 326.1(D); (b) re-evaluation of the nexus based on new conditions; or (c) further planning work which recommends a change in the scope of the community improvements program. Changes may not be made to mitigate temporary market conditions. Notwithstanding the foregoing, it is the intent of the Board of Supervisors that it is not committing to the implementation of any particular project at this time and changes to, additions, and substitutions of individual projects listed in the related program document can be made without adjustment to the fee rate or Section 421.1 et seq. this ordinance as those individual projects are placeholders that require further public deliberation and environmental review.

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

(d) (a) Option for In-Kind Provision of Community Improvements and Fee Credits. The Planning Commission may reduce the Market and Octavia Community Improvements Impact Fee described in (b) above owed for specific development projects proposals in cases where a project sponsor has entered into an In-Kind Agreement with the City to provide In-Kind improvements in the form of streetscaping, sidewalk widening, neighborhood open space, community center, and other improvements that result in new public infrastructure and facilities described in Section 421.1(E)(a) 326.1(b)(a) or similar substitutes. For the purposes of calculating the total value of In-Kind community improvements, the project sponsor shall provide the Planning Department with a cost estimate for the proposed In-Kind community improvements from two independent contractors or, if relevant, real estate appraisers. If the City has completed a detailed site specific cost estimate for a planned community improvement this may serve as one of the cost estimates, required by this clause; if such an estimate is used it must be indexed to current cost of construction. Based on these estimates, the Director of Planning shall determine their appropriate value and the Planning Commission may reduce the Community Improvements Impact Fee assessed to that project proportionally. Approved In-Kind improvements should generally respond to priorities of the community, or fall within the guidelines of approved procedures for prioritizing projects in the Market and Octavia Community Improvements Program. Open space or streetscape improvements, including off-site improvements per the provisions of this Special Use District, proposed to satisfy the usable open space requirements of Section 135 and 138 of this Code are not eligible for credit toward the contribution as In-Kind improvements. No credit toward the contribution may be made for land value unless ownership of the land is transferred to the City or a permanent public easement is granted, the acceptance of which is at the sole discretion of the City. A permanent easement shall be valued at no more than 50% of appraised fee simple land value, and may be valued at a lower percentage as determined by the Director of Planning in his or her sole discretion. Any proposal for contribution of property for public open space use shall follow the procedures of Subsection (6)(D) below. The Planning Commission may reject In-Kind improvements if they do not fit with the priorities identified in the plan, by the Interagency Plan Implementation Committee (see Section 36 of the Administrative Code), the Market and Octavia Citizens Advisory Committee (Section 341.5) or other prioritization processes related to Market and Octavia Community Improvements Programming.

(e) (a) Option for Provision of Community Improvements via a Community Facilities (Mello-Roos) District. The Planning Commission may waive the Community Improvements Impact Fee described in Section 421.3(b) 326.3(b) above, either in whole or in part, for specific development proposals in cases where one or more project sponsors have entered into a Waiver Agreement with the City approved by the Board of Supervisors. Such waiver shall not exceed the value of the improvements to be provided through the Mello Roos district. In consideration of a Mello-Roos waiver agreement, the Board of Supervisors shall consider whether provision of Community Improvements through a Community Facilities (Mello-Roos) District will restrict funds in ways that will limit the City's ability to provide community amenities according to the established community priorities detailed in the Market and Octavia Area Plan, or to further amendments. The Board of Supervisors shall have the opportunity to comment on the structure of bonds issued for Mello Roos Districts. The Board of Supervisors may decline to enter into a Waiver Agreement if the establishment of a Mello Roos district does not serve the City or Area Plan's objectives related to Market and Octavia Community Improvements and general balance of revenue streams.

(f) (a) Applicants who provide community improvements through a Community Facilities (Mello Roos) District or an In-Kind development will be responsible for all additional time and materials costs including, Planning Department staff, City Attorney time, and other costs necessary to administer the alternative to the direct payment of the fee. These costs shall be paid in addition to the community improvements obligation and billed no later than expenditure of bond funds on approved projects for Districts or promptly following satisfaction of the In-Kind Agreement. The Planning Department may designate a base fee for the establishment of a Mello Roos District, that project sponsors would be obliged to pay before the district is established. The base fee should cover basic costs associated with establishing a district but may not account for all expenses, a minimum estimate of the base fee will be published annually by the Planning Department.

(h) Waiver or Reduction:

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

(A) A project applicant of any project subject to the requirements in this Section may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of development and the amount of the fee charged or for the reasons set forth in subsection (3) below; a project applicant may request a waiver from the Board of Supervisors.

