CITY AND COUNTY OF SAN FRANCISCO
LONDON BREED, MAYOR

OFFICE OF SMALL BUSINESS
REGINA DICK-ENDRIZZI, DIRECTOR

October 29, 2019

Ms. Angela Calvillo, Clerk of the Board
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: BOS File No. 190548: Planning Code - Jobs Housing Linkage Fee and Inclusionary Housing

Small Business Commission Recommendation to the Board of Supervisors: **Approve only upon acceptance of amendments.**

Dear Ms. Calvillo,

On October 29, 2019 the Small Business Commission (SBC or Commission) heard BOS File No. 190548: Planning Code - Jobs Housing Linkage Fee and Inclusionary Housing. Courtney McDonald, Legislative Aide to Supervisor Matt Haney provided an overview of the legislation. Ken Rich, Director of Development with the Office of Economic and Workforce Development (OEWD) was also in attendance and provided the Commission with an overview of OEWD's Feasibility Report relative to the ordinance.

The Commission engaged in a substantive discussion regarding the legislation with both Ms. McDonald and Mr. Rich. The Commissioners were especially appreciative for the opportunity to discuss both the both the proposed Jobs Housing Linkage fee increase for Office and Laboratory Uses from both the Supervisor's and OEWD's perspectives. The Commission holds a particular concern that the ordinance's proposed increase ($69.60/gsf for Office vs. $46.43/gsf for Laboratory) does not align with the Feasibility Report's recommendation to increase the fee by $10/gsf.

Additionally, the Commission also shared concerns regarding the Controller's Economic Impact Report's assessment of the ordinance. Specifically that the legislation may result in a net job loss over the next 20 years and that the city's GDP would experience a net loss of $280-330 million.

The Commission also anticipates there would be an inequitable effect on small capitalization and large capitalization projects that would incur the Jobs Housing Linkage Fee as proposed. Specifically, that although large capitalization projects are more likely have the capital available to them to comply with the fee increase, small capitalization projects which are more vulnerable, will not.

Responsive to the discussion, the Commission recommends that a tiered approach to the Jobs Housing Linkage Fee assessment be adopted and, that that fee increases per tier fall between the

OEWD's Feasibility Report's recommendations and sponsor's proposal.

Thank you for considering the Commission's comments. Please feel free to contact me should you have any questions.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

cc: Matt Haney, Member, Board of Supervisors,
Sophia Kittler, Mayor's Liaison to the Board of Supervisors
Lisa Pagan, Office of Economic and Workforce Development
Erica Major Clerk, Public Safety and Neighborhood Services Committee

SAN FRANCISCO
OFFICE OF SMALL BUSINESS

Legislative Background
BOS File No. 190548

Name:	Planning Code - Jobs Housing Linkage Fee (JHLF) and Inclusionary Housing
Sponsor(s):	Supervisors Haney, Fewer, Ronen, Mar, Peskin, Walton, and Yee
First Date Introduced:	May 14, 2019
Substituted and Assigned:	September 10, 2019
Date Referred:	Self-Referred, October 16, 2019
Scheduled for BOS Committee:	October, 21, 2019, Land Use and Transportation Committee

Legislation Overview:

This ordinance intends to amend the Planning Code to modify the Jobs Housing Linkage Fee (JHLF) by allowing indexing of the fee, adding options for complying with the fee, requiring payment of the fee no later than at the time of first certificate of occupancy, dedicating funds for permanent supportive housing and the preservation and acquisition of affordable housing, and to remove the monetary limit for the Small Sites Funds under the Inclusionary Housing Program.

The last Jobs Housing Nexus Analysis was completed in 1997. This ordinance was initially introduced on May 14, 2019. That ordinance made proposed amendments to the findings of section 413.1, and raised the fee for office projects to $38.00. Substitute legislation was introduced on September 10, 2019. The City published an updated Nexus Study by Keyser Marsten Associates, Inc. in May 2019, and a Feasibility Report by Economic & Planning Systems, Inc. in June 2019.

Existing Laws

Consistent with the California Mitigation Fee Act, the Planning Code provides that certain commercial developments must pay a Jobs-Housing Linkage fee ("JHLF"). The Jobs-Housing Linkage program requires projects constructing new or expanded non-residential buildings of more than 25,000 square feet of development to offset the demand for new affordable housing created by those projects. The JHLF is codified in Planning Code Section 413.1 et seq. Section 413.5 allows a project sponsor to comply with the JHLF by either making a payment, or dedicating land to a housing developer. While most citywide development fees are indexed annually according to the Annual Infrastructure Construction Cost Inflation Estimate, the JHLF is indexed according to procedures developed by the Mayor's Office of Housing and Community Development. Projects within the Central SoMa Special Use District can comply with the JHLF by offering land to the City. Projects may receive credit up to the value of the land donated. Typically, a project must pay any development fees before the issuance of the first construction document. Any funds received pursuant to the JHLF are deposited into the Citywide Affordable Housing Fund. The Small Sites Funds is a program under the City's Inclusionary Housing program to support acquisition and rehabilitation of "Small Sites," and funding for the Small Sites program is capped at $15 million.

The last Jobs Housing Nexus Analysis, completed in 1997.

Amendments to Current Law

This ordinance would make the following amendments to the JHLF.

- Align the indexing of the JHLF with other fees. Most citywide development fees are indexed according to the Annual Infrastructure Construction Cost Inflation Estimate, pursuant to the Section 409. This amendment would remove the exception to that requirement for the JHLF codified in Section 409, and Section 413.6
- Streamline the findings in Section 413.1. This ordinance would update many of the historical findings related to the JHLF.
- Allow a project sponsor to comply with the JHLF by: paying a fee to the City; offering the City land of equal value to the proposed fee, or a combination of fee and land dedication to the City. It no longer permits a project sponsor to comply with the JHLF by offering to pay a fee or offer land to a housing developer.
- Raise the JHLF for Office use to $69.60, and Laboratory use to $46.43. Remaining JHLF fees for other categories are not subject to change.

Current JKLF		May 2019 Proposal		Current 2019 Proposal	
Office:	**$28.57/gsf**	**Office:**	**$38.00/gsf**	**Office:**	**$69.60/gsf**
Laboratory:	**$19.04/gsf** [1]	**Laboratory:**	**$13.30/gsf**	**Laboratory:**	**$46.43/gsf**

- Require that certain projects pay any additional amounts due under the JHLF prior to the first Certificate of Occupancy.
- Set aside 10% of the fees received through the JHLF for the preservation and acquisition of rent restricted affordable housing, and 30% for permanent supportive housing.

The ordinance would amend the Inclusionary Housing program by removing the $15 million cap limit on Small Sites Program Funding.

Amendments in 10/21/2019 Land Use Committee

- Reducing the fee for projects that filed in application by September 10, 2019 to $57.14 per square foot
- Fee rising to $69 per square foot by 2022

Additional Information:

Office building are divided into three classifications:

Class A

These buildings represent the newest and highest quality buildings in their market. They are generally the best looking buildings with the best construction, and possess high-quality building infrastructure. Class A buildings also are well located, have good access, and are professionally managed. As a result of this, they attract the highest quality tenants and also command the highest rents.

[1] Current Fee amount.

Class B
This is the next notch down. Class B buildings are generally a little older, but still have good quality management and tenants. Oftentimes, value-added investors target these buildings as investments since well-located Class B buildings can be returned to their Class A glory through renovations such as facade and common area improvements. Class B buildings should generally not be functionally obsolete and should be well maintained.

Class C
The lowest classification of office building and space is Class C. These are older buildings and are located in less desirable areas and are often in need of extensive renovation. Architecturally, these buildings are the least desirable, and building infrastructure and technology is outdated. As a result, Class C buildings have the lowest rental rates, take the longest time to lease, and are often targeted as re-development opportunities.

The above is just a general guideline of building classifications. No formal standard exists for classifying a building. Buildings must be viewed in the context of their sub-market; i.e., a Class A building in one neighborhood may not be a Class A building in another.[2]

Considerations:

The JHLF is applied to newly built or expanded non-residential buildings over 25,000 sq. ft.[3] This fee is likely to be passed on to the building office tenants through rent increases.

This fee may also be passed on to the ground floor commercial tenant driving up cost of storefront commercial space through triple-net leases where tenants are responsible for operating expenses.

This fee will drive up overall cost of office real estate including Class B and C. Not only for businesses located in the Downtown and South of Market Districts, but for the entire City. With the rise in overall office rent due to the JHLF, it will push office tenants currently occupying Class B and C spaces in the Downtown and South of Market Districts further south and west in the San Francisco. The City is currently in great need of affordable Class B and C office space for small businesses. Which consist of childcare centers, small CPA firms, legal firms and other professional services, non-profits, dentist, doctors, psychologists, psychiatrists, acupuncturists, chiropractors, massage therapist, graphic designers, physical therapist and trade schools, such as the San Francisco Institute of Esthetics & Cosmetology. The Renaissance Entrepreneur Center is a key organization for San Francisco businesses and it is likely in a Class C building in the SoMa district.

San Francisco is in need of more affordable development of small office space in the south and west side of the City. The ActivSpace situation highlighted this need. With the passage of the JHLF at $69.60/gsf, building outside of the Downtown/ SOMA, Mission Bay districts, could be cost prohibitive particularly with the low square footage threshold of 25,000 sq. ft. Imposing development impact fee rates above what is found feasible can also postpone or halt the construction of a Development Project. Any public benefit revenue or public improvements that were expected from such projects may not materialize.

[2] Newmark Commercial Reality: A Guide to Office Building Classification

[3] For reference and scale: 25,000 sq.ft. is the equivalent of the Department on the Environment at 1455 Market Street office space.

The JHLF needs to be taken into consideration in combination with other impact special taxes, such as Central SoMa Mello-Roos Community Facilities District (CFD) Special Tax applies to prototypes in Central SoMa and is levied to fund public amenities and infrastructure in the district. The Transit Center District also has a similar CFD special tax, which was adopted earlier. The tax is $4.36/gsf for office in Central SoMa and $5.52 per gross square foot in the Transit Center, and $3.18 /gsf for retail in Central SoMa and $4.02 /gsf in the Transit Center, subject to annual rate escalations. The Central SoMa Mello-Roos CFD Program participation requirement applies to projects in the Plan area that include new construction or the net addition of more than 25,000 gross square feet of non-residential development on Class B or Class C properties.

The Early Care and Education Commercial Rents Tax effective 2019, imposes a new gross receipts tax of 3.5 percent of building lease income on commercial spaces in the City. Each of the prototypes in the feasibility study would be subject to this tax.

The feasibility study indicates that small capitalization projects can bear about $10.00 increase in the JHLF. If the large capitalization developers can charge their tenants historically high rents to make the projects pencil with a larger than $10.00 increase, this would likely not apply to small cap office developers, which will have a different set of tenants. The technology boom is driving up office rents, these rents hikes are not only directly impacting the office rental rates Citywide, it is affecting rental rates of ground floor commercial in the City's neighborhood commercial corridors. Where is it is not uncommon to hear of commercial rents doubling and tripling at the time of lease renewal.

The Planning Department staff has expressed its support for "the overarching aim of the Ordinance" to generate funding for affordable housing, but expressed strong concerns about the proposed rates and proposed $38.57/gsf increase. The Planning Commission did not take that recommendation and recommended approval with the $69.60/gsf.

BAYAREA
COUNCIL

October 28, 2019

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

RE: Jobs Housing Linkage Fee and Inclusionary Housing

Dear President Adams and Commissioners,

The Bay Area Council strongly urges the Small Business Commission to continue the item (Jobs Housing Linkage Fee and Inclusionary Housing) to a future committee meeting, to allow for more time for stakeholder input, discussion, and analysis.

