



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Administrative Code and Planning Code Amendment

HEARING DATE: JUNE 2, 2016

Project Name: 50- 1st Street/Oceanwide Center
Affordable Housing Requirements

Case Number: 2006.1523PCA [Board File No. 160382]

Initiated by: Mayor Lee / Introduced April 19, 2016
Mayor Lee, Supervisor Kim/Substitute Legislation 5/3/16

Staff Contact: Marcelle Boudreaux, Current Planning
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Reviewed by: AnMarie Rodgers, Senior Policy Advisor
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Recommendation: **Recommend Approval**

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AMENDMENTS

Uncodified Planning Code Amendment

The proposed Ordinance would waive the Project's requirement to satisfy or fully satisfy affordable housing requirements as outlined in Planning Code Sections 415 et seq. and 413 et seq., respectively. The amount to be waived is approximately \$27 million. This action is an uncodified Planning Code Amendment.

Administrative Code Amendment

The Ordinance amends the Administrative Code and would require the Project to satisfy affordable housing requirements in an alternative manner by depositing the equivalent amount (approximately \$27 million) into a new Downtown Neighborhoods Preservation Fund ("Fund"). The proposed Ordinance would amend the Administrative Code to create this new Fund, which would receive fee revenue dedicated to affordable housing and other contributions to the Fund from the Project. The proposed Ordinance also authorizes the sale and vacation for property at Jessie Street and Elim Alley, requiring an additional approximate \$13 million payment into the Fund, and associated actions, some of which were reviewed by the Planning Commission on May 5, 2016 and found consistent with the General Plan and eight Priority Policies.

The Way It Is Now:

1. Jobs Housing Linkage Program (Planning Code Section 413): The Project's current estimated fee requirement under Section 413 is approximately \$25 million.
2. Inclusionary Affordable Housing (Planning Code Section 415): The Project's current requirement is approximately \$20 million. The applicable percentage for this project is currently twenty

percent (20%), and this amount is not subject to change under a proposed Charter amendment (and associated legislation BF 160255/ Ord. 76-16¹) that the voters will consider during the June 7, 2016 election. The total amount of Affordable Housing Fees to be paid under existing law would be approximately \$20 million if the voters do not approve the Charter Amendment and would be approximately \$20 million if the Charter Amendment is approved.

Planning Code Section	Requirement: Current
Jobs-Housing Linkage (Section 413)	Approximately \$25 million
Inclusionary Affordable Housing (Section 415)	Approximately \$20 million (20% affordable housing percentage)

The Way It Would Be:

1. Jobs Housing Linkage Program (Planning Code Section 413 et seq.): No less than a \$7 million portion of the Jobs-Housing fee payment as required per Planning Code Sections 413 et seq. would be waived and redirected into the new Fund. The Project would be required to comply with the remaining fee requirements of Section 413 et seq. as outlined in the Planning Code, which is approximately \$18 million².
2. Inclusionary Affordable Housing (Planning Code Section 415 et seq.): The entire fee per Section 415 et seq. of the Planning Code would be waived, which is approximately \$20 million. The Project would satisfy affordable housing requirements by paying the fee, approximately \$20 million payment, to the new Fund.
3. In addition, an approximately \$13 million affordable housing payment that is included in a purchase and sale agreement between the City and the Project Sponsor for the sale of City property associated with the street vacation of portions of Jessie Street and Elim Alley, and this payment would also be deposited in the Fund.

¹ This ordinance, passed by the Board of Supervisors on May 3, 2016 and signed by the Mayor on May 13, 2016, would amend the Planning and Administrative Codes to increase the Inclusionary Affordable Housing fee and other requirements; require the Controller to prepare an economic feasibility report regarding the City's inclusionary housing requirements and make recommendations by July 31, 2016 and every three years thereafter; and establish the Inclusionary Housing Technical Advisory Committee to provide advice about the economic feasibility of proposals to set maximum economically viable inclusionary housing requirements, and set forth the membership and duties of the Advisory Committee.

² The exact amount is determined by gross floor area per use and the San Francisco Citywide Development Impact Fee Register in effect at the time of payment. These fees are required to be paid by the Project Sponsor prior to issuance of first construction document by DBI.

Fee Payment/ Calculations	Amount Paid to Fund Under Proposed Ordinance	Inclusionary Affordable Housing Percentage Equivalencies
Jobs-Housing Linkage (Section 413)	No less than \$7 million	
Inclusionary Affordable Housing (Section 415)	Approximately \$20 million	\$20 million and \$13 million payments are the equivalent of approximately \$33 million. Although the Project would be subject to only a 20% requirement per the proposed Charter Amendment, this is equivalent to 33% affordable housing percentage.
Additional Affordable Housing Payment related to street vacation purchase and sale agreement	Approximately \$13 million	
TOTAL	No less than \$40 million to be paid into the Fund by Sponsor	

The total amount of Affordable Housing Fees to be paid under the proposed Ordinance would be no less than \$40 million. The voters’ action on the pending Charter Amendment would not affect the affordable Housing Fees if this proposed Ordinance is adopted.

BACKGROUND

Affordable Housing Sections in the Planning Code

Projects that increase in size by 25,000 gross square feet and propose entertainment, hotel, Integrated PDR, office, research and development, retail, and/or Small Enterprise Workspace uses are subject to the requirements of the Jobs-Housing Linkage Program (Planning Code Section 413). This requires new commercial projects to pay a fee to mitigate the increased demand caused by large-scale commercial development projects on low- and moderate-income housing in San Francisco. The associated Project proposes a new hotel use of approximately 255,346 gross square feet, and new office space of approximately 835,445 gross square feet³, therefore the Project is subject to Section 413. The Project Sponsor indicated compliance with Code through payment of fee, or equivalent requirement. All monies contributed pursuant to Section 413 et seq. are deposited in the Citywide Affordable Housing Fund.

Projects proposing 10 or more dwelling units are subject to the Inclusionary Housing Requirements in the Planning Code (Section 415). Currently, the three methods to satisfy this requirement are as follows: 1) pay a fee equivalent to 20% affordable housing percentage; 2) provide 12% affordable units on-site; or 3) provide 20% affordable units at an off-site location. The fee is deposited into the Housing Trust Fund and is generally required to be used to increase the supply of housing affordable to qualifying households.

