

Central SoMa Affordable Housing and Balanced Neighborhood Initiative

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

Section 1. Title.

This Initiative shall be known and may be cited as the “**Central SOMA Affordable Housing and Balanced Neighborhood Initiative**” (referred to hereinafter as the “Initiative”).

Section 2. Findings and Purposes

(a) In early 2011, the City began preparing what is currently known as the Central SoMa Plan to provide goals, objectives, and policies that will guide development of roughly 230 acres of land adjacent to Downtown San Francisco and bounded approximately by Second Street Townsend Street, Sixth Street, Howard Street, and Folsom Street (“Central SoMa Plan Area”). The Central SoMa Plan Area has excellent transit access to regional and local transit, being served by CalTrain, BART, and numerous local and regional bus lines. Starting in 2019, the area will also be served by the Central Subway running down Fourth Street. A Central SoMa Plan and Implementation Strategy, released in summer 2016, includes a detailed public benefits package that will increase fees and taxes on private developments to fund a comprehensive program of public improvements, including transit enhancements and sustainable street improvement, along with construction of affordable housing.

(b) The Central SoMa Plan envisions the creation of sustainable, transit-oriented neighborhood with a mix of housing, commercial, and light industrial uses. With commercial vacancy rates among the lowest in the nation and rents among the highest, South of Market’s artists, community-based nonprofits, PDR (production, distribution repair) businesses like the Flower Mart, and its neighborhood serving businesses are facing greatly increased displacement pressures. This Initiative includes incentives for the development of new affordable spaces that will allow these vital uses to remain in SoMa for years to come. By allowing new commercial spaces to be built in Central SoMa sooner than would otherwise be possible, the Initiative will also relieve the rent pressures that are forcing small businesses out of the City.

(c) New developments in the Central SoMa Plan Area are projected to generate up to \$2 billion in direct public benefits to serve the Central SoMa neighborhood over the life of the plan, along with an additional \$1 billion for the City’s General Fund. New developments would generate these direct public benefits by paying one-time impact fees and ongoing special taxes, constructing or dedicating land for affordable housing, and building public improvements. The \$2 billion in direct public benefits represents a 400 percent increase in public benefits over the \$500 million that would be generated without the Central SoMa Plan. Some \$500 million would be directed to transit improvements, including funds for MUNI fleet maintenance and service

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expansion, along with improvements to BART stations. Another \$130 million would be aimed at redesigning major streets to make them safer and more comfortable for transit, cyclists, and pedestrians, while approximately \$160 million would be generated for parks and open space.

(d) In 2014, the voters adopted Proposition K, which established a goal of setting aside at least one-third of newly constructed units as permanently affordable housing. Office projects in Central SoMa will contribute to Proposition K's affordable housing goal by participating in the Jobs-Housing Linkage Program, which requires that office developments contribute land or funds to a housing developer for construction of affordable housing, or pay an equivalent in-lieu fee to the City. Office developments within the Central SoMa Plan Area are anticipated to generate more than \$200 million in affordable housing funds. This is a critical source of revenue to ensure that the Central SoMa Plan achieves its goal of setting aside at least 33% of the new and rehabilitated housing within the plan area as affordable to very low, low, and moderate income households consistent with Proposition K.

(e) An office project that contributes funds or land to a housing developer must do so before the issuance of a building or site permit for the office development. However, nearly all office developments comply with the Jobs-Housing Linkage Program by payment of an In-Lieu Fee to the City, which is due prior to issuance of the first building permit for the office development. If an office development is not built, the City must refund the In-Lieu Fee. As a result, affordable housing funded by In-Lieu Fees is often delayed for several years after the fees are paid and after the office space is occupied.

(f) The City is suffering from an acute lack of housing, and substantial increases in funding are necessary to advance construction of new affordable housing. This Initiative will advance affordable housing construction and mitigate the housing demand from large office projects in Central SoMa by creating an incentive for office projects within the Central SoMa Plan Area to dedicate land for permanently affordable housing construction or to pay their Jobs-Housing Linkage Program In-Lieu Fee earlier, or at a rate 25 percent higher, than would otherwise be required.

(g) This Initiative would create a reserve ("Reserve") of 6,000,000 square feet of office space for large office projects that could be constructed within the Central SoMa Plan Area earlier than would normally be allowed under the City's Office Development Limitation Program. To qualify for an allocation from this Reserve, an office project would be required to dedicate land for the construction of permanently affordable housing, pay a premium Jobs-Housing Linkage Program In-Lieu Fee, or make an early non-refundable payment of the fee within 30 days of its final discretionary approval by the Planning Commission or Board of Supervisors. Any allocation from the Reserve would then be deducted in even annual increments over the next ten years from the office allocation allowed under the Office Development Limitation Program. Thus, the aggregate amount of office development allowed on a citywide basis would not actually increase.