Changing the fee will have major impacts on our residents, affordable housing supply, workers, and businesses. The City's feasibility study shows that the dramatic increase proposed would postpone, halt, or stall office space construction across the City. This can have major, unintended consequences for the San Francisco's community, residents and infrastructure. According to the Planning Department:

Development impact fee rates should be set in accordance with feasibility assessments. This assures that the City captures as much value from new Development Projects without jeopardizing their viability. In this way the City gains both the new Development Project and associated impact fees to fund public infrastructure and benefits. The City has a feasibility assessment for Office uses that recommends a rate no higher than $38.57/gsf.

Nevertheless, the fee considered is more than double the current amount. If the policy objective is to expand office development as a major funding source for the preservation and production of permanent affordable housing, imposing an infeasible rate only counters this objective. The city should not jeopardize the future growth of the city's economy, inadvertently hurting current residents and future generations by reducing the chance to share in economic progress, depleting funds for those most in need, and thereby impacting quality of life.

Such a significant policy change deserves more time for discussion and stakeholder input before moving forward.

Sincerely,

Matt Regan

Matt Regan
Senior Vice President, Public Policy
Bay Area Council

SPUR
San Francisco | San Jose | Oakland

September 17, 2019

San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: September 19, 2019, Item F.10: Jobs Housing Linkage Fee 2019-011975PCA [Board File No. 190548]

Dear Planning Commissioners:

Thank you for the opportunity to provide input on the proposed increase to San Francisco's Jobs Housing Linkage Fee. We urge you to seriously weigh the information on financial feasibility that you have in hand as you consider this item.

San Francisco's Jobs Housing Linkage Fee is one of several important sources of funding for affordable housing in San Francisco. Given how the economy has evolved, it is not surprising that the recent nexus study update justifies a higher linkage fee than in the past. However, we would challenge the aggressive assumption that all workers in new commercial buildings will live in San Francisco. Most importantly, it is critical to consider financial feasibility when setting impact fee levels.

Given construction costs and other current dynamics, it is already difficult for new development to make sense. The city's feasibility study shows an increase of $10 per square foot would be viable for *some* new development. Setting the fee at more than 240% (a $40 per square foot increase for office and a $27 per square foot increase for R&D) of its existing rate is extraordinarily aggressive and will certainly render some office and R&D projects infeasible.

While this may seem appealing to some, this does not actually serve the city's purposes. With office space in high demand today, if developers choose not to build more, this decision will merely make our existing office space more expensive, pushing rents higher for non-profit organizations, small businesses and other non-tech businesses and potentially displacing them to inconvenient or suburban locations. This also further reduces the diversity of San Francisco's economy. The city's nonprofits and smaller businesses are already grappling with this challenge in today's market, and stopping new commercial construction will only exacerbate the problem. Further, if generating affordable housing funding from the fee is truly the goal, then commercial development needs to be able to occur in order to trigger that payment.

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SPUR agrees that it is important for San Francisco's commercial uses and employers to contribute to the city's coffers for affordable housing. Updating the fee by some amount may be appropriate today. But it should not be a tool to bring the construction of new office and R&D space to a halt. That will have impacts on San Francisco far beyond the bottom line of developers, who will simply look elsewhere for opportunities. We urge you to accept Planning staff's recommendation to approve an increase that is in line with the city's feasibility analysis.

Please feel free to reach out if you have any questions.

Sincerely,

Kristy Wang
Community Planning Policy Director

CC: Supervisor Matt Haney
SPUR Board of Directors

SAN FRANCISCO CHAMBER OF COMMERCE
235 Montgomery St., Ste. 760, San Francisco, CA 94104
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October 24th, 2019

Small Business Commission
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA

RE: Jobs Housing Linkage Fee, File No: 190548

Dear Commissioners;

Thank you for the opportunity to provide input on the proposed increase to the Jobs Housing Linkage Fee (File: 190548).

The San Francisco Chamber of Commerce, representing over a thousand local businesses, is writing to encourage you to support amendments to the ordinance to help support small businesses who rely on affordable office space to stay in the City.

We appreciate Supervisor Haney's leadership in strengthening the linkage between jobs and housing and initiating an overdue examination of the Jobs Housing Linkage Fee. We absolutely agree that San Francisco needs more affordable housing to support our growing economy.

The Jobs Housing Linkage Fee is an integral part of our City's planning process. It has significant impacts on our local economy, the supply of commercial and laboratory space, and our ability to fund affordable housing.

The City's feasibility study has warned that increasing the fee too dramatically and suddenly would postpone and stop construction of commercial space in San Francisco. A joint memorandum from the City's Planning Department, Office of Housing and Community Development, and Office of Economic and Workforce Development concludes that limiting development will lead to an "ever-tightening market for office space, resulting in only top-paying companies being able to afford new office space in San Francisco." This will inevitably push out smaller, home-grown businesses that rely on affordable office space.

We deeply appreciate the Supervisor's willingness to work with businesses and stakeholders in creating a Jobs Housing Linkage Fee that will responsibly balance our jobs-housing ratio. We are optimistic that we can reach a positive, consensus solution that is supported by the business community, affordable housing advocates, and City Hall.

We believe the following amendments would strengthen the ordinance and support small businesses:

A Reduced Jobs Housing Linkage Fee for Laboratory Space
San Francisco is home to over 100 life science and biotech companies, over 80% are small businesses with 50 employees or less. These companies are research-focused businesses, mostly supported by federal grants. They face a deep shortage of usable Laboratory space in the City, which increases their real estate costs and hurts their ability to sustain a business. In addition, the Jobs Housing Economic Nexus calculates that Laboratory space only requires 55% of the affordable housing burden that office space requires.

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We encourage the ordinance to reduce the Jobs Housing Linkage Fee for Laboratory space to a ratio of 55% of the Jobs Housing Linkage Fee for office space, approximately $31-$38. This recognizes San Francisco's deep need for affordable housing while also supporting the future development of Laboratory space in the City.

We understand that Supervisor Haney's office may be making amendments in this direction, and we deeply appreciate his thoughtfulness and support.

A Separate Tier for Development that Supports Small and Mid-sized Businesses
Many small, local, professional service businesses rely on affordable office space to stay in the City. Smaller office space developments naturally support small and mid-sized businesses. We should incentivize the development of developments that will provide office space to these small businesses and encourage a diversity of industries in San Francisco.

The Jobs Housing Economic Nexus and the City's feasibility study on the issue both ignore these small businesses and developments in their calculations. The Economic Nexus does not calculate for any building less than 100,000 square feet. The City's feasibility study only assumes a 12% rental increase growth - a rental increase that unrealistic for most small businesses.

We encourage the ordinance to create a separate, reduced fee tier for office space developments with less than 75,000 square feet. This amendment recognizes the importance of small business and the need to keep them in San Francisco. We believe that San Francisco's fee for office space developments with less than 75,000 square feet should start at $37.71 and gradually increase over a period of two years to $45.93.

Regular Economic Feasibility Analysis and Adjustment
Many of the City's major economic policies, such as the inclusionary housing requirement, require the City Controller and Board of Supervisors to review economic feasibility every three years and give the Board of Supervisors the opportunity to adjust the policy. This allows the City to adapt and reflect changes in the local economy.

We recommend including the same regular feasibility analysis and adjustment language for the Jobs Housing Linkage Fee ordinance.

We believe including these three amendments in the ordinance will help many stakeholders support a responsible and progressive policy. Thank you for your consideration.

Sincerely,

Rodney Fong
President & CEO
San Francisco Chamber of Commerce

CC: Mayor London Breed, Supervisor Matt Haney, Clerk of the Board of Supervisors

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September 27, 2019

Ms. Angela Calvillo, Clerk
Honorable Supervisor Haney
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2019-011975PCA:**
Jobs Housing Linkage Fee
Board File No. 190548
Planning Commission Recommendation: ***Approval***

Dear Ms. Calvillo and Supervisor Haney,

On September 19, 2019, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Haney that would amend Planning Code to modify the Jobs Housing Linkage Fee. At the hearing the Planning Commission recommended approval of the Ordinance.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

Aaron D. Starr
Manager of Legislative Affairs

cc:
Austin M. Yang, Deputy City Attorney
Courtney McDonald, Aide to Supervisor Haney
Erica Major, Office of the Clerk of the Board

Attachments:
Planning Commission Resolution
Planning Department Executive Summary

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Planning Commission Resolution No. 20522

HEARING DATE SEPTEMBER 19, 2019

Project Name:	**Jobs Housing Linkage Fee**
Case Number:	**2019-011975PCA** [Board File No. 190548]
Initiated by:	Supervisor Haney / Introduced May 14, 2019; Substituted September 10, 2019
Staff Contact:	**Diego Sanchez**, Legislative Affairs diego.sanchez@sfgov.org, 415-575-9082
Reviewed by:	Aaron D Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, 415-558-6362

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD MODIFY THE JOBS HOUSING LINKAGE FEE BY ALLOWING INDEXING OF THE FEE, ADDING OPTIONS FOR COMPLYING WITH THE FEE, REQUIRING PAYMENT OF THE FEE NO LATER THAN AT THE TIME OF FIRST CERTIFICATE OF OCCUPANCY, DEDICATING FUNDS FOR PERMANENT SUPPORTIVE HOUSING AND THE PRESERVATION AND ACQUISITION OF AFFORDABLE HOUSING, AND TO REMOVE THE MONETARY LIMIT FOR THE SMALL SITES FUNDS UNDER THE INCLUSIONARY HOUSING PROGRAM; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on May 14, 2019 Supervisor Haney introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 190548, which would amend the Planning Code to update the Jobs Housing Linkage Fee;

WHEREAS, on July 9, 2019 Supervisor Haney introduced a proposed Resolution under Board File Number 190770 to extend the prescribed time within which the Planning Commission may render its decision on an Ordinance (File No. 190548) amending the Planning Code to update the Jobs Housing Linkage Fee which would amend the Planning Code to update the Jobs Housing Linkage Fee by 90 days;

WHEREAS, on September 10, 2019 Supervisor Haney introduced a substitute Ordinance under Board of Supervisors (hereinafter "Board") File Number 190548, which would amend the Planning Code to modify the Jobs Housing Linkage Fee by allowing indexing of the Fee, adding options for complying with the Fee, requiring payment of the Fee no later than at the time of first certificate of occupancy, dedicating funds for permanent supportive housing and the preservation and acquisition of affordable housing, and to remove the monetary limit for the Small Sites Funds under the Inclusionary Housing program;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 19, 2019; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) and 15378; and

WHEREAS, the Planning 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 Department staff and other interested parties; and

WHEREAS, 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 Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves** the proposed ordinance.

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 City needs to periodically analyze its development impact fees to assure that they reflect the latest relationship between non-residential uses and the demand for goods and services they create.

2. Updating the JHLF rate is important given that the fee rate has not been analyzed holistically in approximately two decades.

3. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 7

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

Policy 7.1

Expand the financial resources available for permanently affordable housing, especially permanent sources.

Updating and increasing the Jobs-Housing Linkage Fee will help expand the financial resources available for permanently affordable housing.

WESTERN SOMA AREA PLAN

OBJECTIVE 3.5

ENSURE THAT NEW RESIDENTIAL DEVELOPMENTS SATISFY AN ARRAY OF HOUSING NEEDS WITH RESPECT TO TENURE, UNIT MIX AND COMMUNITY SERVICES.

Policy 3.5.5

Provide through the permit entitlement process a range of revenue-generating tools including impact fees, public funds and grants, assessment districts, and other private funding sources, to fund community and neighborhood improvements.

Updating and increasing the Jobs-Housing Linkage Fee will help provide new resources to fund community improvements such as affordable housing.

MISSION AREA PLAN

OBJECTIVE 2.1

ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE MISSION IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.

Policy 2.1.2

Provide land and funding for the construction of new housing affordable to very low- and low-income households.

An updated and increased Jobs-Housing Linkage Fee will contribute new resources to construct affordable housing, including for very low- and low-income households.