The Project filed its first Environmental Application December 21, 2006, and proposes 265 new dwelling units, therefore is subject to Section 415. The Project Sponsor submitted an ‘Affidavit of Compliance with

³ For purposes of calculating requirements for Planning Code Section 413, credits for prior use are applicable. The Project proposes 1,079,925gsf of office space. At the site, 244,480gsf of office space exists.

the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department indicating compliance with this Section through payment of the affordable housing fee, or equivalent or greater requirement.

The applicable percentage for this project is currently twenty percent (20%), and this amount is not subject to change under a proposed Charter amendment (and associated legislation BF 160255/ Ord. 76-16) that the voters will consider during the June 7, 2016 election. Under the existing regulatory structure and in the event that the voters do pass the Charter Amendment, the Project Sponsor would be required to pay 20% fee for Affordable Housing Fee, due to date of first EE filing for the project of December 21, 2006, consistent with the recent Inclusionary legislation (BF 160255/ Ord. 76-16) approved by the Board of Supervisors. The total amount of Affordable Housing Fees to be paid under existing law would be approximately \$20 million if the voters do not approve the Charter Amendment and would be approximately \$20 million if the Charter Amendment is approved.

Street Vacation

The Planning Commission reviewed the Project sponsor's Department of Public Works application for street vacation and made findings of consistency through a General Plan Referral on May 5, 2016. The proposed street vacations would be offset by new public open spaces and enhance the pedestrian interconnectivity of alleyways and walkways to adjacent streets and throughout the site. The proposed vacation would help create a signature public space, the Urban Room at the base of the First Street Tower, which would offer a variety of high quality public spaces, including large areas for seating, landscape, events, and other social functions. Public Access to the vacated streets would remain intact due to the Project sponsor's declaration of public access covenants and restrictions permitting public access 24 hours per day and 7 day per week on the vacated portions of Jessie Street and Elim Alley. At the same time, street vacation would facilitate construction of the second tallest tower (First Street Tower) contemplated in the Transit Center District Plan.

ISSUES AND CONSIDERATIONS

Under the proposed Ordinance, the Project will be required to satisfy the requirements of the affordable housing program in an alternative way. In total, the Project sponsor would deposit no less than \$40 million into the new Fund. The proposed Ordinance directs the Project to pay approximately \$20 million in inclusionary housing fees directly to the new Fund and pay approximately \$7 million in fees (out of approximately \$25 million) partially in compliance with the Jobs-Housing Linkage Program to the Fund. Further, an additional approximately \$13 million affordable housing payment will be made.

The fees proposed for waiver in Sections 413 et seq. and 415 et seq. and redirection into the Fund total approximately \$27 million. The additional \$13 million payment as part of the purchase and sale agreement for street vacation, in combination with the approximate \$20 million requirement under Section 415, is equivalent to a 33% affordable housing percentage. This 33% exceeds the current 20% affordable housing percentage requirement under Section 415, and would be equivalent to the proposed Charter Amendment requirement if the Project were not grandfathered.

Fees paid according to Planning Code Section 413 and 415 are deposited into the Citywide Affordable Housing Fund. The establishment of the Downtown Neighborhoods Preservation Fund establishes an alternative conduit to receive the Project's fees which satisfy affordable housing requirements.

Downtown Neighborhoods Preservation Fund

The Downtown Neighborhoods Preservation Fund is proposed to be used exclusively by the Mayor's Office of Housing and Community Development (MOHCD), or its successor, for the purpose of supporting affordable housing. Specifically, the equivalent of the fee amount to be waived pursuant to Planning Code Sections 413 et seq. will be dedicated for the construction of new affordable housing and/or acquisition and/or rehabilitation of existing housing within a one mile radius of 50 First Street. The equivalent of the fee amount waived pursuant to Planning Code Sections 415 et seq. and the additional approximate \$13 million fee payment will be dedicated to the acquisition and/or rehabilitation of existing housing within a one mile radius of 50 First Street.

The MOHCD would administer the fund and report annually to the Board of Supervisors on the current status of the fund, the amounts approved for disbursement, and the number and types of housing units or households assisted. The MOHCD would have the authority to prescribe rules and regulations governing the fund. Any unexpended funds remaining after 10 years from the effective date of the ordinance shall be deposited into the Citywide Affordable Housing Fund.⁴

IMPLEMENTATION

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

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance to waive the Project's requirements under Planning Code Sections 415 et seq., to partially waive the Project's requirements under Section 413 et seq., to satisfy affordable housing requirements in an alternative method by paying affordable housing fees directly to the Downtown Neighborhoods Preservation Fund, and to adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

- The Planning Commission reviewed the Project sponsor's Department of Public Works application for street vacation through a General Plan Referral on May 5, 2016. During this review the Commission carefully weighed the street vacation action and found the vacation consistent with the General Plan and Eight Priority Policies of Planning Code Section 101.1 (Motion No. 19638). In addition, the sale amount (\$22,619,000) and additional approximate \$13 million payment as outlined in the proposed Ordinance, adequately compensate the City for the loss of public streets. Further, at a public hearing on May 23, 2016, the Board of Supervisors Land

⁴ As described in the proposed Ordinance, Board File No. 160382

Use and Transportation Committee reviewed the street vacation ordinance, considered the testimony presented to it, and made a positive recommendation to hear the item at a later date at the full Board of Supervisors.

- As outlined in the proposed Ordinance, the total of all required fee payments to be deposited into the new Fund shall be no less than \$40 million. The Project's compliance with affordable housing requirements in this alternative method far exceeds the minimum requirement outlined in the Planning Code or in the proposed Charter Amendment.
- The Project's required housing fees and additional payments are proposed for redirection to a new Fund to be managed by the Mayor's Office of Housing for the purpose of supporting affordable housing. Although funds are proposed for redirection from the Citywide Affordable Housing Fund, this action supports affordable housing policy in the City.

ENVIRONMENTAL REVIEW

On April 1, 2016, the project was determined to be consistent with the Transit District Area Plan and Transit Tower EIR and exempt from environmental review per CEQA Guidelines Section 15183 (Planning Case No. 2006.1523E). CEQA clearance under the Transit District Area Plan and Transit Tower EIR was certified by the San Francisco Planning Commission on May 24, 2012, by Motion No. 18628.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received one written comment in support of the proposed Ordinance to waive Planning Code requirements and create an alternative mechanism to receive fees for affordable housing.