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*(B) Any appeal of waiver requests under this clause shall be made in writing and filed with the Clerk of the Board no later than 15 days after the date the sponsor is required to pay to the Treasurer the fee as required in Section 326.3(b). The appeal shall set forth in detail the factual and legal basis for the claim of waiver, reduction, or adjustment. The Board of Supervisors shall consider the appeal at the hearing within 60 days after the filing of the appeal. The appellant shall bear the burden of presenting substantial evidence to support the appeal, including comparable technical information to support appellant's position. The decision of the Board shall be by a simple majority vote and shall be final. If a reduction, adjustment, or waiver is granted, any change of use or scope of the project shall invalidate the waiver, adjustment, or reduction of the fee. If the Board grants a reduction, adjustment or waiver, the Clerk of the Board shall promptly transmit the nature and extent of the reduction, adjustment or waiver to the Treasurer and Planning Department.*

*(2) Waiver or Reduction, Based on Housing Affordability or Duplication of Fees. This section details waivers and reductions available by right for project sponsors that fulfill the requirements below. The Planning Department shall publish an annual schedule of specific values for waivers and reductions available under this clause. Planning Department staff shall apply these waivers based on the most recent schedule published at the time that fee payment is made.*

*(A) A project applicant subject to the requirements of this Section who has received an approved building permit, conditional use permit or similar discretionary approval and who submits a new or revised building permit, conditional use permit or similar discretionary approval for the same property shall be granted a reduction, adjustment or waiver of the requirements of Section of the Planning Code with respect to the square footage of construction previously approved.*

*(B) The Planning Commission shall give special consideration to offering reductions or waivers of the impact fee to housing projects on the grounds of affordability in cases in which the State of California, the Federal Government, the Mayor's Office of Housing, the San Francisco Redevelopment Agency, or other public subsidies target new housing for households at or below 50% of the Area Median Income as published by HUD. This waiver clause intends to provide a local "match" for these deeply subsidized units and should be considered as such by relevant agencies. Specifically these units may be rental or ownership opportunities but they must be subsidized in a manner which maintains their affordability for a term no less than 55 years. Project sponsors must demonstrate to the Planning Department staff that a governmental agency will be enforcing the term of affordability and reviewing performance and service plans as necessary, usually this takes the form of a deed restriction. Projects that meet the requirements of this clause are eligible for a 100 percent fee reduction until an alternative fee schedule is published by the Planning Department. Ideally some contribution will be made to the Market and Octavia Community Improvement Program, as these units will place an equal demand on community improvements infrastructure. This waiver clause shall not be applied to units built as part of a developer's efforts to meet the requirements of the Inclusionary Affordable Housing Program and Section 315.*

*(C) The City shall make every effort not to assess duplicative fees on new development. This section discusses the method to determine the appropriate reduction amount for known possible conflicts. In general project sponsors are only eligible for fee waivers under this clause if a contribution to another fee program would result in a duplication of charges for a particular type of community infrastructure. Therefore applicants may only receive a waiver for the portion of the Market and Octavia Community Improvements Fund that addresses that infrastructure type. Refer to Table 2 for fee composition by infrastructure type. The Planning Department shall publish a schedule annually of all known opportunities for waivers and reductions under this clause, including the specific rate. Requirements under Section 135 and 138 do not qualify for waiver or reductions. Should future fees pose a duplicative charge, such as a Citywide open space or childcare fee, the same methodology shall apply and the Planning Department shall update the schedule of waivers or reductions accordingly. Additionally the City should work to ensure that fees levied on development in the Plan Area through other fee programs should be targeted towards improvements identified through the Market and Octavia Plan, especially fees that allow project sponsors to obtain a waiver from the Market and Octavia Community Improvement's Fund.*

(i)  
 Table 2. Breakdown of Market and Octavia Community Improvements Fee by Infrastructure Type.  
 Components of Proposed Impact Fee

	Residential	Commercial
Greening	34.1%	50.2%
Parks	8.2%	13.8%
Park Improvements	tbd	tbd
Vehicle	0.4%	0.4%
Pedestrian	6.9%	6.2%
Transportation	22.2%	20.1%
Transit User Infrastructure	tbd	tbd
Bicycle	0.5%	0.4%
Childcare	8.3%	0.0%
Library	0.9%	0.0%
Materials		
Recreational Facilities	13.1%	0.0%
Future Studies	0.2%	.4%

**Exhibit B: Technical Modifications/ Definition Consolidation**

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Program Administration	5.1%	8.6%
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(ii) Applicants that are subject to the downtown parks fee, Section 139, can reduce their contribution to the Market and Octavia Community Improvements Fund by one dollar for every dollar that they contribute to the downtown parks fund, the total fee waiver or reduction granted through this clause shall not exceed 8.2 percent of calculated contribution for residential development or 13.8 percent for commercial development.