OBJECTIVE 2.3

ENSURE THAT NEW RESIDENTIAL DEVELOPMENTS SATISFY AN ARRAY OF HOUSING NEEDS WITH RESPECT TO TENURE, UNIT MIX AND COMMUNITY SERVICES.

Policy 2.3.5

Explore a range of revenue-generating tools including impact fees, public funds and grants, assessment districts, and other private funding sources, to fund community and neighborhood improvements.

Updating and increasing the Jobs-Housing Linkage Fee will help provide new resources to fund community improvements such as affordable housing.

BAYVIEW HUNTERS POINT AREA PLAN

OBJECTIVE 6

ENCOURAGE THE CONSTRUCTION OF NEW AFFORDABLE AND MARKET RATE HOUSING AT LOCATIONS AND DENSITY LEVELS THAT ENHANCE OVERALL RESIDENTIAL QUALITY OF BAYVIEW HUNTERS POINT.

Policy 6.1
Encourage development of new affordable ownership units, appropriately designed and located and especially targeted for existing Bayview Hunters Point residents.

An updated and increased Jobs-Housing Linkage Fee will augment the resources available to construct affordable housing, including ownership units, in the Bayview Hunters Point neighborhood.

4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

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

        The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail because the Ordinance proposes to modify the fee rate and implementation procedures for a development impact fee on office and laboratory uses.

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

        The proposed Ordinance would have a beneficial effect on housing and neighborhood character as the new resources for affordable housing it can generate will help preserve the cultural and economic diversity of the City's neighborhoods.

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

        The proposed Ordinance would have a beneficial effect on the City's supply of affordable housing because it proposes to increase the resources available to develop and preserve affordable housing.

    4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

        The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking because it proposes to amend development impact fee rates and implementation procedures.

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

        The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired as the Ordinance proposes to modify development impact fees on office uses.

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

   The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake as the proposed Ordinance seeks to modify development impact fee rates and their implementation procedures.

7. That the landmarks and historic buildings be preserved;

   Because the proposed Ordinance would modify development impact fee rates and implementation procedures, it would not have an adverse effect on the City's Landmarks and historic buildings.

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

   The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas because the Ordinance proposes to modify development impact fee rates and their implementation procedures.

5. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 19, 2019.

Jonas P. Ionin
Commission Secretary

AYES: Fung, Koppel, Melgar, Moore, Richards

NOES: None

ABSENT: Johnson

ADOPTED: September 19, 2019

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Executive Summary
Planning Code Text Amendment
HEARING DATE: SEPTEMBER 19, 2019
EXTENDED DEADLINE: NOVEMBER 13, 2019

Project Name:	**Jobs Housing Linkage Fee**
Case Number:	**2019-011975PCA** [Board File No. 190548]
Initiated by:	Supervisor Haney / Introduced May 14, 2019
Staff Contact:	Diego Sanchez, Legislative Affairs diego.sanchez@sfgov.org, 415-575-9082
Reviewed by:	Aaron Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, 415-558-6362
Recommendation:	**Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to modify the Jobs Housing Linkage Fee by allowing indexing of the fee, adding options for complying with the fee, requiring payment of the fee no later than at the time of first certificate of occupancy, dedicating funds for permanent supportive housing and the preservation and acquisition of affordable housing, and to remove the monetary limit for the Small Sites Funds under the Inclusionary Housing Program.

The Way It Is Now:

Fee Rates

1. The Jobs Housing Linkage Fee for Office uses is currently $28.57/gross square foot (gsf).
2. The Jobs Housing Linkage Fee for Research and Development (Laboratory) uses is currently $19.04/gsf.

Fulfilling the JHLF Requirements

3. To fulfill the Jobs Housing Linkage Fee (JHLF) requirements, Development Projects have the following three options:
    a. contribute a sum or land in value at least equivalent to the in-lieu fee to one or more housing developers to construct housing units;
    b. pay the in-lieu fee; or
    c. combination of the first two.
4. Development Projects within the Central SOMA Special Use District may satisfy all or a portion of the JHLF requirements via dedication of land to the City for the purpose of constructing affordable housing units.

Implementation Procedures

5. For Development Projects subject to the JHLF, the fee rate owed is the fee rate in place at time of site permit issuance.

6. The Mayor's Office of Housing and Community Development (MOHCD) annually adjusts the JHLF rate according to an indexing methodology based on housing construction costs and the price of housing in the City.
7. The JHLF Fee Schedule includes rates for Integrated PDR and Research and Development uses.

MOHCD Managed Housing Funds

8. MOHCD does not currently designate a separate account for 10% of all fees that it receives under the JHLF to be used to support the acquisition and rehabilitation of rent restricted affordable rental housing
9. MOHCD does not currently designate a separate account for 30% of all fee that it receives under the JHLF to be used to support the development of permanent supportive housing
10. The Small Sites Fund that MOHCD manages requires MOHCD to divert 10% of all Affordable Housing Fees received under Planning Code Section 415 to the Small Sites Fund until the Small Sites Fund reaches a total of $15 million, at which point MOHCD stops designating fees to the Small Sites Fund.

The Way It Would Be:

Fee Rates

1. The Jobs Housing Linkage Fee for Office uses would be $69.60/gsf.
2. The Jobs Housing Linkage Fee for Laboratory uses would be $46.43/gsf.

Fulfilling the JHLF Requirements

3. The first option to fulfill JHLF requirements would be to contribute land of equivalent value to the in-lieu fee to MOHCD. The second and third options would remain unchanged.
4. Development Projects anywhere in the City may fulfill their JHLF requirements via land dedication to the City for the purpose of constructing affordable housing units.

Implementation Procedures

5. Development Projects subject to the JHLF, receiving a Planning Commission or Planning Department approval on by December 31, 2019 stating that the project would be subject to any new JHLF adopted prior to procurement of a Certificate of Occupancy or a Final Completion, and not having procured a Certificate of Occupancy or Final Completion as of the effective date of the proposed Ordinance would be required to pay the difference between the amount of JHLF fees assessed at the time of site permit issuance and any additional amounts due under the new JHLF before the City issues a Certificate of Occupancy or Final Completion.
6. The Controller would annually adjust the JHLF rate based on the Annual Infrastructure Construction Cost Inflation Estimate.
7. The JHLF Fee Schedule would eliminate a rate for Integrated PDR uses, which are no longer defined in the Planning Code or allowed in any zoning district and rename the Research and Development use to "Laboratory" use.

MOHCD Managed Housing Funds

8. MOHCD would be required to establish an account into which 10% of all fees that it receives under the JHLF would be used to support the acquisition and rehabilitation of rent restricted affordable rental housing.

9. MOHCD would be required to designate a separate account for 30% of all fee that it receives under the JHLF to be used to support the development of permanent supportive housing
10. The size of the Small Sites Fund would no longer be limited to $15 million and MOHCD would be allowed to designate larger amounts to the Small Sites Fund

BACKGROUND

San Francisco has applied development impacts fees on new non-residential uses since the mid 1980's. The Office Affordable Housing Production Program (OAHPP), in effect until the mid-1990's, required office developers to either build affordable housing or pay an in-lieu fee. The magnitude of the fee was established in relation to the costs of offsetting the demand for housing that new office employment created.

The Jobs-Housing Linkage Fee (JHLF), in place since 1996, is the successor to the OAHPP. The JHLF applies to development projects with environmental evaluation applications filed after January 1, 1999 that increase by 25,000 or more gross square feet (gsf) of any combination of Entertainment, Hotel, Integrated PDR, Office, Research and Development, Retail and/or Small Enterprise Workspace uses. Each of these use types has a different JHLF rate. Once the Planning Department has determined the net additional gsf of each use type subject to the JHLF, a project sponsor has three options to fulfill its JHLF requirements. The first is to contribute a sum or land in value at least equivalent to the in-lieu fee to one or more housing developers to construct housing units; the second is to pay the in-lieu fee; and the third is some combination of the first two. When an in-lieu fee option is elected, the fees typically become due prior to the issuance of the first construction document.

ISSUES AND CONSIDERATIONS

Updating and increasing the JHLF

The JHLF rate for each applicable use type is updated yearly. Planning Code Section 413.6 tasks the Mayor's Office of Housing (MOH) with annually adjusting the fee rate according to an indexing methodology based on housing construction costs and the price of housing in the City. This method is published in MOH's Procedures Manual for the Residential Inclusionary Affordable Housing Program. Only the JHLF and the Inclusionary Affordable Housing Fee rates are adjusted by MOH. Other development impact fees are adjusted by the Controller. In typical years the JHLF rate, like other development impact fee rates, increases above the previous year's rate.

The JHLF rate may also be adjusted apart from annual indexing. For these increases the City relies on both legal and economic analyses to inform any changes. The first analysis, a legal requirement pursuant to the California State Mitigation Fee Act,[1] is a Jobs Housing Nexus Analysis. The previous Jobs Housing Nexus Analysis the City commissioned was published in 1997. The Jobs Housing Nexus Analysis, like all nexus analyses, must be found consistent with the six requirements of the California State Mitigation Fee Act. In meeting those six requirements, the May 2019 Jobs Housing Nexus Analysis established the relationship between construction of new non-residential buildings, the commensurate added employment and the increased demand for affordable housing. It also established the basis for

[1] Government Code Section 66000, (Mitigation Fee Act)

calculating the JHLF rate that could be imposed on non-residential projects in a manner satisfying State law.[2] This Nexus did not, however, provide recommendations on precise JHLF rates.

The May 2019 Nexus includes notable methodological changes and updates to underlining data for the calculations, resulting in a nexus that legally justifies a significantly higher rate than that of the 1997 study. The most notable methodological change was to assume that all workers in new commercial buildings would live in San Francisco. This contrasts with the 1997 study which assumed that 45% of workers would live elsewhere and commute into the City. This change is consistent with other recently completed studies statewide. Other updates include reflecting the modestly higher density of office workers in contemporary buildings based on new analysis (240 gsf per worker (2019) vs 276 gsf per worker (1997)) and updates to the income distribution of workers in the various industry sectors. The compounding effect of these changes with the substantially higher cost of building affordable housing today compared to 1997 results in a maximum *legally justified* nexus amount that is substantially higher than that from the 1997 study.

The second analysis the City relies on to adjust JHLF rates, or any development impact fee, is a feasibility assessment. The purpose of a feasibility assessment is to understand how different fee rates affect the financial feasibility of prototypical development projects that could be expected in different conditions in San Francisco, including buildings of different scales and locations. Underlying this assessment is the policy rationale that new development fee rates should be set to typically provide for reasonable financial feasibility. A consultant feasibility assessment was commissioned by the City this year to analyze how JHLF rate increases for six office development prototypes, including project typologies currently in the pipeline, affect their feasibility.[3] This assessment found that under certain market conditions, including an assumption of reduced land values and construction costs as well as future increased commercial rents, some modeled office prototypes remain feasible with up to a $10/gsf increase in the JHLF. This would result in a $38.57/gsf total JHLF rate for office projects. Planning Department Staff is unaware of any feasibility assessments analyzing Laboratory uses.

Imposing development impact fee rates above those found feasible would postpone or halt the construction of a Development Project. Any public benefit revenue or public improvements that were expected from such projects would not materialize and would necessarily be postponed or abandoned until such time as market conditions or policy changes make the rates feasible. This is particularly notable for area plans, like the recently approved Central SOMA Plan, that depend on development impact fees and other revenue mechanisms related to new development for financing public benefits and infrastructure. In that case, hundreds of millions of dollars' worth of public recreation and open space projects, pedestrian and bicycle safety improvements, cultural preservation, *and* affordable housing

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[2] Jobs Housing Nexus Analysis, May 2019:
https://sfgov.legistar.com/View.ashx?M=F&ID=7297881&GUID=36D31872-977F-4EC2-A2FE-CDD21E62D99F

[3] Jobs Housing Linkage Fee Update Development Feasibility Assessment, June 2019:
https://sfgov.legistar.com/View.ashx?M=F&ID=7297879&GUID=57038818-AA04-4FBD-9854-8F07B79963E8

would not materialize with an infeasible rate. Similarly, increasing development impact fees for uses without understanding the maximum feasible rate is not a fully informed action.