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(h) An office project electing to participate in the Reserve would be required to contribute to affordable housing needs through one of four options that would either expedite the creation of affordable housing or result in increased affordable housing production. Projects could pay the Jobs-Housing Linkage Program In-Lieu Fee without the possibility of a refund if the project is cancelled or if the building or site permit expires prior to the completion of the project. Combined with earlier fee payment, this would allow the City to make binding commitments to fund affordable housing without delay and reduce or eliminate the gap between office and affordable housing construction. Alternatively, participating projects could pay a 25 percent premium on the Jobs Housing Linkage Program In-Lieu Fee, dedicate land suitable for affordable housing construction to the City, or purchase and dedicate existing housing as permanently affordable.

(i) SoMa, the Tenderloin, Chinatown, Mission, Japantown, Hayes Valley, and Western Addition are now experiencing significant displacement of their low-income residents due to Ellis Act, Owner Move-In, and building renovation evictions. To provide resources to counter this displacement, this Initiative would allow office projects that secure a Reserve allocation to elect an alternative to satisfy the requirements of the Jobs/Housing Linkage program through the acquisition of apartment buildings and residential hotels in these Central City neighborhoods to be permanently maintained as low-income affordable housing by community land trusts and nonprofit, community-based organizations.

(j) The longtime Filipino and LGBTQ communities comprise a vibrant and integral social and spiritual fabric of the South of Market neighborhood. In recognition of this, the City has established the South of Market Filipino Cultural Heritage District and the South of Market LGBTQ Cultural Heritage District. This Initiative ensures access to funding for Cultural Heritage District facilities and improvements from any Community Facilities District created in Central SoMa.

(k) To ensure that housing production keeps pace with office construction, this Initiative would require the Planning Department to maintain an inventory of the number of residential units that have been approved within the Central SoMa Plan Area, the East SoMa Plan Area, and the Western SoMa Plan Area (collectively the "SoMa Plan Areas"), and would prohibit the City from approving more than 6,000,000 square feet of large office projects within the Central SoMa Plan area until one of the following has occurred: (a) a combined total of at least 15,000 housing units have been approved, built, or converted to permanently affordable housing within SoMa, the Tenderloin, Chinatown, Mission, Japantown, Hayes Valley, and Western Addition, or (b) 15 years have elapsed from the effective date of this Initiative.

(l) This measure would also create an estimated 13,000 good union construction jobs with benefits. It would also support more than 28,000 permanent jobs with benefits in San Francisco and help more middle income families and residents stay in the City. (Office of Economic & Workforce Development, 2017 estimate)

(m) Cities like San Francisco are at the forefront of taking local action against climate change. This measure will reduce greenhouse gas emissions and curb further sprawl by concentrating future office development adjacent to mass transit like the new Central Subway, Caltrain, and BART.

Section 3. Planning Code Amendment

Part II, Chapter II of the San Francisco Municipal Code (Planning Code) is hereby amended to read as follows:

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SEC. 320. OFFICE DEVELOPMENT: DEFINITIONS

When used in Sections 320, 321, 322 and 323, the following terms shall each have the meaning indicated. See also Section 102.

- (a) “Additional office space” shall mean the number of square feet of gross floor area of office space created by an office development, reduced in the case of a modification, or conversion, by the number of square feet of gross floor area of preexisting office space which is lost.
- (b) “Approval period” shall mean the 12-month period beginning on October 17, 1985 and each subsequent 12-month period.
- (c) “Approve” shall mean to approve issuance of a project authorization and shall include actions of the Planning Commission, Board of Appeals and Board of Supervisors.
- (d) “Completion” shall mean the first issuance of a temporary certificate of occupancy or a Certificate of Final Completion and Occupancy as defined in the San Francisco Building Code ~~Section 307~~.
- (e) “Disapprove” shall mean for an appellate administrative agency or court, on review of an office development, to direct that construction shall not proceed, in whole or in part.
- (f) “Office space” shall mean space within a structure intended or primarily suitable for occupancy by persons or entities which perform for their own benefit or provide to others services at that location, including but not limited to professional, banking, insurance, management, consulting, technical, sales and design, or the office functions of manufacturing and warehousing businesses, but shall exclude the following: Retail use; repair; any business characterized by the physical transfer of tangible goods to customers on the premises; wholesale shipping, receiving and storage; any facility, other than physicians' or other individuals' offices and uses accessory thereto, customarily used for furnishing medical services, and design showcases or any other space intended and primarily suitable for display of goods. This definition shall include all uses encompassed within Section 102 of this Code.