**SEC. 421.5 ~~326.6~~. MARKET AND OCTAVIA COMMUNITY IMPROVEMENTS INFRASTRUCTURE FUND.**

(a) There is hereby established a separate fund set aside for a special purpose entitled the Market and Octavia Community ~~Improvements Infrastructure~~ Fund ("Fund"). All monies collected by ~~DBI, the Treasurer~~ pursuant to Section ~~421.3(b) 326.3(b)~~ shall be deposited in a special fund maintained by the Controller. The receipts in the Fund to be used solely to fund community improvements subject to the conditions of this Section.

(b) The Fund shall be administered by the Board of Supervisors.

(1) All monies deposited in the Fund shall be used to design, engineer, acquire, and develop and improve neighborhood open spaces, pedestrian and streetscape improvements, community facilities, childcare facilities, and other improvements that result in new publicly-accessible facilities and related resources within the Market and Octavia Plan Area or within 250 feet of the Plan Area. Funds may be used for childcare facilities that are not publicly owned or "publicly-accessible". Funds generated for 'library resources' should be used for materials at the Main Library, the Eureka Valley Library, or other library facilities that directly service Market and Octavia Residents. Funds may be used for additional studies and fund administration as detailed in the Market and Octavia Community ~~Improvements Infrastructure~~ Program Document. These improvements shall be consistent with the Market and Octavia Civic Streets and Open Space System as described in Map 4 of the Market and Octavia Area Plan of the General Plan, and any Market and Octavia Improvements Plan. Monies from the Fund may be used by the Planning Commission to commission economic analyses for the purpose of revising the fee pursuant to Section ~~421.3(c) 326.3(a)~~ above, to complete an updated nexus study to demonstrate the relationship between development and the need for public facilities if this is deemed necessary.

(2) No portion of the Fund may be used, by way of loan or otherwise, to pay any administrative, general overhead, or similar expense of any public entity, except for the purposes of administering this fund. Administration of this fund includes time and materials associated with reporting requirements, facilitating the Market and Octavia Citizens Advisory Committee meetings, and maintenance of the fund. Total expenses associated with administration of the fund shall not exceed the proportion calculated in Table ~~2 3~~ (above). All interest earned on this account shall be credited to the Market and Octavia Community ~~Improvements Infrastructure~~ Fund.

(c) With full participation by the Planning Department and related implementing agencies the Controller's Office shall file an annual report with the Board of Supervisors beginning 180 days after the last day of the fiscal year of the effective date of ~~Section 421.1 et seq. this ordinance~~, which shall include the following elements: (1) a description of the type of fee in each account or fund; (2) Amount of the fee; (3) Beginning and ending balance of the accounts or funds including any bond funds held by an outside trustee; (4) Amount of fees collected and interest earned; (5) Identification of each public improvement on which fees or bond funds were expended and amount of each expenditure; (6) An identification of the approximate date by which the construction of public improvements will commence; (7) A description of any inter-fund transfer or loan and the public improvement on which the transferred funds will be expended; and (8) Amount of refunds made and any allocations of unexpended fees that are not refunded.

*Every fifth fiscal year following the first deposit into the account the following account reporting shall be made by the Controller's office in coordination with the Planning Department: (1) Purpose to which the fee is to be put; (2) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged; (3) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in this ordinance and subsequent reporting; and (4) Designate the approximate dates on which the funding referred to above (3) is expected to be deposited into the appropriate account or fund. The reporting requirements detailed in this section refer to the current requirements under AB1600, and are detailed here to insure that this fund fulfills all legal obligations as detailed by the State of California. Any amendments to AB1600 automatically apply to the reporting requirements of this ordinance and the ordinance should be amended accordingly.*

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

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

(f) The Director of Planning shall have the authority to prescribe rules and regulations governing the Fund, which are consistent with this ordinance. The Director of Planning shall make recommendations to the Board regarding allocation of funds.

**SEC. 422.2 ~~331.2~~. DEFINITIONS. (a) In addition to Sec the definitions set forth in Section 401 of this Article, ~~Definitions from Section 418.2 318.2 shall apply unless otherwise noted in this Section. The following definitions shall also govern interpretation of Section 422.1 et seq. this ordinance.~~**

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~~(1) (d)~~ "Balboa Park Impact Fee." shall refer to ~~the fee collected by the City to mitigate impacts of new development as described in findings, above.~~

~~(2) (c)~~ "Balboa Park Community Improvements Fund." shall refer to ~~the fund that all fee revenue the City collects from the Balboa Park Impact Fee.~~

~~(3) (f)~~ "In-kind Improvements Agreement." shall mean ~~a(n) agreement acceptable in form and substance to the City Attorney and the Planning Director between a project sponsor and the Planning Department, subject to the approval of the Planning Commission, in its sole discretion, to provide a specific set of public benefits, at a specific phase of construction, in lieu of monetary contribution to the Balboa Park Community Improvements Fund.~~