Applying new JHLF rates to projects with site permits
Under current code standards, JHLF rates imposed on a Development Project are the rates in place when the Development Project secures its site permit. This is standard for most development impact fees and provides a measure of certainty for Development Project feasibility. Diverging from this practice should be done with care, especially if the goal is to apply increased rates to Development Projects on the verge of securing site permits. This would include many projects in the Central SOMA Area Plan. For example, when selecting dates tied to Planning Commission approvals or Ordinance effective dates to establish new rate application, it makes sense to select dates that are far into the future given the propensity for delays. This can close loopholes and avoid unintended consequences and confusion when collecting the JHLF.

Racial and Social Equity Analysis
Assuming the rates are financially feasible, updating and increasing the JHLF for Office and Laboratory uses augments available resources that fund affordable housing projects throughout the City. Many of these projects will be in neighborhoods with a large presence of communities of color, such as the SOMA, Mission and Bayview/Hunters Point. This aligns with the Area Plan goals that call for providing additional resources for affordable housing and for developing affordable housing in these neighborhoods.[4] By providing new resources to expand the stock of affordable housing in communities of color the proposed Ordinance works to further racial and social equity.

General Plan Compliance
The proposed Ordinance is in alignment with the relevant General Plan Objectives and Policies. For example, by updating and increasing the JHLF the Ordinance will help expand the financial resources available for permanently affordable housing, which is a policy found in the Housing Element.

Implementation
The Department has determined that this Ordinance will not impact our current implementation procedures.

RECOMMENDATION

The Department recommends that the Commission ***approve with modifications*** the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed modification is as follows:

1. Amend JHLF rates according to feasibility assessments.

[4] Mission Area Plan; Objective 2.1, Policy 2.1.2 and Objective 2.3, Policy 2.3.5; Bayview Hunters Point Area Plan, Objective 6, Policy 6.1; Western SOMA Area Plan Objective 3.5, Policy 3.5.5.

BASIS FOR RECOMMENDATION

The Department supports the overarching aims of the Ordinance. The City needs to periodically analyze its development impact fees to assure that they reflect the latest relationship between non-residential uses and the demands they create. Updating the JHLF rate is important given that the fee rate has not been holistically analyzed in approximately two decades. Further refining how Development Projects may fulfill their JHLF requirements and how the fee program is implemented, including who and how the fee rate is set, are also important amendments. The Department does have concerns about particular proposed changes and is making the following recommendation:

Recommendation 1: Amend JHLF rates according to feasibility assessments. Development impact fee rates should be set in accordance with feasibility assessments. This assures that the City captures as much value from new Development Projects without jeopardizing their viability. In this way the City gains both the new Development Project and associated impact fees to fund public infrastructure and benefits. The City has a feasibility assessment for Office uses that recommends a rate no higher than $38.57/gsf. Unless a newer or separate study can demonstrate a higher feasible rate, the rates should be set reflective of this information. Staff is unaware of a similar assessment for Laboratory uses. Without a current feasibility assessment of Laboratory uses, Staff cannot recommend increasing rates for this use.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

Attachments:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Jobs Housing Nexus Analysis, May 2019
Exhibit C: Jobs Housing Linkage Fee Update Development Feasibility Assessment, June 2019
Exhibit D: Board of Supervisors File No. 1905448

Increasing the Jobs-Housing Linkage Fee: Economic Impact Report

CITY & COUNTY OF SAN FRANCISCO

Office of the Controller

Office of Economic Analysis

Item #190548

10.21.2019

Introduction

- The proposed legislation would raise the City's Jobs-Housing Linkage Fee (JHLF) for newly-constructed office and laboratory space.
- The City assesses the JHLF on new non-residential development; the fee revenue is dedicated to affordable housing programs.
- A nexus study supporting the fee, which first prepared in 1997, was updated in May, 2019. The maximum fee supported by the nexus rose as a result of the updated study, and the proposed legislation has been introduced as a consequence.
- The current version of the proposed legislation would raise the fee for new offices from $28.57 to $69.60 per gross square foot. For new laboratory space, the fee would rise from $19.04 to $46.43.
- The legislation has the potential to raise substantial new revenues for affordable housing, while also increasing development costs in a way that could threaten future employment growth. Consequently, the Office of Economic Analysis (OEA) has prepared this economic impact report.

The Nexus Study

- Two existing studies have examined the potential impact of the proposed legislation: a nexus study prepared by Keyser Marston Associates,[1] and a feasibility study prepared by Economic and Planning Systems Inc. (EPS).[2]
- The JHLF is a development impact fee which, under California law, must be rationally-related to a negative consequence of new development. A nexus study is required in order to demonstrate that the fee charged to a project does not exceed the magnitude of the problem caused by the development.
- While most impact fees seek to fund expansions to public infrastructure, in order to maintain an existing level-of-service of that infrastructure, the JHLF nexus study is based on a perceived problem in the housing market that is believed to be created by employment growth in the city.
- The study estimated the number of low- and moderate-income worker households working in new commercial space of various types. A per-square-foot charge, for each type of non-commercial development, is obtained after multiplying the household numbers by the City's average cost of producing a permanently-affordable housing unit.

The Nexus Study (Continued)

- Thus, the nexus study aims to estimate the fee that would be necessary to fully mitigate the impact of different types of commercial development on affordable housing, at a "level-of-service" at which each new low/moderate income worker household would occupy a permanently-affordable housing unit within San Francisco.
- The nexus study is not an economic impact report. It does not address any other ways in which non-residential development affects the city's economy, such as its effect on the employment or income of city residents.

The Feasibility Study

- The nexus study is also not concerned with the question of whether an increase to the JHLF will reduce the fiscal feasibility of new development, or the broader economic implications of that risk.
- To address this issue, the Office of Economic and Workforce Development published a feasibility study that assessed the impact of a $10 per square-foot increase in the JHLF, which was the level of increase proposed in the initial version of this legislation.
- After preparing sample pro-forma models for six different office projects in areas where new development is planned, the feasibility study found that office development is currently infeasible, even without the proposed fee increase.
- It concluded, however, that "once market conditions improve sufficiently to support the feasibility of office development, the analysis suggests that some modest level of fee increase may be viable."[3]
- The "market conditions" referred to involve a 25% decrease in the land costs a developer would face, and a 13% increase in the rents tenants would be willing to pay. The study does not discuss whether or when such a change in market conditions might occur.

The Office Development Model

- It is unclear, from the feasibility study, when and if market conditions can change to make the current $40/sf proposed fee increase for office development viable.
- Because the issue of how the fee increases will affect future development and employment growth is of central importance to its economic impact, a different analytical approach is necessary for this report.
- The OEA worked with the Blue Sky Consulting Group to develop a model that would estimate how sensitive office development in the city is to changes in development costs, such as a fee increase.
- The model, which is incorporates information on most parcels in the city[4], and office permitting activity since 2001, is similar to ones built by the OEA and Blue Sky to study the impact of fee increases on housing production in the city[5]. Full details on the model are provided in the Appendix.
- Using the model, we can estimate how office development, and employment, across the city may change as a result of the fee increase. It can also estimate how JHLF revenue may change.

Economic Impact Factors

- The proposed legislation is expected to affect the local economy in two major ways:
  1. The proposed fee increase will raise the development cost of office and laboratory space and as a result some projects may become financially infeasible. As a result of that, the city would have less development, less space for workers, and less overall employment on an ongoing basis. To the extent development is curtailed because of the higher fee, one-time construction spending on office and laboratory space would decline as well.
  2. The fee increase should increase funding for affordable housing in the city. Depending on how this funding is used, it could increase construction and rehabilitation spending, and/or increase consumer spending, to the extent the revenue is used to make existing housing more affordable for low- and moderate-income households, and freeing up their income to be spent elsewhere in the local economy.
- The net economic impact will depend upon the relative size of these two impact factors.

Estimating the Impact on Office Development

- The model described earlier was used to estimate the sensitivity of office development to changes in the JHLF. Because there is much less laboratory space in the city, the proposed legislation's impact on laboratories is not considered in this report.
- The model found a statistically-significant negative relationship between buliding construction costs[6], and the likelihood of a building permit for new office construction being issues for a given parcel in a given year.
- Based on estimates of San Francisco office development costs published by Turner & Townsend of $625/sf, and the EPS feasibility study average of $717/sf, we calculated the proposed fee increase as equivalent to a 6% increase in non-land development costs[7].
- The model projects that a 6% increase in development costs would lead to a 0.2% decline in overall office space in the city, equivalent to a reduction of 125,000 – 140,000 square feet per year, on average.
- Because office development is highly sensitive to the business cycle, the impact could be higher or lower in any particular year.

Office Employment and Construction Impacts

- To obtain an estimate of office employment lost due to office construction that is made infeasible by the fee increase, this study uses the employment density figure that is used in the updated nexus study, which is 238 square feet of office space per employee.
- An average annual loss of 125,000 to 140,000 square feet of office space would lead to a loss of 520 to 585 office jobs, at that employment density.
- To estimate the impact of the loss of feasibility on office construction, we used the same construction spending range of $625 to $717 per gross square foot, from the Turner & Townsend and EPS sources. The annual decline in office construction spending is estimated at $61 million - $87 million per year.

Impact on JHLF Revenue

- Despite the decline in office development, the increase in the fee is projected to lead to a $8 million - $9 million increase in fee revenue, as shown in the table below. The model's projects, as a baseline, an average of 430,000 sf of new office per year, under condition. With the higher fee, that would fall to 290,000 – 305,000.

Inputs	Baseline	Under Proposed Legislation	Difference
Annual New Office Development (sf)	430,000	290,000-305,000	125,000 – 140,000
Applicable JHLF	$28.57	$69.60	$41.23
JHLF Revenue ($M)	$12.3	$20.2 - $21.2	$8 - $9

- The legislation directs that 10% of the fee's revenues are to be devoted to the acquisition and rehabilitation, and another 30% to the development of permanent supportive housing. This analysis assumes the remaining 60% is used for the construction of permanently-affordable housing.

REMI Model Simulation: High and Low Scenarios

- The OEA uses the REMI model to estimate the net economic impact of legislation, based on the economic impact factors already discussed.
- In a low-impact scenario, based on a loss of 125,000 sf of office development and most spending on construction, the estimate is based on:
  - a loss of 520 office jobs, associated with the low-end estimate of lost office space, split proportionally between office-using industries[9].
  - a loss of $61 million in office construction spending.
  - a gain of $9 million in fee revenue, assumed to be spent on construction.
- In a high-impact scenario, based on a loss of 140,000 sf of office development and more spending on housing subsidy, the inputs are:
  - a loss of 585 office jobs, associated with the high-end office loss estimate, split among office-using industries as above.
  - a loss of $82 million in office construction spending.
  - a gain of $8 million in fee revenue, assumed to be spent on construction.

Economic Impact Assessment

- We project the proposed legislation will result in a net job loss of between 1,275 and 1,500 jobs, representing between 0.1% and 0.2% of all jobs in the city, on average over the next 20 years.
- The impact on the city's GDP is likewise projected to be negative, to the tune of $280-$330 million, in today's dollars.
- About 60% of the job losses will be concentrated in the office-using industries that are directly impacted by the fee. Another 25% of the losses are projected to occur in construction, with the remainder spread across other industries. No sector is projected to add jobs as a result of the proposed legislation.
- Housing prices are projected to decline, by 0.1% - 0.2%, but this is due to a proportional loss of personal income and population, not because housing would become broadly more affordable.
- The additional participants in the the expanded affordable housing programs would clearly benefit, and other low- and moderate-income residents may also benefit if the growth in affordable housing lessens competition at the low end of the private housing market.