RECOMMENDATION:	Recommendation of Approval
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
Exhibit B: Board of Supervisors File No. 160382



SAN FRANCISCO PLANNING DEPARTMENT

Draft Planning Commission Resolution No.

HEARING DATE: JUNE 2, 2016

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Date: May 26, 2016
Case No.: 2006.1523PCA
Project: **50- 1st Street/Oceanwide Center
Affordable Housing Requirements**
Initiated by: Mayor Lee/ Supervisor Kim
Staff Contact: Marcelle Boudreaux – (415) 575-9140
marcelle.boudreaux@sfgov.org
Reviewed by: AnMarie Rodgers, Manager, Legislative Affairs
anmarie.rodgers@sfgov.org
Recommendation: Approval

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN ORDINANCE WITH AN ADMINISTRATIVE CODE AMENDMENT ESTABLISHING THE DOWNTOWN NEIGHBORHOODS PRESERVATION FUND; AN UNCODIFIED PLANNING CODE AMENDMENT WAIVING APPROXIMATELY \$27 MILLION OF AFFORDABLE HOUSING FEES UNDER PLANNING CODE SECTIONS 413 ET SEQ. AND 415 ET SEQ. AND REQUIRING OCEANWIDE CENTER, LLC, AS PART OF THE AGREEMENT FOR THE SALE OF REAL ESTATE, TO PAY THE EQUIVALENT FEE AMOUNT TO THE AFOREMENTIONED FUND; AND OTHER ACTIONS; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKING FINDINGS OF PUBLIC CONVENIENCE, NECESSITY, AND WELFARE UNDER PLANNING CODE SECTION 302.

PREAMBLE

WHEREAS, on April 19, 2016, Mayor Lee introduced a proposed Ordinance under Board File Number 160382 that would amend the Administrative Code to vacate a portion of Jessie Street and a portion of Elim Alley northwest of Mission and First Streets in connection with the Oceanwide Center Project at 50 First Street; approve and authorize the sale and quitclaim of City's interest in the approximately 5,000 square foot vacation area; adopt findings that the street vacation and all other actions contemplated in this ordinance are consistent with the General Plan, and the eight priority policies of Planning Code Section 101.1; and other actions; and

WHEREAS, on May 3, 2016, Mayor Lee and Supervisor Kim introduced substitute legislation that would amend the Administrative Code to establish the Downtown Neighborhoods Preservation Fund; waive approximately \$27 million of affordable housing fees under Planning Code Sections 413 et seq. and 415 et seq. and requiring Oceanwide Center, LLC, as part of the agreement for the sale of real estate, to pay the equivalent fee amount to the aforementioned Fund; vacate a portion of Jessie Street and a portion of Elim Alley northwest of Mission and First Streets in connection with the Oceanwide Center Project at 50 First Street; approve and authorize the sale and quitclaim of City's interest in the approximately 5,000 square

foot vacation area for \$22,619,000 million plus an additional payment to the aforementioned Fund of approximately \$13 million; adopt findings that the street vacation and all other actions contemplated in this ordinance are consistent with the General Plan, and the eight priority policies of Planning Code Section 101.1; make findings of public necessity, convenience, and general welfare under Planning Code Section 302; and other actions; and

WHEREAS, on April 1, 2016, the project was determined to be consistent with the Transit District Area Plan and Transit Tower EIR and exempt from environmental review per CEQA Guidelines Section 15183 (Planning Case No. 2006.1523E). CEQA clearance under the Transit District Area Plan and Transit Tower EIR was certified by the San Francisco Planning Commission on May 24, 2012, by Motion No. 18628; and

WHEREAS, on May 5, 2016, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting and the Commission approved the 50- 1st Street/ Oceanwide Center Project in several actions: a) adoption of shadow findings (2006.1523SHD – Motion No. 19634); b) approval of a Determination of Compliance with Exceptions, including findings and conditions of approval that the Project comply with Sections 413 and 415 of the Planning Code, or comply in an equivalent method (2006.1523DNX – Motion No. 19635); c) approval of office square footage allocation (2006.1523OFA– Motion No. 19636); d) approval of conditional use for hotel (2006.1523CUA – Motion No. 19637); e) adoption of findings of consistency with the general plan for street vacation (2006.1523GPR - Motion No. 19638); and f) affirmed the accuracy and adequacy of the Community Plan Exemption; and

WHEREAS, on June 2, 2016, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance and the proposed modification; and

WHEREAS, the proposed Ordinance has been found exempt from the California Environmental Quality Act per Section 15060(c)(2); and

WHEREAS, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented by Department staff, and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Planning 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

MOVED, that the Commission hereby recommends that the Board of Supervisors recommend *approval* of 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 Commission supports the Ordinance, because as outlined, the Project's equivalent method of compliance with affordable housing requirements far exceeds the minimum requirements outlined in the Planning Code or in the proposed Charter Amendment. The total of all required fee payments to be deposited into the new Fund shall be no less than \$40 million.
2. The approximately \$13 million additional affordable housing payment, in combination with the approximate \$20 million requirement under Section 415 et seq., is equivalent to a 33% affordable housing percentage which far exceeds current requirement for the Project under Section 415 et seq. which is a 20% affordable housing percentage.
3. The Planning Commission reviewed the Project sponsor's Department of Public Works application for street vacation through a General Plan Referral on May 5, 2016. During this review the Commission carefully weighed the street vacation action and found the vacation consistent with the General Plan and Eight Priority Policies of Planning Code Section 101.1 (Motion No. 19638). The sale amount (\$22,619,000) and additional approximate \$13 million payment, as outlined in the proposed Ordinance, adequately compensate the City for the loss of public streets.
4. This Ordinance amends the Administrative Code to create a new Downtown Neighborhoods Preservation Fund, into which all the fees paid by the Project pursuant to this Resolution will be deposited. The Project's required housing fees and additional payments are proposed for redirection to a new Fund to be managed by the Mayor's Office of Housing for the purpose of supporting affordable housing. Although funds are proposed for redirection from the Citywide Affordable Housing Fund, this action supports affordable housing policy in the City.
5. **General Plan Findings.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 4

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.1

Develop new housing, and encourage the remodeling of existing housing, for families with children.

The proposed Ordinance will increase the Fees that the Project sponsor would have to pay to support affordable housing construction and support acquisition and rehabilitation of existing housing to support affordable housing.

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.