~~(4) (g)~~ "Net addition of gross square foot of non-residential space." shall mean ~~gross floor area as defined in Planning Code Section 102.9 of this Code to be occupied by, or primarily serving, any non-residential use, less the gross floor area in any structure demolished or rehabilitated as part of the proposed development project space used primarily and continuously for the same non-residential use within the same economic activity category. This space shall be accessory to any use other than that same non-residential use for five years prior to Planning Commission approval of the development project subject to this Section 422.1 et seq. or for the life of the structure demolished or rehabilitated, whichever is shorter.~~

~~(5) (h)~~ "Net addition of gross square foot of residential space." shall mean ~~gross floor area as defined in Planning Code Section 102.9 of this Code to be occupied by, or primarily serving, residential use, less the gross floor area in any structure demolished or rehabilitated as part of the proposed residential development project space used primarily and continuously for residential use and not accessory to any use other than residential use for five years prior to Planning Commission approval of the development project subject to this Section 422.1 et seq. or for the life of the structure demolished or rehabilitated whichever is shorter.~~

~~(6) (e)~~ "Non-Residential development project." shall mean ~~a(n) any new construction, addition, extension, conversion or enlargement, or combination thereof, of an existing structure that includes any occupied floor area of a non-residential use; provided, however, that for projects that solely comprise an addition to an existing structure that would add occupied floor area in an amount less than 20 percent of the occupied floor area of the existing structure, the provisions of this Section 422.1 et seq. shall only apply to the new occupied square footage.~~

~~(7) (i)~~ "Non-Residential Space Subject to the Balboa Park Impact Fee." means ~~a(n) each net addition of gross square foot within the Project Area that contributes to a 20 percent increase in commercial capacity of an existing structure.~~

~~(8) (l)~~ "Non-Residential Use." use shall ~~include~~ everything not mentioned in the residential definition, including but not limited to any structure or portion thereof intended for occupancy by retail, office, commercial or other nonresidential uses defined in Section 217, 218, 219 and 221, and also in 209.3 and 209.8 of ~~this the Planning Code~~, Publicly owned community facilities, including libraries and recreational facilities, and privately owned child care facilities are not defined as a "non-residential" use.

~~(9) (i)~~ "Project Area." shall mean ~~the Balboa Park Plan Area in Figure 1 of the Balboa Park Station Area Plan of the San Francisco General Plan.~~

~~(10) (j)~~ "Residential Space Subject to the Balboa Park Impact Fee." means ~~a(n) each net addition of gross square foot within the Project Area which results in a net new residential unit.~~

~~(a)~~ "Residential Use" shall mean ~~any type of use containing dwellings as defined in Section 209.1 of the Planning Code or containing group housing as defined in Section 209.2(a) - (c) of the Planning Code, and 790.88, as relevant for the subject zoning district.~~

~~(11) (f)~~ "Waiver Agreement." means ~~a(n) agreement acceptable in form and substance to the Planning Department and the City Attorney, under which the City agrees to waive all or a portion of the Balboa Park Impact Fee, provided the sponsor has demonstrated a hardship in achieving those objectives as well as all the requirements of the Plan.~~

SEC. 422.3 331-3. APPLICATION OF COMMUNITY IMPROVEMENT IMPACT FEE.

(a) Application. Project Area. The Balboa Park Community Improvements Fund is hereby established. It shall be implemented in part through the Balboa Park Impact Fee that applies to the Project Area and includes Section 422.1 et seq. shall apply to any development project located in the Balboa Park Community Improvements Program Area is hereby established, which includes all properties identified as part of the Balboa Park Station Area Plan in Figure 1 of the San Francisco General Plan.

(b) Amount of Fee.

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

~~(2) Non-Residential Uses: \$1.50 per net addition of gross square feet which results in an additional non-residential floor area that is beyond 20 percent of the non-residential floor area at the time that Section 422.1 et seq. was adopted in any development project with a non-residential use located within the Program Area. Fees shall be charged on net additions of gross square feet which result in a net new residential unit or contribute to a 20 percent increase of gross square feet non-residential space in an existing structure. Fees shall be assessed on residential use and on non-residential use with no substitutions across uses. Fees shall be assessed on mixed-use projects according to the gross square feet of each use in the project.~~

~~(b) Prior to the issuance by the Department of Building Inspection of the first site or building permit for a residential development project or residential component of a mixed-use project within the Project Area, the sponsor of any project containing residential space subject to the Balboa Park Impact Fee shall pay to the Treasurer \$8.00 per gross square foot.~~

~~(c) Prior to the issuance by DBI of the first site or building permit for a non-residential development project or a non-residential component of a mixed-use project within the Project Area, the sponsor of any project containing non-residential space subject to the Balboa Park Impact Fee shall pay to the Treasurer \$1.50 per gross square foot.~~