Appendix: Office Development Model Methodology

The OEA's consultants, Blue Sky Consulting Group, analyzed the data set described on pages 14-15 to determine which factors are most useful for estimating the probability that a San Francisco parcel will be developed into additional office space in a given year. To do this, they used a common statistical technique called logistic regression analysis. A logistic regression is a special type of regression used to understand the relationship between a dependent binary (yes or no) variable, and one or more independent or explanatory variables. Here, the dependent variable is set equal to a one if the parcel added office space in a specific year, and otherwise set equal to zero.

To identify those explanatory variables that are most useful for understanding when and where office space is added, they developed a base model that included those variables most likely to be closely associated with such development based on economic theory. Those variables include office rents, construction costs, zoning restrictions, current land use, the size of the potential development given height and density restrictions, and the relative increase for the potential development given the existing development on the site. With this as the base model, they tested the impact of adding other explanatory variables such as various stock market indexes, interest rates, total employment and the unemployment rate for San Francisco, etc. These tests were evaluated based on their overall impact to the model as well as their individual predictive power. Many of these added economic variables were highly correlated with office rents and construction costs while others did not have a statistically significant relationship with office development. These variables were therefore excluded from the final model. Throughout these tests, however, it was clear that office rents and construction costs were consistently useful predictors of office development, and the nature of this relationship was quite stable regardless of the inclusion or exclusion of these additional explanatory variables.

After completing these tests, the final models consisted of the following explanatory variables. Their impact on the likelihood of office development happening (positive or negative) is shown in parentheses.

1. a dummy variable for whether or not the parcel had 1 or more housing units (negative),
2. the average asking rent for San Francisco from REIS (positive),
3. the SF building cost index from Engineering News Record (negative)
4. the potential building envelope, given height and bulk controls (positive)
5. the ratio of the potential building envelope to the existing square footage (positive), and
6. ten dummy variables for the type of zoning for the parcel. (positive and negative)

Appendix: Office Development Model Data Sources

The data included in the analysis consisted of the following:

1. Permit Data—Blue Sky reviewed the City's permit data to identify projects that added office space. The data set includes all new construction for office space as well as alterations that were identified as creating new office space via expansion or conversion. All permits for new construction of office space were included. To determine which alteration permits to include, we reviewed the description for all projects that either had the term "convert" or "erect" in the description or for which the costs were $250K or higher. Based on a review of the permit's description, we excluded any permits that were for tenant improvements of existing office space or other work that did not result in new office space being produced. Finally, we limited the office developments used in the analysis to only include permits issued between 2001 and 2018, the years for which parcel data are available. This resulted in 136 office development projects, or 85 new construction projects and 51 alteration/conversion projects.

2. Parcel-Specific Data—Data for every parcel in San Francisco were collected for each year from 2001 through 2018. This information includes attributes which did not change over time such as the parcel's land area and neighborhood, as well as characteristics that may have changed, such as the parcel's zoning requirements or maximum allowable building height. The basis for our list of parcels was the current "City Lots" database available from the San Francisco Planning Department. We then integrated annual files for 2001 through 2018 for zoning, height and bulk districts, planning districts, special use districts, and land use. In addition, because parcel identifiers may change over time as parcels are combined or divided, the Planning Department also provided a file that recorded parcel number changes over time. Finally, parcels that did not have any zoning designation were reviewed and those that were determined to be located in water were removed.

3. Demographic Data—Demographic data were also integrated for regions within the City. Specifically, data for education level and per capita income were collected by census tract from the Decennial Census for 2000 and 2010 and supplemented with annual data from the American Community Survey for 2009-2018. Where annual data were not available, values were interpolated. GIS software was then used to map parcels to census tracts so that every parcel could be assigned the appropriate annual estimates of education level and per capita income.

Appendix: Data Sources (continued)

4. Annual Economic Data—Various measures of construction costs and office rents were also collected and integrated to account for changes that would have a direct impact on the San Francisco market for office space over time, as well as changes in general economic conditions that may influence the amount of development. These economic indicators included data specific to the City, such as total employment and the unemployment rate in San Francisco, as well as data for the greater San Francisco area, including the total employment and unemployment rate and the number and value of residential building permits issued for the San Francisco Metropolitan Statistical Area (MSA). Also integrated were numerous measures of general economic activity and consumer sentiment, including various stock market indices such as the Dow Jones Total Stock Market Index (DJ-TSM), S&P 500, and the NASDAQ; data on venture-backed companies in Northern California from the Sand Hill Index of Venture Capital; interest rates; and measures of consumer sentiment as reported by both the Conference Board and the University of Michigan. Finally, data for various price and cost indices specific to San Francisco were integrated, including an annual index of asking and effective office rents from Real Estate Solutions by Moody's Analytics (REIS) and a Building Cost Index and a Construction Cost Index prepared specifically for San Francisco by the Engineering News Record (ENR).

These data sources were combined to form a single data set, with one record for each of the City's current "base lot" parcels for each year from 2001 to 2018.

End Notes

[1] Keyser Marston Associates, "Jobs Housing Nexus Analysis: San Francisco California", Prepared for the City and County of San Francisco, May 2019.

[2] Economic & Planning Systems, "Final Memorandum: Jobs-Housing Linkage Fee Update Development Feasibility Assessment", Prepared for the City and County of San Francisco, June 2019.

[3] Economic & Planning Systems, page 3.

[4] Excluding public parcels, and parcels subject to a development agreement.

[5] San Francisco Controller's Office: "Increasing Inclusionary Housing Requirements: Economic Impact Report", February, 2016; "Inclusionary Housing Working Group: Preliminary Report", September 2016.

[6] As measured by the Building Cost Index published for San Francisco by Engineering News Record.

[7] Turner & Townsend, "International Construction Market Survey 2019".

[8] Conversions to office from other uses has contributed to the growth in the city's office space in the past, but these conversions are not considered in this model.

[9] Office-using industries include Information, Financial Services, Real Estate, Business & Professional Services, and Administrative and Support Services.

Staff Contacts

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The assistance of the Blue Sky Consulting Group is gratefully acknowledged. All errors and omissions are solely the responsibility of the Office of Economic Analysis.

FILE NO. 190548

REVISED LEGISLATIVE DIGEST
(Amended in Committee, 10/21/2019)

[Planning Code - Planning Code - Jobs Housing Linkage Fee and Inclusionary Housing]

Ordinance amending the Planning Code to modify the Jobs Housing Linkage Fee by clarifying the indexing of the fee, adding options for complying with the fee, phasing increases to the fee, dedicating funds for permanent supportive housing and the preservation and acquisition of affordable housing, and to remove the monetary limit for the Small Sites Funds under the Inclusionary Housing Program; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302

Existing Law

Consistent with the California Mitigation Fee Act, the Planning Code provides that certain commercial developments must pay a Jobs-Housing Linkage fee ("JHLF"). The Jobs-Housing Linkage program requires projects constructing new or expanded non-residential buildings of more than 25,000 square feet of development to offset the demand for new affordable housing created by those projects.

The JHLF is codified in Planning Code Section 413.1 *et seq*. Section 413.5 allows a project sponsor to comply with the JHLF by either making a payment, or dedicating land to a housing developer. While most citywide development fees are indexed annually according to the Annual Infrastructure Construction Cost Inflation Estimate, as set forth in Planning Code Section 409, the JHLF is indexed according to procedures developed by the Mayor's Office of Housing and Community Development, pursuant to Section 413.6. Section 413.7 allows projects within the Central SoMa Special Use District to comply with the JHLF by offering land to the City. Projects may receive credit up to the value of the land donated.

Typically, a project must pay any development fees before the issuance of the first construction document. Any funds received pursuant to the JHLF are deposited into the Citywide Affordable Housing Fund.

The Small Sites Funds is a program under the City's Inclusionary Housing program to support acquisition and rehabilitation of "Small Sites," as codified in Planning Code Section 415.1 *et seq.* Funding for the Small Sites program is capped at $15 million.

Amendments to Current Law

This ordinance would make the following amendments to the JHLF.

- Align the indexing of the JHLF with other fees. Most citywide development fees are indexed according to the Annual Infrastructure Construction Cost Inflation Estimate, pursuant to the Section 409. This amendment would remove the exception to that requirement for the JHLF codified in Section 409, and Section 413.6
- Streamline the findings in Section 413.1. This ordinance would update many of the historical findings related to the JHLF.
- Allow a project sponsor to comply with the JHLF by: paying a fee to the City; offering the City land of equal value to the proposed fee, or a combination of fee and land dedication to the City. It no longer permits a project sponsor to comply with the JHLF by offering to pay a fee or offer land to a housing developer.
- Raise the JHLF for Office use to $69.60, and Laboratory use to $46.43.
- Require that certain projects pay any additional amounts due under the JHLF prior to the first Certificate of Occupancy.
- Set aside 10% of the fees received through the JHLF for the preservation and acquisition of rent restricted affordable housing, and 30% for permanent supportive housing.

The ordinance would amend the Small Sites Funds under the Inclusionary Housing program by removing the $15 million cap.

At the Land Use Committee on October 21, 2019, the sponsor introduced amendments phasing the increases to the fee for Office Use, and Laboratory Use.

Background Information

This ordinance was initially introduced on May 14, 2019. That ordinance made proposed amendments to the findings of section 413.1, and raised the fee for office projects to $38.00. Substitute legislation was introduced on September 10, 2019. The City published an updated Nexus Study by Keyser Marsten Associates, Inc. in May 2019, and a Feasibility Report by Economic & Planning Systems, Inc. in June 2019. Both the Nexus Study and Feasibility Report are in this Board file.

On September 10, 2019, the sponsor introduced substitute legislation. Following a hearing at the Planning Commission on September 19, 2019, additional amendments were introduced at the Land Use Committee on October 21, 2019.

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[Planning Code - Planning Code - Jobs Housing Linkage Fee and Inclusionary Housing]

Ordinance amending the Planning Code to modify the Jobs Housing Linkage Fee by ~~allowing~~ clarifying the indexing of the fee, adding options for complying with the fee, phasing increases to the fee~~requiring payment of the fee no later than at the time of first certificate of occupancy~~, dedicating funds for permanent supportive housing and the preservation and acquisition of affordable housing, and to remove the monetary limit for the Small Sites Funds under the Inclusionary Housing Program; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

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

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

Section 1. Environmental and Land Use Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 190548 and is incorporated herein by reference. The Board affirms this determination.

(b) On September 19, 2019, the Planning Commission, in Resolution No. 20522, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 190548, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, the Board finds that this Planning Code amendment will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 20522, and the Board incorporates such reasons herein by reference.

Section 2. Article 4 of the Planning Code is hereby amended by revising Sections 249.78, 329, 409, 413.1, 413.4, 413.6, 413.7, 413.8, 413.9, 413.10, ~~and~~ 415.5, and 424.4, and deleting Section 413.5, to read as follows:

SEC. 249.78. CENTRAL SOMA SPECIAL USE DISTRICT.

(e) **Community Development Controls.**

* * * *

(2) **Land Dedication**.

(A) Residential projects in this SUD may opt to fulfill the Inclusionary Housing requirement of Section 415 through the Land Dedication alternative contained in Section 419.6.

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(B) Non-Residential projects in this Special Use District may opt to fulfill their Jobs-Housing Linkage Fee requirement of Section 413 through the Land Dedication alternative contained in Section 413.6~~7~~.

* * * *

SEC. 329. LARGE PROJECT AUTHORIZATION IN EASTERN NEIGHBORHOODS MIXED USE DISTRICTS.