The proposed Ordinance will increase the amount of money that the Project sponsor would have to pay to support affordable housing in the City.

6. **Priority Policy Findings Section 101.1.** 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:

- a. 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 will not have a negative effect on existing neighborhood serving retail uses as it only addresses the Project's affordable housing program.

- b. 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 will help maintain a diversity of housing types and income types in the City's various neighborhoods; helping to preserving the cultural and economic diversity of the City's neighborhoods.

- c. The City's supply of affordable housing be preserved and enhanced.

The proposed Ordinance will have a positive effect on the City's supply of affordable housing by increasing the affordable housing requirement fee for the Project.

- d. That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking.

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking as it only addresses the Project's satisfaction of affordable housing requirements.

- e. 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 will 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.

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

The proposed Ordinance will not have an adverse effect on City's preparedness against injury and loss of life in an earthquake because the Ordinance modifies the Project's affordable housing requirements.

- g. That landmarks and historic buildings be preserved.

The proposed Ordinance will not have an adverse effect on the City's Landmarks and historic buildings because the Ordinance only addresses the Project's affordable housing requirements.

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

The proposed Ordinance will not have an adverse effect on the City's parks and open space and their access to sunlight and vistas because it only addresses the Project's affordable housing requirements.

7. 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 recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on June 2, 2016.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED:

FILE NO.

LEGISLATIVE DIGEST

[Administrative Code – Establishing Downtown Neighborhoods Preservation Fund; Street Vacation and Sale of Property at Jessie Street and Elim Alley for \$36 Million – Oceanwide Center]

Ordinance amending the Administrative Code to establish the Downtown Neighborhoods Preservation Fund; vacating a portion of Jessie Street and a portion of Elim Alley northwest of Mission and First Streets in connection with the Oceanwide Center Project at 50 First Street; approving and authorizing the sale and quitclaim of City's interest in the approximately 5,000 square foot vacation area for \$22,619,000 million plus an additional payment to the aforementioned Fund of approximately \$13 million; authorizing the City's Director of Property to execute an agreement for the sale of real estate for the vacated area by and between the City and Oceanwide Center, LLC; waiving approximately \$27 million of affordable housing fees under Planning Code Sections 413 et seq. and 415 et seq. and requiring Oceanwide Center, LLC, as part of the agreement for the sale of real estate, to pay the equivalent fee amount to the aforementioned Fund; approving a vehicular and pedestrian easement and an overland water flow easement over a portion of Assessor's Block No. 3708, Lot 012 where Jessie Street will be rerouted; approving an emergency vehicle access easement and commercial vehicle access easement; accepting the Public Works Order concerning the street vacations; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings that the street vacation and all other actions contemplated in this ordinance are consistent with the General Plan, and the eight priority policies of Planning Code Section 101.1; making findings of public necessity, convenience, and general welfare under Planning Code Section 302; and authorizing actions in furtherance of this ordinance.

Existing Law

San Francisco Public Works Code Section 787 and California Streets and Highways Code Sections 8300 et seq. establish the process and procedures that the City follows to vacate streets and public service easements. Planning Code Sections 413 et seq. (Jobs-Housing Linkage Program) and 415 et seq. (Inclusionary Housing Program) establish affordable housing requirements and provide a project sponsor options on how to comply with these requirements, including the payment of fees. If the project sponsor elects to pay fees, the Planning Code requires the fees be paid into the Citywide Affordable Housing Fund.

Amendments to Current Law

The ordinance would establish the Downtown Neighborhoods Preservation Fund (the "Fund") in the Administrative Code, and specify the source of revenue for this Fund, its permissible uses, and requirements for the Mayor's Office of Housing and Community Development to

FILE NO.

administer the Fund. The legislation would approve a street vacation of a portion of Jessie Street and a portion of Elim Alley in connection with the development of the Oceanwide Center project at 50 1st Street in conformance with State and local law. The legislation also would approve a purchase and sale agreement for the vacated property based on fair market value, and the purchase price would include an additional \$13 million payment into the Fund. The ordinance would waive a \$27 million portion of the Oceanwide Center project's affordable housing fees as required under the Planning Code and redirect the equivalent fee amount to the Fund instead of the Citywide Affordable Housing Fund. The legislation would approve a declaration for pedestrian use over the vacated areas, an emergency vehicle access easement and a commercial vehicle access easement over the Jessie Street vacation area, a vehicular and pedestrian access easement over private property that will connect the new terminus of Jessie Street to Mission Street, and an overland flow easement for this same area. The ordinance would affirm the Planning Department's environmental determination, make findings that the legislation is, on balance, consistent with the General Plan and the eight priority policies of Planning Code Section 101.1, and determine the legislation serves the public necessity under Planning Code Section 302. The legislation would make additional findings and authorize other acts in furtherance of the ordinance.

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FILE NO.

ORDINANCE NO.

1 [Administrative Code - Establishing Downtown Neighborhoods Preservation Fund; Street
2 Vacation and Sale of Property at Jessie Street and Elim Alley - Oceanwide Center, LLC -
3 Oceanwide Center Project - Approximately \$36,000,000

3

4 **Ordinance amending the Administrative Code to establish the Downtown**
5 **Neighborhoods Preservation Fund; vacating a portion of Jessie Street and a portion of**
6 **Elim Alley northwest of Mission and First Streets in connection with the Oceanwide**
7 **Center Project at 50 First Street; approving and authorizing the sale and quitclaim of**
8 **City's interest in the approximately 5,000 square foot vacation area for \$22,619,000 plus**
9 **an additional payment to the aforementioned Fund of approximately \$13,000,000 for a**
10 **total of approximately \$36,000,000; authorizing the City's Director of Property to**
11 **execute an agreement for the sale of real estate for the vacated area by and between**
12 **the City and Oceanwide Center, LLC; waiving approximately \$27,000,000 of affordable**
13 **housing fees under Planning Code, Sections 413 et seq. and 415 et seq., and requiring**
14 **Oceanwide Center, LLC, as part of the agreement for the sale of real estate, to pay the**
15 **equivalent fee amount to the aforementioned Fund; approving a vehicular and**
16 **pedestrian easement and an overland water flow easement over a portion of**
17 **Assessor's Parcel Block No. 3708, Lot No. 012, where Jessie Street will be rerouted;**
18 **approving an emergency vehicle access easement and commercial vehicle access**
19 **easement; accepting the Public Works Order concerning the street vacations; affirming**
20 **the Planning Department's determination under the California Environmental Quality**
21 **Act; adopting findings that the street vacation and all other actions contemplated in**
22 **this ordinance are consistent with the General Plan, and the eight priority policies of**
23 **Planning Code, Section 101.1; making findings of public necessity, convenience, and**
24 **general welfare under Planning Code, Section 302; and authorizing actions in**
25 **furtherance of this Ordinance, as defined herein.**

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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. Findings.