~~(d) Upon request of the sponsor and upon payment of the Balboa Park Impact Fee in full to the Treasurer, the execution of a Waiver Agreement or In-Kind agreement approved as described herein, the Treasurer shall issue a certification that the obligations of this Section of the Planning Code have been met. The sponsor shall present such certification to the Planning Department and DBI prior to the issuance by DBI of the first site or building permit for the development project. DBI shall not issue the site or building permit without the Treasurer's certification that the fees required by this Section have been paid or otherwise satisfied. Any failure of the Treasurer, DBI, or the Planning Department to give notice of requirements under this Section shall not relieve a sponsor from compliance with this Section. Where DBI inadvertently issues a site or building permit without payment of the fee, Planning and DBI shall not issue any further permits or a certificate of occupancy for the project without certification of fee payment from the Treasurer. The procedure set forth in this Subsection is not intended to preclude enforcement of the provisions of this Section under any other Section of this Code, or other authority under the laws of the City or State.~~

~~(e) Fee Adjustments. In conjunction with the five-year Monitoring Program described in Administrative Code Chapter 10E, the City may review the amount of the Balboa Park Impact Fee, and consider whether an adjustment in fees is warranted according to a change in construction costs according to changes published in the Construction Cost Index published by the Engineering News-Record or according to another similar cost index. The City may adjust fees based on changes in estimated costs of the underlying improvements to be funded through the Balboa Park Impact Fee as listed in the Balboa Park Community Improvements Program. Revision of the fee should be done in coordination with revision to other like fees whenever possible. The Planning Department shall provide notice of any fee adjustment including the formula used to calculate the adjustment on its website and to any interested party who has requested such notice at least 30 days prior to the adjustment taking effect.~~

~~(c) (f) Option for In-Kind Provision of Community Improvements and Fee Credits Public Benefits. The Planning Commission may reduce the Balboa Park Community Improvements Impact Fee owed described above for specific development projects proposals in cases where the Planning Director has recommended approval recommends such an in-kind provision, and the project sponsor has entered into an In-Kind Improvements Agreement with the City. In-kind improvements may be accepted if they are recommended only where said improvements have been prioritized in the Plan, where they meet an identified community need as analyzed in the Balboa Park Community Improvements Program, and serve as a where they substitute for improvements funded to be provided by impact fee revenue such as street improvements, transit improvements, and community facilities. Open space or streetscape improvements proposed to satisfy the usable open space requirements of Section 135 are not eligible as in-kind improvements. No proposal for in-kind improvements shall be accepted that does not conform if it is not recommended by the Planning Director according to the criteria above. Project sponsors that pursue an in-kind improvements Agreements with the City will be charged billed time and materials for any additional administrative costs that the Department or any other City agency incurs in processing the request.~~

~~(1) The Balboa Park Community Impact Fee may be reduced by the total dollar value of the community improvements provided through the in-kind improvements agreement recommended by the Director and approved by the Commission shall be equivalent in the portion of the Balboa Park Impact Fee that is waived. For the purposes of calculating the total value, the project sponsor shall provide the Planning Department with a cost estimate for the proposed in-kind improvement(s) from two independent sources or, if relevant, real estate appraisers. If the City has completed a detailed site-specific cost estimate for a planned improvement this may serve as one of the cost estimates provided if it is indexed to current cost of construction. Based on these estimates, the Planning Director shall determine their the appropriate value of the in-kind improvements and the Planning Commission shall may reduce the Balboa Park Community Improvements Impact Fee otherwise due by an equal amount assessed to that project proportionally. Open space or streetscape improvements proposed to satisfy the usable open space requirements of Section 135 are not eligible for credit toward the contribution as in-kind improvements. No credit toward the contribution may shall be made for land value unless ownership of the land is transferred to the City or a permanent public easement is granted, the acceptance of which is at the sole discretion of the City.~~

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

~~(g) Waiver or Reduction~~

~~(1) Waiver or Reduction Based on Hardship or Absence of Reasonable Relationship~~

~~(A) A project applicant of any project subject to the requirements in this Section may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of development and the amount of the fee charged or for the reasons set forth in subsection (3) below, a project applicant may request a waiver from the Board of Supervisors.~~

~~(B) Any appeal of waiver requests under this clause shall be made in writing and filed with the Clerk of the Board no later than 15 days after the date the sponsor is required to pay and has paid to the Treasurer the fee as required in Section 221.3. The appeal shall set forth in detail the factual and legal basis for the claim of waiver, reduction, or adjustment. The Board of Supervisors shall consider the appeal at the hearing within 60 days after the filing of the appeal. The appellant shall bear the burden of presenting substantial evidence to support the appeal, including comparable technical~~

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information to support appellant's position. If a reduction, adjustment, or waiver is granted, any change of use or scope of the project shall invalidate the waiver, adjustment or reduction of the fee. If the Board grants a reduction, adjustment or waiver, the Clerk of the Board shall promptly transmit the nature and extent of the reduction, adjustment or waiver to the ~~Treasurer and Planning Department.~~