(g) "Office development" shall mean construction, modification or conversion of any structure or structures or portion of any structure or structures, with the effect of creating additional office space, excepting only:

(1) Development which will result in less than 25,000 square feet of additional office space;

(2) Development either:

(i) Authorized under San Francisco Redevelopment Agency disposition or owner participation agreements which have been approved by Agency resolution prior to the effective date of this Section, or

(ii) Authorized prior to the effective date of this Section by Agency resolution in anticipation of such agreements with particular developers identified in the same or a subsequent agency resolution;

(3) Any development which is governed by prior law under Section 175.1(b) of this Code, unless modified after the effective date specified in Section 175.1(b) to add more than 15,000 square feet of additional office space. Any addition of office space up to 15,000 square feet shall count against the maximum for the approval period, pursuant to Section 321(a)(2)(B);

(4) Any development including conversion of 50,000 square feet or more of manufacturing space to office space where the manufacturing uses previously located in such space are relocated to another site within the City and County of San Francisco and the acquisition or renovation of the new manufacturing site is funded in whole or part by an Urban Development Action Grant approved by the Board of Supervisors;

(5) Any mixed-residential-commercial development which will be assisted by Community Development Block Grant funds approved by the Board of Supervisors in which all of the housing units shall be affordable to low-income households for a minimum of 40 years and for which an environmental review application and site permit application have been filed prior to the effective date of this ordinance which enacted the provisions of this Section;

(6) Any development authorized pursuant to a Planned Unit Development, as provided for by City Planning Code Section 304, providing for a total of 500 or more additional units of housing, provided such development first received a Planned Unit Development authorization prior to November 4, 1986. Such Planned Unit Development may be amended from time to time by the Planning Commission, but in no event shall any such amendment increase the amount of office space allowed for the development beyond the amount approved by the Planning Commission prior to November 4, 1986.

(h) "Project authorization" shall mean the authorization issued by the Planning Department pursuant to Sections 321 and 322 of this Code.

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(i) "Replacement office space" shall mean, with respect to a development exempted by Subsection (g)(6) of this Section, that portion of the additional office space which does not represent a net addition to the amount of office space used by the occupant's employees in San Francisco.

(j) "Retail Use" shall mean supply of commodities on the premises including, but not limited to, stores, shops, Restaurants, Bars, eating and drinking businesses, and Retail Sales and Services uses defined in Planning Code Section 102, except for Hotels and Motels.

(k) **"SoMa Plan Areas" shall mean the East SoMa Plan Area, Western SoMa Plan Area, and, if adopted, the Central SoMa Plan Area.**

~~(k)(l)~~ "Preexisting office space" shall mean office space used primarily and continuously for office use and not accessory to any use other than office use for five years prior to Planning Commission approval of an office development project, which office use was fully legal under the terms of San Francisco law.

SEC. 321. OFFICE DEVELOPMENT: ANNUAL LIMIT.

(a) **Limit.**

(1) **Except as specified in Subsection (a)(6),** No office development may be approved during any approval period if the additional office space in that office development, when added to the additional office space in all other office developments previously approved during that approval period, would exceed 950,000 square feet or any lesser amount resulting from the application of 321.1. To the extent the total square footage allowed in any approval period is not allocated, the unallocated amount shall be carried over to the next approval period.

(2) The following amounts of additional office space shall count against the maximum set in Subsection (a)(1):

(A) All additional office space in structures for which the first building or site permit is approved for issuance during the approval period and which will be located on land under the jurisdiction of the San Francisco Port Commission or under the jurisdiction of the San Francisco Redevelopment Agency; provided, however, that no account shall be taken of structures which are exempt under Section 320(g)(2);

(B) The amount of added additional office space approved after the effective date of this ordinance in structures which are exempt under Section 320(g)(3);

(C) All additional office space in structures owned or otherwise under the jurisdiction of the State of California, the federal government or any State, federal or regional government agency, which structures are found to be otherwise exempt from this Section 321 or Section 322 by force of other applicable law;

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(D) All additional office space in structures exempt under Section 320(g)(4) or 320(g)(6) or the last sentence of Section 175.1(b), or which satisfy the substantive terms of either of said exemptions but for which the first building or site permit is authorized or conditional use or variance approved by the Planning Commission after June 15, 1985 but before the effective date of this ordinance.

The additional office space described in Subsection (a)(2)(A) shall be taken into account with respect to all proposed office developments which are considered after the first site or building permit is approved for issuance for the described project. The additional office space described in Subsections (a)(2)(B) and (a)(2)(D) shall be taken into account with respect to all proposed office developments which are considered during the approval period and after the project or the added additional office space is first authorized or a conditional use or variance approved by the Planning Commission. The additional office space described in Subsection (a)(2)(C) shall be taken into account with respect to all proposed office developments which are considered during the approval period and after commencement of construction of the described structures. Modification, appeal or disapproval of a project described in this Section shall affect the amount of office space counted under this Section in the time and manner set forth for office developments in Section 321(c).