(a) On _____, 2016, the Board of Supervisors adopted Resolution No. _____ (the “Resolution of Intention”), a copy of which is on file with the Clerk of the Board of Supervisors in File No. _____, declaring the intention of the Board to vacate portions of Jessie Street and Elim Alley located adjacent to a new mixed-use project on eight lots located at or near the northwest corner of First and Mission Streets (the “Vacation Area”), defined further in subsection (c).

(b) The location and extent of the Vacation Area is shown in Public Works SUR Map No. 2016-002, dated April 18, 2016. A copy of this map is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference.

(c) The City is the owner of the real property constituting the Vacation Area, known as Jessie Street northwest of Mission and First Streets that is generally bounded by Assessor’s Block No. 3708, Lot 055 to the north, and a portion of Assessor’s Block No. 3708, Lot 006 to the south and Elim Alley northwest of Mission and First Streets and generally bounded by Assessor’s Block No. 3708, Lot 006 to the north, and Assessor’s Block No. 3708, Lots 007 and 011 to the south.

1 (d) The Clerk of the Board of Supervisors published the Resolution of Intent in the
2 manner required by law and the Director of Public Works posted the Resolution of Intent in the
3 manner required by law.

4 (e) When such matter was considered as scheduled by the Board of Supervisors at its
5 regular meeting in the City Hall, San Francisco, on _____, 2016, the Board received
6 correspondence and testimony from all persons interested in the vacation of the Vacation
7 Area.

8 (f) The proposed vacation of the Vacation Area is necessary to implement construction
9 of the Oceanwide Center (the "Project"), a mixed-use development with two towers featuring
10 over 250 dwelling units, a hotel, and over 1 million square feet of office space rising above
11 integrated basement levels, full renovation and rehabilitation of one historic building and the
12 partial renovation and rehabilitation of another historic building, and creation of a multi-story
13 high "urban room" on the ground level facing First Street that will serve as public open space
14 and provide pedestrian, emergency vehicle, and service vehicle access onto First Street.

15 (g) The Project proposes to incorporate portions of Elim Alley and Jessie Street into
16 the Project site. In order to construct the mixed-use building with two towers, portions of Elim
17 Alley and Jessie Street connecting to First Street need to be vacated. These vacations are
18 necessary in order to construct the tower fronting First Street at the scale of development
19 contemplated by the Transit Center District Plan. Jessie Street currently bisects the site of the
20 proposed tower, making any project design that maintains Jessie Street in its current
21 configuration infeasible and undesirable. Incorporating Elim Alley into the Project significantly
22 expands the size of the ground-level "urban room" and increases the public's access to and
23 enjoyment of this privately-owned public open space.

24 (h) Jessie Street is one-way street oriented east-west between Ecker Place and First
25 Street with a right-of-way width of 27.5 feet. The eastern portion of Jessie Street would be

1 vacated, and a 20-foot wide portion of the vacated area on Jessie Street, herein referred to as
2 the "Emergency Vehicle Access Easement Area," would be subject to the creation of an
3 emergency vehicle access easement, a reservation for commercial vehicle access, and the
4 acceptance of the offer from Oceanwide Center, LLC ("Buyer") to provide a declaration of
5 covenants and restrictions for public pedestrian access ("Public Access Declaration") therein.
6 At the easterly edge of the Jessie Street vacation area, Jessie Street will terminate and
7 vehicles will be directed to turn 90 degrees in a southerly direction toward Mission Street
8 along an approximately 20-foot wide right-of-way on and through the Project site to Mission
9 Street (the "City Easement Area"). The City Easement Area will provide a public vehicle and
10 pedestrian access easement from Jessie Street to Mission Street. It also will accommodate
11 overland or surface flow from the City's facilities on, over, or below Jessie Street in excess of
12 the 5-year storm capacity, subject to an overland flow easement. Copies of these easements
13 and the Public Access Declaration are on file with the Clerk of the Board of Supervisors in File
14 No. _____ and are incorporated herein by reference.

15 (i) Elim Alley extends 250 feet east-west between Ecker Place and First Street, having
16 a right-of-way width of 12 feet for a distance of approximately 142 feet moving east from
17 Ecker Place, then a width of 6.5 feet for the remaining approximately 108 feet before its
18 terminus at First Street. Elim Alley is an "unaccepted" street that the Board of Supervisors
19 has not accepted for City maintenance and liability purposes. The eastern portion of Elim
20 Alley will need to be vacated in order to construct the Project's urban room and the tower
21 fronting First Street. A portion of Elim Alley proposed for vacation also will be subject to the
22 Public Access Declaration for public pedestrian access.

23 (j) The Project obtained environmental clearance through the Transit Center District
24 Plan Final Environmental Impact Report ("FEIR") prepared in accordance with the California
25 Environmental Quality Act ("CEQA") (Public Resources Code sections 21000 et seq.) certified

1 by the Planning Commission in its Motion No. 18628, and affirmed by the Board of
2 Supervisors in Motion No. M12-78, and project-specific clearance through a Community Plan
3 Exemption, including mitigation measures (the "CPE"), prepared in accordance with CEQA
4 and issued by the Planning Department in Planning Case No. 2006.1523E. Copies of
5 Planning Commission Motion No. 18628 and Board Motion No. M12-78 are on file with the
6 Clerk of the Board of Supervisors in File No. 120697 and are incorporated herein by
7 reference. A copy of the CPE is on file with the Clerk of the Board in File No. _____
8 and is incorporated herein by reference. The Board of Supervisors affirms this CEQA
9 determination and the environmental findings related thereto.

10 (k) The Board further finds that no substantial changes are proposed to the Project or
11 the circumstances under which the Project is undertaken that will cause new significant
12 environmental effects or any increase in the severity of previously identified significant effects.
13 The Board further finds there is no new information of substantial importance showing that the
14 Project would have any significant effects not discussed in the FEIR or the CPE, that
15 significant effects would be substantially more severe, or that new or different mitigation
16 measures or alternatives would substantially reduce one or more significant effects of the
17 Project.