* * * *

(e) **Exceptions for Key Sites in Central SoMa.**

* * * *

(3) **Controls**. Pursuant to this Section 329(e) and the Key Site Guidelines adopted as part of the Central SoMa Area Plan, the Planning Commission may grant exceptions to the provisions of this Code as set forth in subsection (d) above and may also grant the exceptions listed below for projects that provide qualified amenities in excess of what is required by the Code.

(A) **Qualified Amenities**. Qualified additional amenities that may be provided by these Key Sites include: affordable housing beyond what is required under Section 415 *et seq*.; land dedication pursuant to Section 413.6~~7~~ by non-residential projects for construction of affordable housing in partial or full satisfaction of the Jobs-Housing linkage Fee, or in excess of that required to satisfy the Jobs-Housing linkage Fee, provided that if the land dedication is in partial satisfaction of that Fee, the balance of the Fee shall be paid with the land value calculated as set forth in Section 413.6~~7~~; land dedication pursuant to Section 413.6~~7~~ by residential projects for construction of affordable housing in partial or full satisfaction of the Alternatives to the Inclusionary Housing Fee, or in excess of that required to satisfy the Alternatives to the Inclusionary Housing Fee, pursuant to Section 419.5, to the extent permitted by state law, provided that if the land dedication is in partial satisfaction of that Fee, the balance of the Fee shall be paid with the land value calculated as set forth in Section 413.6~~7~~; PDR at a greater amount and/or lower rent than is otherwise required under Sections 202.8 or 249.78(c)(5); public parks, recreation centers, or plazas; and improved pedestrian networks.

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

(a) **Citywide Development Fee and Development Impact Requirements Report**. In coordination with the Development Fee Collection Unit at DBI and the Director of Planning, the Controller shall issue a report within 180 days after the end of each even-numbered fiscal year that provides information on all development fees established in the Planning Code collected during the prior two fiscal years organized by development fee account and all cumulative monies collected over the life of each development fee account, as well as all monies expended. The report shall include: (1) a description of the type of fee in each account or fund; (2) the beginning and ending balance of the accounts or funds including any bond funds held by an outside trustee; (3) the amount of fees collected and interest earned; (4) an identification of each public improvement on which fees or bond funds were expended and amount of each expenditure; (5) an identification of the approximate date by which the construction of public improvements will commence; (6) a description of any inter-fund transfer or loan and the public improvement on which the transferred funds will be expended; and (7) the amount of refunds made and any allocations of unexpended fees that are not refunded. The report shall also provide information on the number of projects that elected to satisfy development impact requirements through the provision of "in-kind" physical improvements, including on-site and off-site BMR units, instead of paying development fees. The report shall also include any annual reporting information otherwise required pursuant to the California Mitigation Fee Act, *California* Government Code *Sections* 66001 *et seq*. The report shall be presented by the Director of Planning to the Planning Commission and to the Land Use & ~~*Economic Development*~~ *Transportation* Committee of the Board of Supervisors. The ~~*R*~~*r*eport shall also contain information on the Controller's annual construction cost inflation adjustments to development fees described in subsection (b) below, as well as information on MOH*CD*'s separate adjustment of the ~~*Jobs-Housing Linkage and*~~ Inclusionary Affordable Housing ~~*f*~~*F*ee~~*s*~~ described in Section~~*s 413.6(b) and*~~ 415.5(b)(3).

(b) **Annual Development Fee Infrastructure Construction Cost Inflation Adjustments.** Prior to issuance of the Citywide Development Fee and Development Impact Requirements Report referenced in subsection (a) above, the Controller shall review the amount of each development fee established in the ~~*San Francisco*~~ Planning Code and, with the exception of the ~~*Jobs-Housing Linkage Fee in Section 413 et seq. and the*~~ Inclusionary Affordable Housing Fee in Section 415 *et seq*., shall adjust the dollar amount of any development fee on an annual basis every January 1 based solely on the Annual Infrastructure Construction Cost Inflation Estimate*. The Office of the City Administrator's Capital Planning Group shall publish the Annual Infrastructure Construction Cost Inflation Estimate, as* ~~*published by the Office of the City Administrator's Capital Planning Group and*~~ approved by the City's Capital Planning Committee*,* no later than November 1 every year, without further action by the Board of Supervisors. The Annual Infrastructure Construction Cost Inflation Estimate shall be updated ~~*by the Capital Planning Group on an annual basis and*~~ no later *than* November 1 every year,~~*in consultation with the Capital Planning Committee,*~~ in order to establish a reasonable estimate of construction cost inflation for the next calendar year for a mix of public infrastructure and facilities in San Francisco. The Capital Planning Group may rely on past construction cost inflation data, market trends, and a variety of national, state, and local commercial and institutional construction cost inflation indices in developing ~~*their*~~ *its* annual estimates for San Francisco. The Planning Department and the Development Fee Collection Unit at DBI shall provide notice of the Controller's development fee adjustments, including the Annual Infrastructure Construction Cost Inflation Estimate formula used to calculate the adjustment, and MOH*CD*'s separate adjustment of the ~~*Jobs-Housing Linkage and*~~ Inclusionary Affordable Housing Fee~~*s*~~ on the Planning Department and DBI website*s* and to any interested party who has requested such notice at least 30 days prior to the adjustment taking effect each January 1. The ~~*Jobs-Housing Linkage Fee and the*~~ Inclusionary Affordable Housing ~~*f*~~*F*ee~~*s*~~ shall be adjusted under the procedures established in Section~~*s 413.6(b) and*~~ 415.5(b)(3).

SEC. 413.1. FINDINGS.

The Board hereby finds and declares as follows:

~~*A.*~~*(a)* Large-scale entertainment, hotel, office, *laboratory*~~*research and development*~~, and retail developments in the City ~~*and County of San Francisco*~~ have attracted and continue to attract additional employees to the City, and there is a causal connection between such developments and the need for additional housing in the City, particularly housing affordable to households of lower and moderate income. Such commercial uses in the City benefit from the availability of housing close by for their employees. However, the supply of housing units in the City has not kept pace with the demand for housing created by these new employees. Due to this shortage of housing, employers will have difficulty in securing a labor force, and employees, unable to find decent and affordable housing, will be forced to commute long distances, having a negative impact on quality of life, limited energy resources, air quality, social equity, and already overcrowded highways and public transport.

~~*B.*~~*(b)* There is a low vacancy rate for housing affordable to persons of lower and moderate income. ~~*In part, this low vacancy rate is due to factors unrelated to large-scale commercial development, such as high interest rates, high land costs in the City, immigration from abroad, demographic changes such as the reduction in the number of persons per household, and personal, subjective choices by households that San Francisco is a desirable place to live.*~~ This low vacancy rate is ~~*also*~~ due in part to large-scale commercial developments, which have attracted and will continue to attract additional employees and residents to the City. Consequently, some of the employees attracted to these developments are competing with present residents for scarce, vacant affordable housing units in the City. Competition for housing generates the greatest pressure on the supply of housing affordable to households of lower and moderate income. In San Francisco, office or retail uses of land generally yield higher income to the owner than housing. Because of these market forces, the supply of these affordable housing units will not be expanded. Furthermore, Federal and State housing finance and subsidy programs are not sufficient by themselves to satisfy the lower and moderate income housing requirements of the City.

~~*C.*~~*(c) The City has consistently set housing production goals to address the regional and citywide forecasts for population, households, and employment. Although San Francisco has seen increased housing production each successive decade since the 1970s, the City has not been able to close the gap between its housing production goals and actual production.* ~~*As demonstrated in the "Jobs Housing Nexus Analysis" prepared by Keyser Marston Associates, Inc. in June 1997, construction of new housing units in the City decreased to a low of 288 units in 1993 compared to an average annual production of 1,330 units during the years 1980 through*~~

~~*1995. Overall housing production in the City should average approximately 2,200 units a year to keep up with the City's share of regional housing demand.*~~

~~*D.*~~*(d)* There is a continuing shortage of low- and moderate-income housing in San Francisco. ~~*Affordable housing production in the City averaged approximately 340 units per year during the years 1980 through 1995. However, the demand for new affordable housing will be approximately 1,300 units per year for the years 2000 through 2015.*~~

~~*E. Objective 1, Policy 7 of the Residence Element of the San Francisco General Plan calls for the provision of additional housing to accommodate the demands of new residents attracted to the City by expanding employment opportunities caused by the growth of large-scale commercial activities in the City. Such development projects should assist in meeting the City's housing needs by contributing to the provision of housing.*~~

~~*F.*~~ It is desirable to impose the cost of the increased burden of providing housing necessitated by large-scale commercial development projects directly upon the sponsors of the development projects by requiring that the project sponsors contribute land ~~*or money to a housing developer*~~ or pay a fee to the City to subsidize housing development as a condition of the privilege of development and to assist the community in solving those of its housing problems generated by the development.

~~*G. The required housing exaction shall be based upon formulas derived in the report entitled "Jobs Housing Nexus Analysis" prepared by Keyser Marston Associates, Inc. in June 1997. The "Jobs Housing Nexus Analysis" demonstrates the validity of the nexus between new, large-scale entertainment, hotel, office, research and development, and retail development and the increased demand for housing in the City, and the numerical relationship between such development projects and the formulas for provision of housing set forth in Section 413.1 et seq.*~~

~~*H. In-lieu fees for new office construction to the City's Office Affordable Housing Production Program, were last increased in 1994 to $7.05 per square foot, based on the*~~

~~*"Analysis of the OAHPP Formula prepared by the Department of City Planning in November 1994." Existing law provides for potential increases to such fees up to 20% annually based on increases to the Average Area Purchase Price Safe Harbor Limitations for New Single-Family Residences for the San Francisco Primary Metropolitan Statistical Area ("PMSA") published by the Internal Revenue Service.*~~

~~*I. The Internal Revenue Service last published its Average Area Purchase Price Safe Harbor Limitations for New Single-Family Residences for the San Francisco PMSA in 1994.In 1998 and again in 2000, the City contracted for an analysis of average area purchase price for the San Francisco PMSA, in lieu of IRS publication of the index. The 2000 report prepared by Vernazza Wolfe Associates for mortgage purposes, which was certified by Orrick, Herrington & Sutcliffe, indicates that the 1999 updated purchase price figures for new construction are $431,568, a 73.3% increase over the 1994 purchase price of $248,969.*~~

~~*J. If OAHPP fees had been increased consistent with these increases in the Average Area Purchase Price Safe Harbor Limitations for New Single-Family Residences for the San Francisco PMSA, the OAHPP in-lieu fee for net new office construction would be $12.22 per square foot, or approximately 54% of the maximum derived by the "Jobs Housing Nexus Analysis" prepared by Keyser Marston Associates, Inc. in June 1997.*~~

~~*K.*~~*(e)* ~~*Since preparation of the Keyser Marston "Jobs Housing Nexus Analysis," the*~~ *The* Bay Area has seen dramatic increases in land acquisition costs for housing, the cost of new housing development and the affordability gap for low to moderate income workers seeking housing. Commute patterns for the region have also changed, with more workers who work outside of San Francisco seeking to live in the City, thus increasing demand for housing and decreasing housing availability.

(f) As the regional job center, San Francisco has historically had the highest ratio of jobs-to-housing units in the Bay Area.

(g) The required housing exaction shall be based upon formulas derived in a periodic jobs housing nexus analysis. Consistent with the requirements of the California Mitigation Fee Act, the jobs housing nexus analysis shall demonstrate the validity of the nexus between new, large scale entertainment, hotel, office, laboratory, and retail development and the increased demand for housing in the City, and the numerical relationship between such development projects and the formulas for the provision of housing set forth in Section 413.1 et seq.