(3) The Planning Department shall maintain and shall make available for reasonable public inspection a list showing:

(A) All office developments and all projects subject to Section 321(a)(2) for which application has been made for a project authorization or building or site permit and, if applicable, the date(s) of approval and of approval for issuance of any building or site permit;

(B) The total amount of additional office space and, if applicable, replacement office space, approved with respect to each listed development;

(C) Approved office developments (i) which are subsequently disapproved on appeal; (ii) the permit for which expires or is cancelled or revoked pursuant to Subsection (d)(1) of this Section; or (iii) the approval of which is revoked pursuant to Subsection (d)(2) of this Section; and

(D) Such other information as the Department may determine is appropriate.

(4) Not less than six months before the last date of the approval period, the Planning Department shall submit to the Board of Supervisors a written report, which report shall contain the Planning Commission's recommendation with respect to whether, based on the effects of the limitation imposed by this Section on economic growth and job opportunities in the City, the availability of housing and transportation services to support additional office development in the City, office vacancy and rental rates, and such other factors as the Commission shall deem relevant, there should continue to be a quantitative limit on additional office space after the

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approval period, and as to what amount of additional office space should be permitted under any such limit.

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(5) Every holder of a site permit issued on or after July 1, 1982 for any office development, as defined in Section 320(g) without regard to Subsections (g)(2) through (g)(5), shall provide to the Planning Commission reports containing data and information with respect to the following:

- (A) Number of persons hired for employment either in construction of the development or, to the extent such information is available to the permittee, by users of the completed building;
- (B) The age, sex, race and residence, by City, of each such person;
- (C) Compensation of such persons, classified in \$5,000 increments, commencing with annualized compensation of \$10,000;
- (D) The means by which each such person most frequently travels to and from the place of employment.

Such reports shall commence on October 1, 1985 and continue quarterly thereafter during the approved period. A report containing information by quarter for the period between July 1, 1982 and the effective date of the ordinance shall be submitted not later than December 31, 1985. The Planning Commission shall have full access to all books, records and documents utilized by any project sponsor in preparation of the written reports referred to above, and shall inspect such books, records and documents from time to time for purposes of authenticating information contained in such reports.

(6) Central SoMa Area Plan. This subsection shall become operative on the effective date of the Central SoMa Area Plan, a comprehensive area plan for all or a portion of the area bounded approximately by Second Street to the east, Sixth Street to the west, Townsend Street to the south, and by an irregular border that generally jogs along Folsom, Clementina, Howard, Natoma, and Stevenson Streets to the north ("Central SoMa Plan Area"). The following rules shall apply to additional office development within the Central SoMa Plan Area:

(A) Jobs-Housing Balance Monitoring and Additional Limitations on Office Development. Within the Central SoMa Plan Area, no more than 6,000,000 square feet of additional office space shall be approved in office developments containing more than 49,999 square feet of office space, until a combined total of at least 15,000 new housing units, including dwelling units and SRO units, meeting the criteria below have been approved, received a first Certificate of Occupancy, or been converted to permanently affordable housing. The following housing units shall be credited toward the 15,000 unit goal:

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Areas; and

(i) All new housing approved on or after January 1, 2018, in the SoMa Plan

(ii) All existing housing acquired and permanently restricted to affordable low-income housing on or after January 1, 2018, within the South of Market, Tenderloin, Chinatown, Mission, Japantown, Hayes Valley and Western Addition Neighborhoods, as delineated in the San Francisco Neighborhood Boundaries and Census Tracts Map used in the Department of City Planning's March 2017 report: *San Francisco Neighborhoods Socio-Economic Profiles, American Community Survey 2010-2014.*

A housing unit shall be considered "approved" by the City when the "approval action", as defined in Administrative Code Section 31.04(h), for the housing unit(s) has occurred, or, if no city approval is required, upon the earlier of the first discretionary approval by the approving agency or issuance of a permit authorizing construction. On or before October 17, 2018, and on a quarterly basis thereafter, the Planning Department shall publish an inventory of the number of housing units approved or acquired and permanently restricted to affordable housing under this subsection. This subsection (6)(A) shall sunset on June 5, 2033.

(B) Central SoMa Affordable Housing and Balanced Neighborhood Reserve. At the election of a project sponsor, the Planning Commission may grant an authorization for additional office space notwithstanding the limit specified in subsection (a)(1) where each of the following criteria is satisfied:

(i) The environmental evaluation application for the project was submitted no more than 24 months after the effective date of the Central SoMa Plan.