18 (l) On _____, 2016, the Planning Commission conducted a duly noticed
19 public hearing on the Project, including the proposed vacation and sale of the Vacation Area.
20 The Planning Commission, in Motion No. _____, found that the street vacations
21 related to the Project and the sale of the Vacation Area are, on balance, consistent with the
22 City's General Plan and the eight priority policies of Planning Code Section 101.1. As part of
23 these findings, the Planning Commission required the Buyer to provide a Public Access
24 Declaration over a segment of Jessie Street and Elim Alley proposed for vacation and
25 recommended that the Board accept this offer. A copy of the Planning Commission Motion is

1 on file with the Clerk of the Board of Supervisors in File No. _____ and is
2 incorporated herein by reference. The Board adopts the Planning Commission findings as its
3 own.

4 (m) On April 26, 2016, the Public Utilities Commission (“PUC”) conducted a duly
5 noticed public hearing on the proposed street vacations and the overland flow easement in
6 the City Easement Area. The PUC, in Resolution No. 16-0079, determined that the street
7 vacation, temporary utility easements during the Project’s construction phase, an overland
8 flow easement, and other actions related to the Project were acceptable and recommended
9 approval to the Board of Supervisors. A copy of the PUC Resolution is on file with the Clerk
10 of the Board of Supervisors in File No. _____.

11 (n) In Public Works Order No. 184851, dated May 2, 2016, the Director of Public
12 Works (the “PW Director”) determined: (1) the Vacation Area is unnecessary for the City's
13 present or prospective public street, sidewalk, and service easement purposes as all existing
14 physical public or private utilities located in the Vacation Area will be relocated to the
15 satisfaction of the City as part of the construction of the Project; and (2) with the exception of
16 those public easements noted in subsection (o) below, the public interest, convenience, and
17 necessity do not require any easements or other rights be reserved for any public or private
18 utility facilities that are in place in the Vacation Area and that any rights based upon any such
19 public or private utility facilities shall be extinguished automatically upon the effectiveness of
20 the vacation; (3) in accordance with California Streets and Highways Code Section 892, the
21 Vacation Area is unnecessary for a non-motorized transportation facility because alternative
22 facilities for the benefit of the public shall be provided in the rerouted segment of Jessie Street
23 and (4) it is a policy matter for the Board of Supervisors to quitclaim the City’s interest in the
24 Vacation Area to the Buyer. A copy of the PW Order is on file with the Clerk of the Board of
25 Supervisors in File No. _____ and is incorporated herein by reference.

1 (o) In addition, the PW Director determined that the public interest, convenience, and
2 necessity require that the City, as a condition of the vacation of the Vacation Area, obtain a
3 non-exclusive easement for emergency vehicle access and a commercial vehicle access
4 easement over a segment of Jessie Street proposed for vacation, a public vehicle and
5 pedestrian access easement over the rerouted segment of Jessie Street to provide for a
6 connection to Mission Street, and an overland flow easement for this same area. Further, the
7 PW Director finds that it is necessary to reserve temporary easements for street purposes in
8 the Vacation Area for the continued use of the public streets until City facilities have been
9 relocated or alternate facilities have been constructed and the City Engineer, after
10 consultation with all affected City departments, issues a notice of completion that the facilities
11 have been constructed according to City permits and the facilities are ready for their intended
12 use. The Board adopts the findings of the PW Director as its own.

13 (p) The street vacation actions are conducted under the general vacation procedures
14 of the Public Streets, Highways, and Service Easements Vacation Law (California Streets and
15 Highways Code, sections 8300 et seq.) and San Francisco Public Works Code section 787(a).

16 (q) Buyer and City have negotiated an agreement for the sale of real estate
17 (“Agreement”) for the Vacation Area, a copy of which is on file with the Clerk of the Board of
18 Supervisors in File No. _____ and incorporated herein by reference. The Agreement
19 provides for the transfer and quitclaim of the City’s interest in the Vacation Area to Buyer,
20 subject to the satisfaction of express conditions precedent, as more particularly described in
21 the Agreement. The Agreement, as recommended by the City’s Director of Property
22 (“Property Director”), sets forth the terms of the real estate transaction should the conditions,
23 including the adoption and enactment of the ordinance approving the street vacation, be
24 satisfied. The Property Director determined that the \$22,619,000.00 purchase price in the
25 Agreement is reasonable and represents fair market value for the Vacation Area to be

1 acquired by Buyer. The Agreement includes an additional approximately \$13 million payment
2 into the Downtown Neighborhoods Preservation Fund, a new fund created in this ordinance.
3 The Agreement also acts as a conduit to redirect a portion of Planning Code affordable
4 housing fees (approximately \$27 million) into this Fund. But for the payments into this Fund,
5 the Property Director and other City officials would not recommended approval of the
6 Agreement and the transactions contemplated therein.

7 (r) On _____, 2016, the Planning Commission conducted a duly noticed
8 public hearing on the ordinance, including the waiver of fee payment under Planning Code
9 Sections 413 et seq. and 415 et seq. The Planning Commission, in Motion No.
10 _____, found that the ordinance is, on balance, consistent with the City's General
11 Plan and the eight priority policies of Planning Code Section 101.1. A copy of the Planning
12 Commission Motion is on file with the Clerk of the Board of Supervisors in File No.
13 _____ and is incorporated herein by reference. The Board adopts the Planning
14 Commission findings as its own.

15 (s) Pursuant to Planning Code Section 302, this Board finds that the waiver of
16 Planning Code fees identified in this ordinance will serve the public necessity, convenience,
17 and general welfare for the reasons set forth in Planning Commission Motion No.
18 _____ and the Board incorporates such reasons herein by reference.

19

20 Section 2. Vacation and Conditions.

21 (a) With the exception of the reservation and creation of easements and/or other rights
22 in Section 3 below, the Board of Supervisors hereby vacates the Vacation Area, as shown on
23 SUR Map No. 2016-002, upon satisfaction of the conditions described in this ordinance and
24 pursuant to California Streets and Highways Code sections 8300 et seq. and San Francisco
25 Public Works Code section 787(a).

1 (b) The Board of Supervisors hereby finds that the Vacation Area is unnecessary for
2 present or prospective public use, subject to the conditions described in this ordinance.