(2) ~~Waiver or Reduction Based on Duplication of Fees. This Section details waivers and reductions available by right for project sponsors that fulfill the requirements below.~~

(A) ~~A project applicant subject to the requirements of this Section, who has received an approved building permit, conditional use permit, or similar discretionary approval and who submits a new or revised building permit, conditional use permit, or similar discretionary approval for the same property shall be granted a reduction, adjustment, or waiver of the requirements of Section 321.3 of the Planning Code with respect to the square footage of construction previously approved.~~

(B) ~~The City shall not assess duplicative fees on new development. In general project sponsors are only eligible for fee waivers under this clause if a contribution to another fee program would result in a duplication of charges for a particular type of community infrastructure. Therefore applicants may receive a waiver for only the portion of the Bolboa Park Community Improvements Fund that addresses that infrastructure type. Requirements under Section 135 do not qualify for waiver or reductions. Should future fees pose a duplicative charge, the same methodology shall apply and the Planning Department shall update the schedule of waivers or reductions accordingly.~~

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

(c) ~~Timing and Payment of Fee. The fee required by this Section is due and payable to the Development Fee Collection Unit at DBI prior to issuance of the first construction document for the development project deferred to prior to issuance of the first certificate of occupancy pursuant to Section 107A.13.3.1 of the San Francisco Building Code.~~

SEC. 423.327. EASTERN NEIGHBORHOODS **INFRASTRUCTURE IMPACT FEES** AND PUBLIC BENEFITS FUND.

Sections ~~423.1 327-1 through to 423.5 327-6~~ set forth the requirements and procedures for the Eastern Neighborhoods **Infrastructure Impact Fee and Public Benefits Fund.**

SEC. 423.2. 327-2. DEFINITIONS. ~~(a) In addition to Sec. the definitions set forth in Section 401 of this Article. The following definitions shall govern interpretation of Section 423.1 et seq. this ordinance:~~

~~(1) (a) Definitions from Section 118.2 318.2 shall apply unless otherwise noted in this Section.~~

~~(2) (c) "Community facilities." shall mean a all uses as defined under Section 200.4(a) and 200.2(d) of this Code.~~

~~(2) (b) "Designated affordable housing zones." For the purposes of this section, shall mean the Mission NCT defined in Section 736 and the Mixed Use Residential District defined in Section 841.~~

~~(1) (d) "Eastern Neighborhoods Impact Fee." shall refer to the fee collected by the City to mitigate impacts of new development as described in Findings, above.~~

~~(5) (c) "Eastern Neighborhoods Public Benefits Fund." shall refer to the fund into which all fee revenue collected by the City from the Eastern Neighborhoods Impact Fee.~~

~~(6) (f) "In-kind Improvements Agreement." shall mean a In agreement acceptable in form and substance to the City Attorney and the Planning Director between a project sponsor and the Planning Department subject to the approval of the Planning Commission in its sole discretion to provide a specific set of public benefits, at a specific phase of construction in lieu of monetary contribution to the Eastern Neighborhoods Public Benefits Fund.~~

~~(7) (g) "Net addition of gross square feet of non-residential space." shall mean Gross floor area as defined in Planning Code Section 102.9 of this Code to be occupied by, or primarily serving, any non-residential use, less the gross floor area in any structure demolished or rehabilitated as part of the proposed development project space used primarily and continuously for the same non-residential use within the same economic activity category and not necessary to any use other than that same non-residential use for five years prior to Planning Commission approval of the development project subject to this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.~~

~~(8) (h) "Net addition of gross square feet of residential space." shall mean Gross floor area as defined in Planning Code Section 102.9 of this Code to be occupied by, or primarily serving, residential use, less the gross floor area in any structure demolished or rehabilitated as part of the proposed residential development project space used primarily and continuously for residential use and not necessary to any use other than residential use for five years prior to Planning Commission approval of the development project subject to this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.~~

~~(9) (i) "Non-residential use." shall mean a any structure or portion thereof intended for occupancy by retail, office, commercial or other nonresidential uses defined in Section 217, 218, 219 and 221, and also in 200.3 and 200.8 of the Planning Code; including uses referenced in the Eastern Neighborhoods Nexus Study. For the purposes of this section it shall not include industrial uses, including those contained in Sections 220, 222, 223, 224, 225, and 226 of the Planning Code, or uses that qualify as an accessory use, as defined and regulated in Sections 204 through 204.5 of this Code.~~

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Non-residential uses shall include the economic activity categories of Cultural/Institution/Education; Management, Information & Professional Service; Medical & Health Service; Retail/Entertainment; and Visitor Services.