(ii) The office development includes one or more of the following features: (a) affordable Production, Distribution and Repair, Arts Activities, and/or Neighborhood-Serving Business space, located anywhere within the project, and equal in area to at least 50 percent of the gross floor area of the project's ground floor, exclusive of lobbies, internal pedestrian circulation, stairs, and elevator shafts serving uses on different floors; (b) land to be dedicated to the City where affordable housing could be constructed, which land is at least 12,500 square feet in area, zoned for housing at the time of dedication, and is located either on-site or off-site within the SoMa Plan Areas; (c) construction, in a manner deemed acceptable by the City, of a neighborhood fire station in the SoMa Plan areas, or provision of 100 percent of the funding determined necessary by the City to construct such a facility; or (d) at least 33 percent of any housing to be developed on-site as a component of the project is permanently affordable to low- or middle-income households.

(iii) The office development contains more than 49,999 square feet of additional office space;

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(iv) The office development is located within the Central SoMa Plan Area;

(v) The approval of such additional office development shall not cause the total amount of additional office development approved pursuant to this subsection (a)(6)(B) to exceed 6,000,000 square feet; and

(vi) The sponsor of the office development has elected to comply with the Jobs-Housing Linkage Program or otherwise address affordable housing needs through one or a combination of the following methods:

a. Early In-Lieu Fee Payment. The sponsor has entered into a binding written agreement with the City to make an early payment of the Jobs-Housing Linkage Program In-Lieu Fee, which agreement ensures that refunds of the Jobs-Housing Linkage Program In-Lieu Fee shall not be provided under any circumstances and provides that the amount of the fee shall be based upon the net addition of office space authorized in the final approval under this section and shall not thereafter be reduced due to subsequent changes made to the project, including changes due to court action. The written agreement shall provide for payment of the Jobs-Housing Linkage Program In-Lieu Fee for the net addition of office space within 30 days of the latest of the following: (a) expiration of the last appeal period for the project's CEQA determination and discretionary approvals by the Planning Commission; (b) final resolution of any appeals of the project's CEQA determination and Planning Commission discretionary approvals, including lapse of the time for rehearing; or (c) the effective date of the development agreement for the project, if any.

b. Premium In-Lieu Fee Payment. The sponsor has entered into a binding written agreement with the City to pay a Jobs-Housing Linkage Program In-Lieu Fee for the net addition of office space at first construction document at a rate 25 percent higher than otherwise required under the Jobs-Housing Linkage Program; or

c. Land Dedication. The sponsor has entered into binding written agreement with the City to dedicate land of value equivalent to the Jobs Housing Linkage Program In-Lieu Fee to the City and County of San Francisco for the purpose of constructing units affordable to qualifying households. No land dedication required to satisfy the requirements of subsection (6)(B)(ii) may be used to satisfy the requirements of this alternative. To meet the requirements of this alternative, the sponsor must convey title to land to the Mayor's Office of Housing and Community Development ("MOHCD") in fee simple absolute according the procedures set forth in the Affordable Housing Procedures Manual. The land to be conveyed shall comply with other applicable requirements for land dedication set forth in Planning Code Section 419.5(a)(2)(A)-(J), except that the requirement for dedicated land to be located within

one-mile of the principal site shall not apply, and the land shall instead be located within the SoMa Plan Areas.

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d. Acquisition, Rehabilitation, and Dedication of Existing Housing as Permanently Affordable Housing. The sponsor has entered into a binding written agreement, reviewed and approved by MOHCD, to purchase existing housing that is subject to the San Francisco Rent Ordinance, rehabilitate it as may be required in accordance with MOHCD guidelines, and dedicate it as permanently affordable, low- to moderate- income housing to be maintained and operated by a qualified nonprofit community-based organization or community land trust pursuant to Section 413.7. To meet the requirements of this alternative, the sponsor shall dedicate existing housing as permanently affordable, low-income housing to be maintained and operated as such by a community land trust or nonprofit community-based organization in accordance with this section and implementing regulations developed by MOHCD. The housing shall provide an equivalent number of housing units as required by Section 413.5(a); or provide a number of housing units otherwise determined by MOHCD to be commensurate with the purposes and intent of the Jobs-Housing Linkage Program, provided the sponsor has expended an acquisition and rehabilitation value on existing rent-controlled housing that is equivalent to the Jobs Housing Linkage Program In-Lieu Fee. Housing dedicated shall be located within the South of Market, Tenderloin, Chinatown, Mission, Japantown, Hayes Valley and Western Addition Neighborhoods, as delineated in the San Francisco Neighborhood Boundaries and Census Tracts Map used in the Department of City Planning's March 2017 report: *San Francisco Neighborhoods Socio-Economic Profiles, American Community Survey 2010-2014.*

(C) Office space approved pursuant to the Central SoMa Affordable Housing and Balanced Neighborhood Reserve shall be deducted from the amount available under subsection (a)(1) in even annual increments over a ten year period, with the first such deduction occurring on October 17 following the allocation of additional office space to the project and the nine subsequent deductions occurring annually on October 17 thereafter until the entire project's allocation of additional office space has been deducted.