3 (c) The Board of Supervisors hereby finds that the public interest and convenience
4 require that the vacation be done as declared in this ordinance.

5 (d) The street vacation shall be effective as to all of the Vacation Area upon
6 simultaneous recording of the City's quitclaim deed in substantially the same form as the draft
7 quitclaim deed on file with the Clerk of the Board of Supervisors in File No. _____,
8 and in connection with the closing of the transaction contemplated in the Agreement.

9
10 Section 3. Conditions to the Street Vacation; Reservations and Easements. The
11 vacation of the Vacation Area is subject to the reservation and/or creation of the following
12 easements or other rights:

13 (a) A permanent, non-exclusive emergency vehicle access easement, providing
14 emergency vehicle access in, upon, over, and across a 20-foot wide portion of the Vacation
15 Area located on Jessie Street, also known herein as the Emergency Vehicle Access
16 Easement Area.

17 (b) A permanent, non-exclusive easement for commercial vehicle access in, upon,
18 over, and across the Emergency Vehicle Access Easement Area to allow commercial vehicles
19 to exit to 1st Street from the portion of Jessie Street that will remain a public street.

20 (c) A Public Access Declaration providing public pedestrian access, for the benefit of
21 the public, in, upon, over and across the Emergency Vehicle Access Easement Area, and for
22 a portion of Elim Alley that will be vacated.

23 (d) A public access easement providing vehicular and pedestrian access, for the
24 benefit of the public, in, upon, over, and across an approximately 20-foot wide and
25

1 approximately 3,600 square foot portion of Assessor's Block 3708, Lot 012, from the rerouted
2 Jessie Street to Mission Street, also known herein as the City Easement Area.

3 (e) A overland flow easement for the City Easement Area.

4 (f) Reservation of a temporary easement for street and utility purposes in the Vacation
5 Area for the continued use of the public streets until City facilities have been relocated or
6 alternate facilities have been constructed and the City Engineer, after consultation with all
7 affected City departments, issues a notice of completion that the facilities have been
8 constructed according to City permits and the facilities are ready for their intended use. In
9 addition, prior to the quitclaim of the City's interest in the Vacation Area, the Buyer shall
10 provide an irrevocable offer for all new public improvements and expressly assume in writing
11 the ownership of and responsibility for the abandoned City water and sewer facilities
12 remaining in the Vacation Area.

13 (g) Notwithstanding Subsections (a)-(f), no other easements or other rights are
14 reserved or created for any public utility facilities that are in place in the Vacation Area and
15 any rights based upon any such public utility facilities shall be extinguished upon the
16 effectiveness of the vacation hereunder.

17 (h) Copies of the easements, reservation, and Declaration identified in Subsections
18 (a)-(f), are on file with the Clerk of the Board of Supervisors in File No. _____ and
19 are incorporated herein by reference. The Board hereby approves and adopts such
20 easements, reservation, and Declaration in substantially the form on file with the Clerk subject
21 to the terms and conditions specified in the Agreement.

22
23 Section 4. The Administrative Code Chapter 10, Article XIII is hereby amended by
24 adding Section 10.100-64, to read as follows:

25 **SEC. 10.100-64. DOWNTOWN NEIGHBORHOODS PRESERVATION FUND.**

1 (a) Establishment of Fund. The Downtown Neighborhoods Preservation Fund is established
2 as a category four fund to receive fee revenue dedicated to affordable housing and other contributions
3 to the fund. The fund receives money from:

4 (1) An approximately No less than a \$7 million portion of Planning Code Sections
5 413 et seq. (Jobs-Housing Linkage Program) affordable housing fee payment that the Board of
6 Supervisors waived for the Oceanwide Center project at 50 First Street. This payment is addressed in
7 an ordinance concerning the street vacation of portions of Jessie Street and Elim Alley in connection
8 with the Oceanwide Center project, which is on file with the Clerk of the Board of Supervisors in File
9 No. _____.

10 (2) An approximately \$20 million payment of Planning Code Sections 415 et seq.
11 (Inclusionary Housing Program) affordable housing fees that the Board of Supervisors waived for the
12 Oceanwide Center project at 50 First Street in an ordinance on file with the Clerk of the Board of
13 Supervisors in File No. _____.

14 (3) An approximately \$13 million payment that is included in a purchase and sale
15 agreement between the City and Oceanwide Development, LLC for the sale of City property associated
16 with the street vacation of portions of Jessie Street and Elim Alley as set forth in the ordinance
17 identified in subsections (a)(1) and (a)(2). The combination of the payment under subsection (a)(2) and
18 (3) is the equivalent payment of an affordable housing percentage fee of 33% under Planning Code
19 Sections 415 et seq.

20 (4) The Downtown Neighborhoods Preservation Fund shall total no less than
21 \$40 million comprised of the funds received from subsections (a)(1)-(3).

22 (5) Repayments of loans and other program income associated with investments
23 initially made with monies from the fund.

24 (b) Use of Fund. The fund is to be used exclusively by the Mayor's Office of Housing and
25 Community Development (MOHCD), or its successor, for the purpose of supporting affordable housing

1 as specified in this subsection (b). Within the fund, all fees, repayments, and program income shall be
2 separately accounted for in accordance with the uses set forth below in subsections (b)(1)-(4).

3 (1) The equivalent of the fee amount that the Board of Supervisors waived pursuant to
4 Planning Code Sections 413 et seq. and as identified in subsection (a)(1) will be dedicated for the
5 construction of new affordable housing and/or acquisition and/or rehabilitation of existing housing
6 within a one mile radius of 50 First Street.

7 (2) The equivalent of the fee amount that the Board of Supervisors waived pursuant to
8 Planning Code Sections 415 et seq. and as identified in subsection (a)(2) will be dedicated to the
9 acquisition and/or rehabilitation of existing housing within a one mile radius of 50 First Street.

10 (3) The fee payment specified in subsection (a)(3) will be dedicated to the same purpose
11 identified in subsection (b)(2).

12 (c) Exceptions to Fund Category. The Director of MOHCD shall approve all expenditures
13 from the fund.

14 (d) Administration of Fund. The MOHCD shall administer the fund and shall report annually
15 to the Board of Supervisors on the current status of the fund, the amounts approved for disbursement,
16 and the number and types of housing units or households assisted. The MOHCD shall have the
17 authority to prescribe rules and regulations governing the fund. Any unexpended funds remaining after
18 10 years from the effective date of the ordinance identified in subsections (a)(1) and (a)(2) shall be
19 deposited into the Citywide Affordable Housing Fund as established in Administrative Code Section
20 10.100-49 or its successor fund.