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

~~*L. Because the shortage of affordable housing created by large-scale commercial development in the City can be expected to continue for many years, it is necessary to maintain the affordability of the housing units constructed by developers of such projects under this program. In order to maintain the long-term affordability of such housing, the City is authorized to enforce affordability requirements through mechanisms such as shared appreciation mortgages, deed restrictions, enforcement instruments, and rights of first refusal exercisable by the City at the time of resale of housing units built under the program.*~~

~~*M. Objective 8, Policy 2 of the Residence Element of the San Francisco General Plan encourages the Commission to periodically reassess requirements placed on large-scale commercial development under the Office Affordable Housing Production Program ("OAHPP"), predecessor to the Jobs-Housing Linkage Program.*~~

SEC. 413.4. IMPOSITION OF HOUSING REQUIREMENT.

* * * *

(c) **Sponsor's Choice to Fulfill Requirements**. Prior to issuance of a building or site permit for a development project subject to the requirements of Section 413.1 *et seq*., the sponsor shall elect one of the ~~*three*~~ options listed below to fulfill any requirements imposed as a condition of approval and notify the Department of their choice of the following:

(1) *Contribute land of value at least equivalent to the in-lieu fee, according to the formulas set forth in Section 413.1 et seq., to MOHCD pursuant to Section 413.*6~~7~~*; or* ~~*Contribute of a sum or land of value at least equivalent to the in-lieu fee, according to the formulas set forth in Section 413.1, to one or more housing developers who will use the funds or land to construct housing units pursuant to Section 413.5; or*~~

(2) Pay an in-lieu fee to the Development Fee Collection Unit at DBI according to the formula set forth in Section 413.5~~6~~; or

(3) Combine the above options pursuant to Section 413.7~~8~~.

* * * *

~~***SEC. 413.5. COMPLIANCE BY PAYMENT TO HOUSING DEVELOPER.***~~

~~*(a) With the written approval of the Director of MOH, the project sponsor may elect to pay a sum or contribute land of value at least equivalent to the in-lieu fee to one or more housing developers to meet the requirements of Section 413.1et seq. If the sponsor elects this option and the Director of MOH approves it, the housing developer or developers shall be required to construct at least the number of housing units determined by the following formulas for each type of space proposed as part of the development project and subject to Section 413.1et seq.*~~:

~~*Net Addition Gross Sq. Ft. Entertainment Space*~~	~~*× .000140 = Housing Units*~~
~~*Net Addition Gross Sq. Ft. Hotel Space*~~	~~*× .000110 = Housing Units*~~

~~*Net Addition Gross Sq. Ft. Office Space*~~	~~*× .000270 = Housing Units*~~
~~*Net Addition Gross Sq. Ft. R&D Space*~~	~~*× .000200 = Housing Units*~~
~~*Net Addition Gross Sq. Ft. Retail Space*~~	~~*× .000140 = Housing Units*~~

~~*The housing units required to be constructed under the above formula must be affordable to qualifying households continuously for 50 years. If the sponsor elects to contribute to more than one distinct housing development under this Section, the sponsor shall not receive credit for its monetary contribution to any one development in excess of the amount of the in-lieu fee, as adjusted under Section 413.6, multiplied by the number of units in such housing development.*~~

~~*(b) Prior to the issuance by DBI of the first site or building permit for a development project subject to Section 413.1et seq. the sponsor shall submit to the Department, with a copy to MOH:*~~

~~*(1) A written housing development plan identifying the housing project or projects to receive funds or land from the sponsor and the proposed mechanism for enforcing the requirement that the housing units constructed will be affordable to qualifying households for 50 years; and*~~

~~*(2) A certification that the sponsor has made a binding commitment to contribute an amount of money or land of value at least equivalent to the amount of the in-lieu fee that would otherwise be required under Section 413.6 to one or more housing developers and that the housing developer or developers shall use such funds or lands to develop the housing subject to this Section.*~~

~~*(3) A self-contained appraisal report as defined by the Uniform Standards of Professional Appraisal Practice prepared by an M.A.I. appraiser of the fair market value of any*~~

~~land to be contributed by the sponsor to a housing developer. The date of value of the appraisal shall be the date on which the sponsor submits the housing development plan and certification to the Department.~~

~~If the sponsor fails to comply with these requirements within one year of the final determination or revised final determination, it shall be deemed to have elected to pay the in-lieu fee under Section 413.6, and any deferral surcharge, in order to comply with Section 413.1et seq. In the event that the sponsor fails to pay the in-lieu fee within the time required by Section 413.6, DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the such payment has been made or land contributed, and the Development Fee Collection Unit at DBI shall immediately initiate lien proceedings against the sponsor's property pursuant to Section 408 of this Article and Section 107A.13 of the San Francisco Building Code to recover the fee.~~

~~(c) Within 30 days after the sponsor has submitted a written housing development project plan and, if necessary, an appraisal to the Department and MOH under Subsection(b) of this Section, the Department shall notify the sponsor in writing of its initial determination as to whether the plan and appraisal are in compliance with this Section, publish the initial determination in the next Commission calendar, and cause a public notice to be published in an official newspaper of general circulation stating that such housing development plan has been received and stating the Department's initial determination. In making the initial determination for an application where the sponsor elects to contribute land to a housing developer, the Department shall consult with the Director of Property and include within its initial determination a finding as to the fair market value of the land proposed for contribution to a housing developer. Within 10 days after such written notification and published notice, the sponsor or any other person may request a hearing before the Commission to contest such initial determination. If the Department receives no request for a hearing within such 10-day period,~~

~~*the determination of the Department shall become a final determination. Upon receipt of any timely request for hearing, the Department shall schedule a hearing before the Commission within 30 days. The scope of the hearing shall be limited to the compliance of the housing development plan and appraisal with this Section, and shall not include a challenge to the amount of the housing requirement imposed on the development project by the Department or the Commission. At the hearing, the Commission may either make such revisions to the Department's initial determination as it may deem just, or confirm the Department's initial determination. The Commission's determination shall then become a final determination, and the Department shall provide written notice of the final determination to the sponsor, MOH, and to any person who timely requested a hearing of the Department's determination. The Department shall also provide written notice to MOH that the housing units to be constructed pursuant to such plan are subject to Section 413.1et seq.*~~

~~*(d) Prior to the issuance by DBI of the first construction document for a development project subject to this Section, the sponsor must:*~~

~~*(1) Provide written evidence to the Department that it has paid in full the sum or transferred title of the land required by Subsection (a) of this Section to one or more housing developers;*~~

~~*(2) Notify the Department that construction of the housing units has commenced, evidenced by:*~~

~~*(A) The City's issuance of site and building permits for the entire housing development project,*~~

~~*(B) Written authorization from the housing developer and the construction lender that construction may proceed,*~~

~~*(C) An executed construction contract between the housing developer and a general contractor, and*~~

~~*(D) The issuance of a performance bond enforceable by the construction lender for 100 percent of the replacement cost of the housing project; and*~~

~~*(3) Provide evidence satisfactory to the Department that the units required to be constructed will be affordable to qualifying households for 50 years through an enforcement mechanism approved by the Department pursuant to Subsections (b) through (d) of this Section.*~~

~~*(e) Where the sponsor elects to pay a sum or contribute land of value equivalent to the in-lieu fee to one or more housing developers, the sponsor's responsibility for completing construction of and maintaining the affordability of housing units constructed ceases from and after the date on which:*~~

~~*(1) The conditions of (1) through (3) of Subsection (d) of this Section have been met; and*~~

~~*(2) A mechanism has been approved by the Director to enforce the requirement that the housing units constructed will be affordable to qualifying households continuously for 50 years.*~~

~~*(f) If the project sponsor fails to comply with these requirements prior to issuance of the first certificate of occupancy by DBI, it shall be deemed to have elected to pay the in-lieu fee under Section 413.6 and the deferral surcharge in order to comply with Section 413.1et seq. DBI shall deny any and all certificates of occupancy for the development project until such payment has been made.*~~

SEC. 413.56. COMPLIANCE ~~*WITH JOBS-HOUSING LINKAGE PROGRAM*~~ BY PAYMENT OF IN-LIEU FEE.

(a) The amount of the fee which may be paid by the sponsor of a development project ~~*subject to this Section in lieu of developing and providing the housing required by Section 413.5*~~ shall be determined by the following formulas for each type of space proposed as part of the development project and subject to this Article *4*.

(1) For applicable projects (as defined in Section 413.3), any net addition shall pay per the Fee Schedule in Table 413.5~~6~~A, and

(2) For applicable projects (as defined in Section 413.3), any replacement or change of use shall pay per the Fee Schedule in Table 413.5~~6~~B.

* * * *

TABLE 413.5~~6~~A

FEE SCHEDULE FOR NET ADDITIONS OF GROSS SQUARE FEET

Use	***Fee per Gross Square Foot***
Entertainment	$18.62
Hotel	$14.95
~~*Integrated PDR*~~	~~*$15.69*~~
Institutional	$0~~*.00*~~
Office	~~$*19.96*69.60~~See subsection (c) below.
PDR	$0~~*.00*~~
Laboratory~~*Research & Development*~~	~~$*13.30*46.43~~See subsection (d) below.
Residential	$0~~*.00*~~
Retail	$18.62
Small Enterprise Workspace	$15.69

TABLE 413.5~~6~~B

FEE SCHEDULE FOR REPLACEMENT OF USE OR CHANGE OF USE

Previous Use	***New Use***	***Fee per Gross Square Foot***
Entertainment, Hotel, ~~*Integrated PDR,*~~ Office, *Laboratory*~~*Research & Development*~~, Retail, or Small Enterprise Workspace	Entertainment, Hotel, ~~*Integrated PDR,*~~ Office, Retail, or Small Enterprise Workspace	$0~~*.00*~~
PDR which received its First Certificate of Occupancy on or before April 1, 2010	Entertainment, Hotel, ~~*Integrated PDR,*~~ Office, *Laboratory*~~*Research & Development*~~, Retail, or Small Enterprise Workspace	Use Fee from Table 413.5~~6~~A minus $14.09
Institutional which received its First Certificate of Occupancy on or before April 1, 2010	Entertainment, Hotel, ~~*Integrated PDR,*~~ Office, *Laboratory*~~*Research & Development*~~, Retail, or Small Enterprise Workspace	$0~~*.00*~~
Institutional or PDR which received its First Certificate of Occupancy on or before April 1, 2010	Institutional, PDR, *Laboratory*~~*Research & Development*~~, Residential	$0~~*.00*~~

Institutional or PDR which received its First Certificate of Occupancy after April 1, 2010	Any	Use Fee from Table 413.5~~6~~
Residential	Entertainment, Hotel, ~~*Integrated PDR,*~~ Office, PDR, *Laboratory*~~*Research & Development*~~, Retail, or Small Enterprise Workspace	Use Fee from Table 413.5~~6~~

~~*No later than January 1 of each year, MOHCD shall adjust the in-lieu fee payment option. No later than November 1 of each year, MOHCD shall provide the Planning Department, DBI, and the Controller with information on the adjustment to the in-lieu fee payment option so that it can be included in the Planning Department's and DBI's website notice of the fee adjustments and the Controller's Citywide Development Fee and Development Impact Requirements Report described in Section 409(a). MOHCD is authorized to develop an appropriate methodology for indexing the fee, based on adjustments in the costs of constructing housing and in the price of housing in San Francisco consistent with the indexing for the Residential Inclusionary Affordable Housing Program in lieu fee set out in Section 415.6. The method of indexing shall be published in the Procedures Manual for the Residential Inclusionary Affordable Housing Program. In making a determination as to the amount of the fee to be paid, the Department shall credit to the sponsor any excess Interim Guideline credits or excess credits which the sponsor elects to apply against its housing requirement.*~~

(*b*~~*c*~~) Any in-lieu fee required under this Section *413.*5~~6~~ is due and payable to the Development Fee Collection Unit at DBI at the time of and in no event later than issuance of the first construction document, 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 deposited into the Citywide Affordable Housing Fund in accordance with Section 107A.13.3 of the San Francisco Building Code.