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

~~(11) (k) "Non-residential Space Subject to the Eastern Neighborhoods Impact Fee." means each net addition of net square foot within the Project Area which contributes to a 20 percent increase in non-residential capacity of an existing structure.~~

~~(12) (l) "Project Area" shall mean the Eastern Neighborhoods Plan Area in Map 1 (Land Use Plan) of the Eastern Neighborhoods Area Plan of the San Francisco General Plan.~~

~~(m) "Residential" shall mean any type of use containing dwellings as defined in Section 209.1, 700.88, and 800.88 of the Planning Code as relevant for the subject zoning district or containing group housing as defined in Section 209.2(a)-(c) of the Planning Code.~~

~~(13) (n) "Residential Space Subject to the Eastern Neighborhoods Impact Fee." means each net addition of net square feet within the Project Area which results in a net new residential unit.~~

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

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

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

~~(17) (o) "Waiver Agreement." means an agreement acceptable in form and substance to the Planning Department and the City Attorney, under which the City agrees to waive all or a portion of the Eastern Neighborhoods Impact Fee, provided the sponsor has demonstrated a hardship in achieving those objectives as well as all the requirements of the Plan. Such a waiver may also be granted as a part of a signed covenant to make a good faith effort to secure the formation of a Community Facilities (Mello-Roos) District.~~

**SEC. 423.3. 323.3. APPLICATION OF EASTERN NEIGHBORHOODS INFRASTRUCTURE IMPACT FEE.**

(a) Application. Section 423.1 et seq. shall apply to any development project located in the Eastern Neighborhoods Public Benefits Program Area, which Project Area The Eastern Neighborhoods Public Benefits Fund is hereby established. It shall be implemented in part through district-specific Eastern Neighborhoods Impact Fee which applies to the Project Area and includes properties identified as part of the Eastern Neighborhoods Plan Areas in Map 1 (Land Use Plan) of the San Francisco General Plan.

(b) Amount of Fee.

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

(2) Non-Residential Uses. The fees set forth in Table 423.3 below shall be charged on non-residential use within each use category of Cultural/Institution/Education; Management, Information & Professional Service; Medical & Health Service; Retail/Entertainment; and Visitor Services; with no substitutions across uses. Fees shall not be required for uses contained in Sections 220, 222, 223, 224, 225, and 226 of the Planning Code.

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

~~(b) Prior to the issuance by the Department of Building Inspection (DBI) of the first site or building permit for a residential development project, or residential component of a mixed use project within the Project Area, the sponsor of any project containing residential space subject to the Eastern Neighborhoods Impact Fee shall pay to the Treasurer according to the schedule in Table 327.3.~~

~~(c) Prior to the issuance by DBI of the first site or building permit for a non-residential development project, or non-residential component of a mixed use project within the Project Area, the sponsor of any project containing non-residential space subject to the Eastern Neighborhoods Impact Fee shall pay to the Treasurer according to the schedule in Table 327.3.~~

TABLE 423.3 327.3

FEE SCHEDULE FOR EASTERN NEIGHBORHOODS PLAN AREAS

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

**Exhibit B: Technical Modifications/ Definition Consolidation**

CASE NO. 2009.1065T, Development Stimulus and Fee Reform

**Proposed Additions highlighted and double underlined**  
**Proposed Deletions highlighted and double cross through**

3	\$16/gsf	\$14/gsf
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~~(d) Upon request of the sponsor and upon payment of the Eastern Neighborhoods Impact Fee in full to the Treasurer, the execution of a Waiver Agreement or In-Kind agreement approved as described herein, the Treasurer shall issue a certification that the obligations of this section of the Planning Code have been met. The sponsor shall present such certification to the Planning Department and DBI prior to the issuance by DBI of the first site or building permit for the development project. DBI shall not issue the site or building permit without the Treasurer's certification that the fees required by this Section have been paid or otherwise satisfied. Any failure of the Treasurer, DBI, or the Planning Department to give notice of requirements under this Section shall not relieve a sponsor from compliance with this Section. Where DBI inadvertently issues a site or building permit without payment of the fee, Planning and DBI shall not issue any further permits or a certificate of occupancy for the project without certification from the Treasurer. The procedure set forth in this Subsection is not intended to preclude enforcement of the provisions of this Section under any other section of this Code, or other authority under the laws of the City or State of California.~~

~~(c) Fee Adjustments. In conjunction with the five-year Monitoring Program required by the Administrative Code Section (note: section number to be determined), the City may review the amount of the Eastern Neighborhoods Impact Fee, should such an increase in fees be warranted according to an increase in construction costs according to changes published in the Construction Cost Index published by the Engineering News-Record, or according to another similar cost index should there be one more appropriate. The City may also adjust fees based on changes in estimated costs of the underlying improvements to be funded through the Eastern Neighborhoods Impact Fee as listed in the Eastern Neighborhoods Program. Revision of the fee should be done in coordination with revision to other like fees whenever possible. The Planning Department shall provide notice of any fee adjustment including the formula used to calculate the adjustment on its website and to any interested party who has requested such notice at least 30 days prior to the adjustment taking effect.~~