21
22 Section 5. Planning Code Fee Waiver.

23 Notwithstanding the fee payment requirements of Planning Code Sections 413 et seq.
24 (Jobs-Housing Linkage Program) and 415 et seq. (Inclusionary Housing Program), the fee
25 payments for the Oceanwide Center project at 50 First Street are hereby waived in the

1 following amounts: (a) as to Planning Code Sections 413 et seq., a \$7 million portion of the
2 fee is waived and (b) as to Planning Code Sections 415 et seq. the entire fee is waived. In
3 lieu of paying said fees, the project sponsor shall pay the fees directly to the Downtown
4 Neighborhoods Preservation Fund as established in Administrative Code Section 10.100-64
5 and as provided in the Agreement identified in Section 6 of this ordinance. Said fees shall be
6 paid at the same time fees are paid in accordance with Planning Code Sections 413 et seq.
7 and 415 et seq.

8

9 Section 6. Real Property Transaction.

10 (a) The Board of Supervisors hereby approves the execution, delivery, and
11 performance of the Agreement with a purchase price of \$22,619,000.00 for the Vacation Area,
12 and authorizes the Property Director and Director of the Mayor's Office of Housing and
13 Community Development ("MOHCD") to execute the Agreement, in substantially the form of
14 Agreement referenced herein, on behalf of the City, and any such other documents that are
15 necessary or advisable to complete the transaction contemplated by the Agreement and
16 effectuate the purpose and intent of this ordinance. This Agreement also includes the
17 payment of approximately \$13 million into the Downtown Neighborhoods Preservation Fund
18 ("Fund") as established in Administrative Code Section 10.100-64. This \$13 million payment
19 in combination with the fee amount that the Board waived under Planning Code Sections 415
20 et seq. (Inclusionary Housing Program) and, in furtherance of Section 5 of this ordinance,
21 redirected into the Fund, is the equivalent payment of an affordable housing percentage fee of
22 33% under Planning Code Sections 415 et seq. The approximately \$7 million fee amount that
23 the Board waived under Planning Code Sections 413 et seq. (Jobs-Housing Linkage
24 Program) and, in furtherance of Section 5 of this ordinance, redirected into the Fund, also is
25 addressed in this Agreement. But for the payments into this Fund described in this subsection

1 (a), the Board of Supervisors would not approve the Agreement and the transactions
2 contemplated therein.

3 (b) The Board of Supervisors hereby authorizes the Property Director and MOHCD
4 Director to enter into any amendments or modifications to the Agreement (including, without
5 limitation, the attached Declaration and exhibits) and the public easements and reservations
6 identified in Section 3 that the Property Director, in consultation with the City Attorney, the
7 MOHCD Director, PW Director, the San Francisco Municipal Transportation Agency's Director
8 of Transportation (the "Director of Transportation"), and the PUC General Manager, deems to
9 be in the best interest of the City, and which do not otherwise materially increase the
10 obligations or liabilities of the City, are necessary or advisable to effectuate the purposes of
11 the Agreement, and are in compliance with all applicable laws, including the City's Charter.

12 (c) The Property Director also is authorized to issue a quit claim deed of the City's
13 interest in the Vacation Area to the Buyer in substantially the same form as on file with the
14 Clerk of the Board of Supervisors in connection with closing the transaction contemplated in
15 the Agreement, and to take any and all steps (including, but not limited to, the execution and
16 delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing
17 documents and other instruments or documents) as the Property Director deems necessary or
18 appropriate to consummate the conveyance of the Vacation Area pursuant to the Agreement,
19 or to otherwise effectuate the purpose and intent of this ordinance.

20

21 Section 7. Delegation to Public Works of Acceptance of Future Public Improvements.

22 (a) Findings. The Board of Supervisors determines that it would be efficient to delegate
23 to the Director of PW the authority, upon completion of the future public improvements related
24 to the public easements and the satisfaction of other conditions, to adopt any related official
25 PW maps, dedicate the improvements to public use, and accept the improvements for City

1 maintenance and liability purposes, subject to the maintenance responsibility of fronting
2 property owners pursuant to the Public Works Code, including, but not limited to, Public
3 Works Code Section 706 and any encroachment permit(s) associated with the Project.

4 (b) Approval of the Delegation to the PW Director of Certain Authority in Regard to
5 Required Public Improvements. The Board of Supervisors hereby delegates to the PW
6 Director the authority, upon completion of the future public improvements associated with the
7 Project and certification from the City Engineer that the improvements are ready for their
8 intended use, to adopt any related official PW maps, dedicate the improvements to public use,
9 and accept an irrevocable offer for the improvements, subject to the maintenance
10 responsibility of the Buyer or his or her successor(s) pursuant to the Public Works Code and
11 any associated encroachment permit(s).

12
13 Section 8. The Board of Supervisors hereby directs the Clerk of the Board of
14 Supervisors to transmit to the PW Director a certified copy of this ordinance, and the Board
15 hereby directs the PW Director to record this ordinance together with any other documents
16 necessary to effectuate this ordinance and proceed in the manner required by law.

17
18 Section 9. The Mayor, Clerk of the Board, Property Director, PW Director, Director of
19 Transportation, and General Manager of the PUC are hereby authorized and directed to take
20 any and all actions which they or the City Attorney may deem necessary or advisable in order
21 to effectuate the purpose and intent of this ordinance (including, without limitation, the filing of
22 the ordinance in the Official Records of the City and County of San Francisco; confirmation of
23 satisfaction of the conditions to the effectiveness of the vacation of the Vacation Area
24 hereunder; and execution and delivery of any evidence of the same, which shall be conclusive
25

1 as to the satisfaction of the conditions upon signature by any such City official or his or her
2 designee).

3

4 Section 10. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

8

9 Section 11. Scope of Ordinance. In enacting this ordinance, the Board intends to
10 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
11 punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that
12 are explicitly shown in this ordinance as additions, deletions, Board amendment additions,
13 and Board amendment deletions in accordance with the "Note" that appears under the official
14 title of the ordinance.

15

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

18 By: _____
19 John D. Malamut
20 Deputy City Attorney

21

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