(b) Guidelines.

(1) During the approval period, the Planning Commission, and the Board of Supervisors and Board of Appeals on appeal from the Planning Commission shall approve, within the allowable limit, subject to Subsection (b)(2) of this Section, only those office developments which they shall determine in particular promote the public welfare, convenience and necessity, and shall be empowered under this Section to disapprove the remainder. The Planning Department shall issue to office developments so approved, in accord with Sections 320 through 323 of this Code, a project authorization.

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(2) The following proposed office developments, subject to all other applicable sections of this Code and other applicable law, shall be approved under this Section in preference to all others:

(A) All proposed developments to the extent approval is required by court order; and, thereafter,

(B) Subject to Subsection (a)(1) of this Section, all proposed office developments which were approved by the Planning Commission during the approval period, but subsequently disapproved by any administrative appellate body or court, if and when said disapproval is later reversed.

(3) In determining which office developments best promote the public welfare, convenience and necessity, the Board of Supervisors, Board of Appeals and Planning Commission shall consider:

(A) Apportionment of office space over the course of the approval period in order to maintain a balance between economic growth, on the one hand, and housing, transportation and public services, on the other;

(B) The contribution of the office development to, and its effects on, the objectives and policies of the General Plan;

(C) The quality of the design of the proposed office development;

(D) The suitability of the proposed office development for its location, and any effects of the proposed office development specific to that location;

(E) The anticipated uses of the proposed office development, in light of employment opportunities to be provided, needs of existing businesses, and the available supply of space suitable for such anticipated uses;

(F) The extent to which the proposed development will be owned or occupied by a single entity;

(G) The use, if any, of TDR by the project sponsor.

Payments, other than those provided for under applicable ordinances, which may be made to a transit or housing fund of the City, shall not be considered.

(4) Reserve for Smaller Buildings. In each approval period at least 75,000 square feet of office development shall be reserved for buildings between 25,000 and 49,999 square feet in gross floor area of office development. To the extent the total square footage allowed under this Subsection in any approval period is not allocated, the unallocated amount shall be carried over to the next approval period and added only to the Reserve for Smaller Buildings.

(5) With respect to any office development which shall come before the Board of Supervisors for conditional use review, that Board shall consider, in addition to those criteria made applicable by other provisions of law, the criteria specified in Subsection (b)(3). As to any such office development, the decision of the Board of Supervisors with respect to the criteria specified in Subsection (b)(3) shall be a final administrative determination and shall not be reconsidered by the Planning Commission or Board of Appeals.

(6) The Planning Commission shall establish procedures for coordinating review of project authorization applications under Section 322 with review under Section 309 of this Code. The Commission may hold hearings under Sections 309 and 322 in such sequence as it may deem appropriate, but may not issue any project authorization until the requirements of Section 309 have been satisfied.

(c) Appeal and Modification.

(1) If an approved office development is disapproved, or if a previously unapproved office development is approved, by a court or appellate agency, the list described in Subsection (a)(3) of this Section shall be revised accordingly at the time that the period for rehearing before the appellate body in question shall have lapsed. Approval on appeal of any office development, if conditioned on disapproval of another office development which was previously approved, shall not be effective before the time for rehearing with respect to the disapproval shall have lapsed.

(2) The amount of additional office space of any development shall not count against the maximum for the approval period, beginning from the time the office development loses its approved status on the Planning Department list under Subsection (c)(1); provided, however, that if a decision disapproving an office development permits construction of a part of the project, the permitted additional office space only shall continue to count against the maximum, unless and until all building or site permits for the development expire or are cancelled, revoked or withdrawn.

(3) Any modification of an approved office development, including, without limitation, modification by a court or administrative appellate agency, shall be governed by this Subsection, subject, in the case of a court order, to Subsection (b)(2)(A).

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(A) Any office development which is modified for any reason after it is first approved so as to increase its amount of additional office space shall lose its approved status on the list described in Subsection (a)(3) at the time such modification is approved, and may be approved as modified only subject to the limits of Subsection (a)(1). Such a modified development shall not be constructed or carried out based on its initial approval. Approval on appeal of such a modified development, if approval would violate the maximum set forth in Subsection (a)(1) of this Section but for disapproval of another previously approved office development, shall not be effective, nor grounds for reliance, until the time for rehearing with respect to the disapproval shall have lapsed.

(B) An approved office development may be modified so as to reduce the amount of additional office space, subject to all authorizations otherwise required by the City. No additional office space shall become available for any other development during the approval period on account of such a modification, unless the modification is required by any appellate administrative agency or a court, in which case additional office space shall become available when the time for rehearing has lapsed.