(c) **Office Fees.** *Notwithstanding any other provision of this Code*, fees for the net addition of Office Use shall be paid as follows:

(1) F~~f~~*or any project that (1) received an approval from the Planning Commission or Planning Department on or before* ~~December 31~~September 10, *2019, stating that the project shall be subject to any new, changed, or increased Jobs Housing Linkage Fee adopted prior to that project's procurement of a Certificate of Occupancy or Final Completion, and (2) has not procured a Certificate of Occupancy or Final Completion as of the effective date of the ordinance in Board File No. 190548, amending this Section 413.*5~~6~~*, such project shall pay* $57.14 per gross square foot, and pay *the difference between the amount of the fees assessed at the time of site permit issuance and any additional amounts due under the new, changed, or increased fee before the City may issue a Certificate of Occupancy or Final Completion.*

(2) For any project that has submitted a complete environmental evaluation application on or before September 10, 2019, and has not received its building or site permit as of the effective date of this ordinance in Board File No. ________, such project shall pay $57.14 per gross square foot. Any fees shall be assessed and paid consistent with this Article 4.

(3) For any project that has submitted a complete environmental evaluation application between the dates of September 11, 2019, and January 1, 2022, and has not received its building or site permit as of the effective date of this ordinance

in Board File No. 190548, such project shall pay $63.37 per gross square foot. Any fees shall be assessed and paid consistent with this Article 4.

(4) For any project that has submitted a complete environmental evaluation application after January 1, 2022, shall pay $69.60 per gross square foot. Any fees shall be assessed and paid consistent with this Article 4.

(d) **Laboratory Fees**. Notwithstanding any other provision of this Code, fees for the net addition of Laboratory Use shall be paid as follows:

(1) For any project that has submitted a complete environmental evaluation application on or before September 10, 2019, and has not received its building or site permit as of the effective date of this ordinance in Board File No. ________, such project shall pay $38.05 per gross square foot. Any fees shall be assessed and paid consistent with this Article 4.

(3) For any project that has submitted a complete environmental evaluation application between the dates of September 11, 2019, and January 1, 2022, and has not received its building or site permit as of the effective date of this ordinance in Board File No. 190548, such project shall pay $42.20 per gross square foot. Any fees shall be assessed and paid consistent with this Article 4.

(4) For any project that has submitted a complete environmental evaluation application after January 1, 2022, shall pay $46.43 per gross square foot. Any fees shall be assessed and paid consistent with this Article 4.

SEC. 413.6~~7~~. COMPLIANCE BY LAND DEDICATION~~*WITHIN THE CENTRAL SOMA SPECIAL USE DISTRICT*~~.

(a) **Controls.** ~~*Within the Central SoMa Special Use District,*~~ *P*~~p~~rojects may satisfy all or a portion of the requirements of Section 413.*1 et seq.* ~~5, 413.6 and 413.8~~ via dedication of land *to the City for the purpose of constructing units affordable to qualifying* *households*. Projects may receive a credit against such requirements up to the value of the land donated, calculated pursuant to subsection (b) below.

(b) **Requirements.**

(1) The value of the dedicated land shall be determined by the Director of Property pursuant to Chapter 23 of the Administrative Code, but shall not exceed the actual cost of acquisition by the project sponsor of the dedicated land in an arm's length transaction. Prior to issuance by DBI of the first site or building permit for a development project subject to Section 413.1 *et seq*. the sponsor shall submit to the Department, with a copy to MOHCD and the Director of Property, documentation sufficient to substantiate the actual cost of acquisition by the sponsor in an arm's length transaction of any land to be dedicated by the sponsor to the City~~ and County of San Francisco~~, and any additional information that would impact the value of the land.

(2) Projects are subject to the requirements of Section 419.5(a)(2)(A) and (C)~~ through ~~(J).

SEC. 413.7~~8~~. COMPLIANCE BY COMBINATION OF ~~PAYMENT TO HOUSING DEVELOPER AND~~ PAYMENT OF IN-LIEU FEE *AND LAND DEDICATION*.

With the written approval of the Director of MOH*CD*, the sponsor of a development project subject to Section 413.1 *et seq*. may elect to satisfy its housing requirement by a combination of ~~paying money or~~ contributing land to *the City under Section 413.*6~~7one or more housing developers under Section 413.5~~ and paying a partial amount of the in-lieu fee to the Development Fee Collection Unit at DBI under Section 413.5~~6~~. In the case of such election, the sponsor must pay a sum such that each gross square foot of net addition of each type of space subject to Section 413.1 *et seq*. is accounted for in either the ~~payment of a sum or~~ contribution of land to *the City under Section 413.*6~~7one or more housing developers~~ or the payment of a fee to the Development

Fee Collection Unit. ~~*The housing units constructed by a housing developer must conform to all requirements of Section 413.1 et seq., including, but not limited to, the proportion that must be affordable to qualifying households as set forth in Section 413.5.*~~ All of the requirements of Section~~*s 413.5 and*~~ 413.*1 et seq.*~~*6*~~ shall apply, including the requirements with respect to the timing of issuance of site and building permits, first construction documents, and certificates of occupancy for the development project and payment of the in-lieu fee.

SEC. 413.8~~9~~. LIEN PROCEEDINGS.

A project sponsor's failure to comply with the requirements of Sections ~~*413.5,*~~ 413.5~~6~~ and 413.6~~7~~ shall be cause for the Development Fee Collection Unit at DBI to institute lien proceedings to make the in-lieu fee, as adjusted under Section 413.5~~6~~, plus interest and any deferral surcharge, a lien against all parcels used for the development project, in accordance with Section 408 of this Article *4* and Section 107A.13.15 of the San Francisco Building Code.

SEC. 413.9~~10~~. CITYWIDE AFFORDABLE HOUSING FUND.

(a) ***Use of Fees.*** All monies contributed pursuant to *the Jobs Housing Linkage Fee Program in Section 413.1 et seq.* ~~*Sections 413.6 or 413.8 or assessed pursuant to Section 413.9*~~ shall be deposited in the Citywide Affordable Housing Fund ("Fund"), established in Administrative Code Section 10.100-49. The receipts in the Fund collected under Section 413.*1* *et seq*. shall be used solely to increase the supply of housing affordable to qualifying households subject to the conditions of this Section *413.*9~~10~~. The fees collected under this Section may not be used, by way of loan or otherwise, to pay any administrative, general overhead, or similar expense of any entity. ~~*The Mayor's Office of Housing and Community Development ("*~~MOHCD~~*")*~~ shall develop procedures such that, for all projects funded by the Citywide Affordable Housing Fund,

MOHCD requires the project sponsor or its successor in interest to give preference in occupying units as provided for in Administrative Code Chapter 47.

*(1) **Preservation and Acquisition Funds.***

*(A) **Designation of Funds**. MOHCD shall designate and separately account for 10% of all fees that it receives under Section 413.1 et seq. that are deposited into the Fund to support the acquisition and rehabilitation of rent restricted affordable rental housing.*

*(B) **Use of Preservation and Acquisition Funds.** The funds shall be used exclusively to acquire and preserve existing housing with the goal of making such housing permanently affordable, including but not limited to acquisition of housing through the City's Small Sites Program. Units supported by monies from the Fund shall be designated as housing affordable to qualified households for the life of the project. Properties supported by the Preservation and Acquisition Funds must be:*

(i) rental properties that will be maintained as rental properties;

*(ii) vacant properties that were formerly rental properties as long as those properties have been vacant for a minimum of two years prior to the effective date of the ordinance in Board File No. _____, amending this Section 413.*9~~10~~*;*

(iii) properties that have been the subject of foreclosure; or

(iv) a Limited Equity Housing Cooperative as defined in Subdivision Code Sections 1399.1 et seq. or a property owned or leased by a non-profit entity modeled as a Community Land Trust.

*(C) **Annual Report.** At the end of each fiscal year, MOHCD shall issue a report to the Board of Supervisors regarding the total amount of Preservation and Acquisition Funds received, and how those funds were used.*

*(D) **Intent.** In establishing guidelines for Preservation and Acquisition Funds, the Board of Supervisors does not intend to preclude MOHCD from expending other eligible sources of funding on Preservation and Acquisition as described in this Section 413.*9~~10~~

*(2) **Permanent Supportive Housing.** MOHCD shall designate and separately account for 30% of all fees that it receives under Section 413.1 et seq. that are deposited into the Fund to support the development of permanent supportive housing that meets the requirements of Section 413.1 et seq.*

*(b) **Accounting of Funds in Central SoMa Special Use District.*** Pursuant to Section 249.78(e)(1), all monies contributed pursuant to the Jobs-Housing Linkage Program and collected within the Central SoMa Special Use District shall be paid into the Citywide Affordable Housing Fund, but the funds shall be separately accounted for. *Consistent with the allocations in subsection (a), s*~~S~~uch funds shall be expended within the area bounded by Market Street, the Embarcadero, King Street, Division Street, and South Van Ness Avenue.

SEC. 415.5. AFFORDABLE HOUSING FEE.

*** * * ***

(f) **Use of Fees**. All monies contributed pursuant to the Inclusionary Affordable Housing Program shall be deposited in the Citywide Affordable Housing Fund ("~~*the*~~ Fund"), established in Administrative Code Section 10.100-49, except as specified below. ~~*The Mayor's Office of Housing and Community Development ("*~~MOHCD~~*")*~~ shall use the funds collected under this Section 415.5 in the following manner:

* * * *

(2) **"Small Sites Funds."**

(A) **Designation of Funds.** MOHCD shall designate and separately account for 10% of all fees that it receives under Section 415.1 *et seq*. that are deposited into the ~~*Citywide Affordable Housing*~~ Fund~~*, established in Administrative Code Section 10.100-49*~~, excluding fees that are geographically targeted such as those referred to in Sections 249.78(e)(1), 415.5(b)(1), and 827(b)(1), to support acquisition and rehabilitation of Small Sites ("Small Sites Funds"). ~~*MOHCD shall continue to divert 10% of all fees for this purpose until the Small Sites Funds reach a total of $15 million, at which point MOHCD will stop designating funds for this purpose. At such time as designated Small Sites Funds are expended and dip below $15 million, MOHCD shall start designating funds again for this purpose, such that at no time the Small Sites Funds shall exceed $15 million.*~~ When the total amount of fees paid to the City under Section 415.1 *et seq*. *is* less than $10 million over the preceding 12-month period, MOHCD is authorized to temporarily divert funds from the Small Sites Fund*s* for other purposes. MOHCD shall keep track of the diverted funds, however, such that when the amount of fees paid to the City under Section 415.1 *et seq.* meets or exceeds $10 million over the preceding 12-month period, MOHCD shall commit all of the previously diverted funds and 10% of any new funds~~*, subject to the cap above,*~~ to the Small Sites Fund*s*.

* * * *

(E) **Intent.** In establishing guidelines for Small Sites Funds, the Board of Supervisors does not intend to preclude MOHCD from expending other eligible sources of funding on Small Sites as described in this Section 415.5~~*, or from allocating or expending more than $15 million of other eligible funds on Small Sites*~~.

* * * *

SEC. 424.4. VAN NESS AND MARKET DOWNTOWN RESIDENTIAL SPECIAL USE DISTRICT AFFORDABLE HOUSING FUND.

That portion of gross floor area subject to the $30.00 per gross square foot fee referenced in Section 424.3(b)(i) above shall be deposited into the special fund maintained by the Controller called the Citywide Affordable Housing Fund established by Section 413.9~~10~~. Except as specifically provided in this Section, collection, management, enforcement, and expenditure of funds shall conform to the requirements related to in-lieu fees in Planning Code Section 415.1 et seq., specifically including, but not limited to, the provisions of Section 415.7.

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: ____________________________
AUSTIN M. YANG
Deputy City Attorney

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