~~(c) (f) Option for In-Kind Provision of Public Benefits and Fee Credits. The Planning Commission may reduce the Eastern Neighborhoods Impact Fee owed described in (b) above for specific development projects proposals in cases where the Planning Director has recommended approval such as In-kind provision, and the project sponsor has entered into an In-Kind Improvements Agreement with the City. In-kind improvements may be accepted if they are only be recommended where said improvements have been prioritized in the pPlan, where they meet an identified community needs as analyzed in the Eastern Neighborhoods Needs Assessment, and serve as a where they substitute for improvements unded be provided by impact fee revenue such as public open spaces and recreational facilities, transportation and transit service, streetscapes or the public realm, and community facility space. Open space or streetscape improvements proposed to satisfy the usable open space requirements of Section 135 are not eligible as in-kind improvements. No proposal for In-kind improvements shall be accepted that does not conform if it is not recommended by the Planning Director according to the criteria above. Project sponsors that pursue an in-kind Improvement Agreements with the City waiver will be charged are responsible time and materials for any all additional administrative costs that the Department or any other City agency incurs in processing the request.~~

~~(1) The Eastern Neighborhoods Infrastructure Impact Fee may be reduced by the total dollar value of the community improvements provided through the an In-kind Improvements Agreement recommended by the Director and approved by the Commission shall be equivalent to the portion of the Eastern Neighborhoods Impact Fee that is waived. For the purposes of calculating the total value, the project sponsor shall provide the Planning Department with a cost estimate for the proposed in-kind Public Benefits from two independent sources or, if relevant, real estate appraisers. If the City has completed a detailed site-specific cost estimate for a planned improvement this may serve as one of the cost estimates provided it is indexed to current cost of construction. Based on these estimates, the Planning Director shall determine their the appropriate value of the in-kind improvements and the Planning Commission may reduce the Eastern Neighborhoods Impact Fee otherwise due by an equal amount assessed to that project proportionally. Open space or streetscape improvements proposed to satisfy the usable open space requirements of Section 135 are not eligible for credit toward the contribution as In-Kind improvements. No credit toward the contribution may shall be made for land value unless ownership of the land is transferred to the City or a permanent public easement is granted, the acceptance of which is at the sole discretion of the City.~~

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

~~(d) (g) Waiver or Reduction of Fees. The provisions for (1) Waiver or Reduction Based on Hardship or Absence of Reasonable Relationship, waiver or reduction of fees are set forth in Section 406 of this Article. In addition to those provisions~~

~~(A) A project applicant of any project subject to the requirements in this Section may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of development and the amount of the fee charged or for the reasons set forth in subsection (2) below, a project applicant may request a waiver from the Board of Supervisors.~~

~~(B) Any appeal of waiver requests under this clause shall be made in writing and filed with the Clerk of the Board no later than 15 days after the date the sponsor is required to pay and has paid to the Treasurer the fee as required in Section 327.3(b). The appeal shall set forth in detail the factual and legal basis for the claim of waiver, reduction, or adjustment. The Board of Supervisors shall consider the appeal at the hearing within 60 days after the filing of the appeal. The appellant shall bear the burden of presenting substantial evidence to support the appeal, including comparable technical information to support appellant's position. If a reduction, adjustment, or waiver is granted, any change of use or scope of the project shall invalidate the waiver, adjustment, or reduction of the fee. If the Board grants a reduction, adjustment or waiver, the Clerk of the Board shall promptly transmit the nature and extent of the reduction, adjustment or waiver to the Treasurer and Planning Department.~~

~~(2) Waiver or Reduction Based on Duplication of Fees. This Section details waivers and reductions available by right for project sponsors that fulfill the requirements below.~~

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**Proposed Additions highlighted and double underlined**

**~~Proposed Deletions highlighted and double cross-through~~**

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*~~(A) A project applicant subject to the requirements of this Section who has received an approved building permit, conditional use permit or similar discretionary approval and who submits a new or revised building permit, conditional use permit or similar discretionary approval for the same property shall be granted a reduction, adjustment or waiver of the requirements of Section 327 of the Planning Code with respect to the square footage of construction previously approved.~~*

*~~(B) The City shall not to assess duplicative fees on new development. In general project sponsors are only eligible for fee waivers under this clause if a contribution to another fee program would result in a duplication of charges for a particular type of community infrastructure. Therefore applicants may only receive a waiver for the portion of the Eastern Neighborhoods Public Benefits Fund that addresses that infrastructure type. Requirements under Section 135 do not qualify for waiver or reductions. Should future fees pose a duplicative charge, the same methodology shall apply and the Planning Department shall update the schedule of waivers or reductions accordingly.~~*