(d) Unbuilt Projects; Progress Requirement.

(1) The maximum amount of additional office space for the approval period shall be increased by the amount of such space included in office developments which were previously approved during the period but for which during such period an issued site or building permit has been finally cancelled or revoked, or has expired, with the irrevocable effect of preventing construction of the office development.

(2) Construction of an office development shall commence within 18 months of the date the project is first approved, or, in the case of development in the C-3-O(SD) District the development shall commence within three (3) years, **or, in the case of a development which has fully satisfied its obligations to pay a non-refundable or premium Jobs-Housing Linkage Program In-Lieu Fee, dedicate land or existing housing for permanently affordable housing pursuant to Section 321(a)(6)(B)(vi), the development shall commence within ten (10) years.** Notwithstanding the above provision, office projects larger than 500,000 gross square feet **or consisting of multiple buildings in the C-3-O(SD) District** shall commence construction **of the first building** within five (5) years. Failure to begin work within that period or thereafter to carry the development diligently to completion, shall be grounds to revoke approval of the office development. Neither the Department of Building Inspection nor the Board of Appeals shall grant any extension of time inconsistent with the requirements of this Subsection (d)(2).

(3) The Department of Building Inspection shall notify the Planning Department in writing of its approval for issuance and issuance of a site or building permit for any office

development, and for any development under the jurisdiction of the Successor Agency to the Redevelopment Agency of the City and County of San Francisco or the Port Commission subject to Section 321(a)(2), and of the revocation, cancellation, or expiration of any such permit.

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(e) **Rules and Regulations.** The Planning Commission shall have authority to adopt such rules and regulations as it may determine are appropriate to carry out the purposes and provisions of this Section and Sections 320, 322 and 323.

SEC. 325. SUNSET CLAUSE.

The limit on office development set out in Planning Code Sections 320, 321, 322, 323, 324, and 324.1 as of October 17, 1985, as amended by the voters on November 4, 1986, **and** November 8, 2016, **and June 5, 2018**, shall remain in effect until amended or repealed by the voters of San Francisco at a regularly scheduled election.

SEC. 405. DEVELOPMENT FEE REFUND WHEN BUILDING PERMIT IS CANCELLED OR EXPIRES PRIOR TO COMPLETION OF WORK AND COMMENCEMENT OF OCCUPANCY.

If a project sponsor cancels or withdraws a building or site permit prior to completion of work and commencement of occupancy of a development project, or a building or site permit expires prior to completion of work and commencement of occupancy so that it will be necessary to obtain a new permit to carry out any new work on the development project, any obligation to comply with this Article shall be cancelled, and any development fee previously paid to the Development Fee Collection Unit at DBI shall be refunded to the project sponsor, **provided however that refunds shall not be provided where a developer elected to make a non-refundable payment of the Jobs-Housing Linkage Program In-Lieu Fee pursuant to Section 321(a)(6)**. If and when the project sponsor applies for a new building or site permit, the procedures set forth in this Article shall be followed for the new development project, **provided however that the Jobs Housing Linkage Program In-Lieu Fee shall not apply to any net addition of gross square feet in the new development project for which a non-refundable Jobs-Housing Linkage Program In-Lieu Fee was previously paid pursuant to Section 321(a)(6)**.

SEC. 413.6. COMPLIANCE WITH JOBS-HOUSING LINKAGE PROGRAM BY PAYMENT OF AN 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.

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(1) For applicable projects (as defined in Section 413.3), any net addition shall pay per the Fee Schedule in Table 413.6A, 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 413.6B.

**TABLE 413.6A
FEE SCHEDULE FOR NET ADDITIONS OF GROSS SQUARE FEET**

<i>Use</i>	<i>Fee per Gross Square Foot</i>
Entertainment	\$18.62
Hotel	\$14.95
Integrated PDR	\$15.69
Institutional	\$0.00
Office	\$19.96
PDR	\$0.00
Research & Development	\$13.30
Residential	\$0.00
Retail	\$18.62
Small Enterprise Workspace	\$15.69

**TABLE 413.6B
FEE SCHEDULE FOR REPLACEMENT OF USE OR CHANGE OF USE**

<i>Previous Use</i>	<i>New Use</i>	<i>Fee per Gross Square Foot</i>
Entertainment, Hotel, Integrated PDR, Office, 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, Research & Development, Retail, or Small Enterprise Workspace	Use Fee from Table 413.6A minus \$14.09
Institutional which received its First Certificate of Occupancy on or before April 1, 2010	Entertainment, Hotel, Integrated PDR, Office, Research & Development, Retail, or Small Enterprise Workspace	\$0.00
Institutional or PDR which received its First Certificate of Occupancy on or	Institutional, PDR, Research & Development, Residential	\$0.00

before April 1, 2010		
Institutional or PDR which received its First Certificate of Occupancy after April 1, 2010	Any	Use Fee from Table 413.6
Residential	Entertainment, Hotel, Integrated PDR, Office, PDR, Research & Development, Retail, or Small Enterprise Workspace	Use Fee from Table 413.6

No later than January 1 of each year, MOH shall adjust the in-lieu fee payment option. No later than November 1 of each year, MOH 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). MOH 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.

(c) **Unless a project sponsor elected to make an earlier payment pursuant to Section 321(a)(6), any** Any in-lieu fee required under this Section 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.

SEC. 413.7. ~~REPEALED~~ WAIVER FOR DEDICATION OF EXISTING HOUSING AS PERMANENTLY AFFORDABLE HOUSING OR DEDICATION OF LAND TO CITY.

(a) For projects approved pursuant to the Central SoMa Affordable Housing and Balanced Neighborhood Reserve, the director of MOH may waive or partially waive the otherwise applicable provisions of Section 413.5 and 413.6, where the sponsor of the office development dedicates consistent with the requirements of Section 321 and the Procedures Manual: (1) existing housing as permanently affordable, low-income housing to be maintained and operated as such by a qualified nonprofit community-based organization in accordance, or (2) land to the City for the purpose of constructing units affordable to qualifying households. Such waiver or partial waiver shall be limited to the value of the dedicated land or housing, including improvements necessary for the construction or habitation of affordable housing.

SEC. 413.8. COMPLIANCE BY COMBINATION OF METHODS OF PAYMENT TO HOUSING DEVELOPER AND PAYMENT OF IN-LIEU FEE.

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With the written approval of the Director of MOH, 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 one 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 413.6, and dedicating land or existing housing under Sections 321 and 413.7. 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 one or more housing developers, ~~or~~ the payment of a fee to the Development Fee Collection Unit, or dedicating land or existing housing under Sections 321 and 413.7. 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 Sections 413.6 and 413.6, and 413.7 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.

Section 4. South of Market Community Heritage Districts Funding.

Any Community Facilities District created in the Central SoMa Area Plan that includes projects approved pursuant to the Central SoMa Reserve shall ensure that facilities and improvements that recognize and/or are affiliated with the South of Market LGBTQ Cultural Heritage District or South of Market Filipino Cultural Heritage District are eligible for funding to the extent consistent with California Law.

Section 5. Interpretation

This Initiative shall not be interpreted to exempt any development from paying any fees that such development would otherwise be required to pay but for the adoption of this Initiative.

This Initiative shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. It is the intent of the voters that the provisions of this Initiative be interpreted or implemented in a manner that facilitates the purposes set forth in this Initiative. The title of this Initiative and the captions preceding the sections of this Initiative are for convenience of reference only. Such title and captions shall not define or limited the scope of purpose of any provision of this Initiative. The use of the terms “including,” “such as” or words of similar import when following any general terms statement, or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term, or matter. The use of the term “or” shall be construed to mean and/or.

Section 6. Severability.

If any provision of this Initiative, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Initiative are severable. The voters declare that this Initiative, and each word, phrase, sentence, section, sub-section, sentence, clause, phrase, part or portion thereof, would have been adopted or passed irrespective of the fact that any other provision or provisions is found to be invalid. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity does not affect any application of this Initiative that can be given effect without the invalid application. If an portion of this Initiative is held by a court of competent jurisdiction to be invalid, we, the People of the City and County of San Francisco, indicate our strong desire that: (i) the Board of Supervisors use its best efforts to sustain and provide for the re-enactment of that portion, and (ii), the Board of Supervisors implement this Initiative by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Initiative, including, if necessary, taking the appropriate steps to provide for the adoption or re-enactment of any such portion in a manner consistent with the intent of this Initiative.

Section 7. Conflicting Measures.

In the event that this Initiative and another conflicting measure or measures relating to the development of office space pursuant to Proposition M (November 1986) shall appear on the same municipal election ballot, the provisions of this measure shall prevail unless the conflicting measure receives a greater number of affirmative notes. In the event that another conflicting measure receives a greater number of affirmative votes, the provisions of this Initiative shall take effect to the extent permitted by law. If this Initiative is approved by the voters but superseded by law in whole or in part by any other conflicting initiative approved by the voters at the same election, and such conflicting initiative is later held invalid, this Initiative shall be self-executing and given full force of law.

Section 7. Amendment.

This Initiative's amendments to Sections 405, 413.6, and 413.8 of the Planning Code may be amended by a majority vote of the Board of Supervisors to further the purpose of this Initiative. This Initiative shall not otherwise limit the authority of the Board of Supervisors to amend Planning Code Sections 405, 413.6, or 413.8. All other provisions and sections of this Initiative may not be amended except by a vote of the people.

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