[Planning Code - Transit Impact Development Fee Increase and Updates]

Ordinance amending Planning Code Article 4 by: 1) making technical corrections to specified definitions in Section 401 relating to the Transit Impact Development Fee (TIDF); and 2) amending Sections 408, 411.1 through 411.5, 411.7, and 411.8 to increase TIDF rates and clarify TIDF implementation and collection; and making environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

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

(b) On _____, the Planning Commission, in Resolution No. _____ approved this legislation, recommended it for adoption by the Board of Supervisors, and adopted findings that it will serve the public necessity, convenience and welfare. Pursuant to Planning Code Section 302, the Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is incorporated by reference herein.

(c) In Resolution No. _____, the Planning Commission adopted findings that this legislation is consistent, on balance, with the City's General Plan and the eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own.

Section 2. The San Francisco Planning Code is hereby amended by amending, adding and deleting the following definitions to Section 401:

SEC. 401. DEFINITIONS.

"Base service standard." The relationship between revenue service hours offered by the Municipal Railway and the number of automobile and transit trips estimated to be generated by certain non-residential uses, expressed as a ratio where the numerator equals the average daily revenue service hours offered by MUNI and the denominator equals the daily automobile and transit trips generated by non-residential land uses as estimated by the TIDF Study or updated under Section ~~*411.5*~~*410* of this Article.

~~*"Development under the TIDF." Any new construction, or addition to or conversion of an existing structure under a building or site permit issued on or after September 4, 2004, that results in 3,000 gross square feet or more of a covered use. In the case of mixed use development that includes residential development, the term "new development" shall refer to only the non-residential portion of such development. "Existing structure" shall include a structure for which a sponsor already paid a fee under the prior TIDF ordinance, as well as a structure for which no TIDF was paid.*~~

"Director of Transportation." The Director of Transportation of the MTA or his or her designee(s).

Cultural/Institution/Education (CIE)." An economic activity category subject to the TIDF that includes, but is not limited to, schools, as defined in Sections 209.3(g), (h), and (i) and 217(f)-(i) of this Code; child care facilities *as defined in Sections 209.3 (e) and (f)*; museums and zoos; and community facilities, as defined in Sections 209.4 and 221(a)-(c) of this Code.

"Gross floor area." The total area of each floor within the building's exterior walls, as defined in Section 102.9~~*(b)(12)*~~ of this Code*, except that for the purposes of determining the applicability of the TIDF, the exclusion from this definition set forth in Section 102.9(b)(12) shall not apply* .

~~*"MTA Director." The Director of MTA or his or her designee.*~~

"Medical and Health Services." An economic activity category under the TIDF that includes, but is not limited to, those non-residential uses defined in Sections 209.3(a) and 217(a) of this Code; ~~*animal services, as defined in Section 224(a) and (b) of this Code;*~~ and social and charitable services, as defined in Sections 209.3(d) and 217(d) of this Code.

"Museum." A permanent institution open to the public, which acquires, conserves, researches, communicates and exhibits the heritage of humanity or the environment.

~~*"New development." Under the TIDF, any new construction, or addition to or conversion of an existing structure under a building or site permit issued on or after September 4, 2004 that results in 3,000 gross square feet or more of a use covered by the TIDF. In the case of mixed use development that includes residential development, the term "new development" shall refer to only the non-residential portion of such development. "Existing structure" shall include a structure for which a sponsor already paid a fee under the prior TIDF ordinance, as well as a structure for which no TIDF was paid.*~~

"PDR use." ~~*Space within any structure or portion thereof intended or primarily suitable for or accessory to the operation, of*~~ *An economic activity category under the TIDF that includes, but is not limited to,* uses defined in San Francisco Planning Code Sections 220, 222, 223, 224, 225, 226, 227(a), 227(b), and 227(p), regardless of the zoning district that the use is located in.

"Retail/entertainment." An economic activity category under the TIDF that includes, but is not limited to, a retail use; an entertainment use; *and* massage establishments, as defined in

Section 218.1 of this Code~~*; laundering, and cleaning and pressing, as defined in Section 220 of this Code*~~.

"TIDF; Transit Impact Development Fee." The development fee that is the subject of Section 411.1 et seq. of this Article.

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

"TIDF Update Report." The study commissioned by MTA and performed by Cambridge Systematics, Inc. and Urban Economics entitled "Transit Impact Development Fee Update Draft Final Report," dated February, 2011, and contained in Board of Supervisors File No. _____.

"Total developable site area." That part of the site that can be feasibly developed as residential development, excluding land already substantially developed, parks, required open spaces, streets, alleys, walkways or other public infrastructure.

"Treasurer." The Treasurer for the City and County of San Francisco.

"Trip generation rate." The total number of automobile and Municipal Railway trips generated for each 1,000 square feet of development in a particular economic activity category as established in the TIDF Study, *the 2011 TIDF update report,* or pursuant to the five-year review process established in Section ~~*411.5*~~*410* of this Article.

Section 3. The San Francisco Planning Code is hereby amended by amending Section 408 to read as follows:

SEC. 408. LIEN PROCEEDINGS.

If *a first construction document or first certificate of occupancy, whichever applies, is*~~*DBI*~~ inadvertently or mistakenly ~~*issues*~~*issued* ~~*the first construction document or first certificate of occupancy, whichever applies,*~~ prior to the project sponsor paying all development fees due and owing, or prior to the sponsor satisfying any development impact requirement, DBI shall institute lien proceedings to recover the development fee or fees, plus interest and any Development Fee Deferral Surcharge, under Section 107A.13.15 of the San Francisco Building Code.

Section 4. The San Francisco Planning Code is hereby amended by amending Sections 411.1, 411.2, 411.3, 411.4, 411.5, 411.7 and 411.8 to read as follows:

SEC. 411.1. FINDINGS.

A. In 1981, the City enacted an ordinance imposing a Transit Impact Development Fee on new office development in the Downtown area of San Francisco. The TIDF was based on studies showing that the development of new office uses places a burden on the Municipal Railway, especially in the downtown area of San Francisco during commute hours, known as "peak periods." The TIDF was based on two cost analyses: one by the Finance Bureau of the City's former Public Utilities Commission, performed in 1981, and one by the accounting firm of Touche-Ross, performed in March 1983 to defend a legal challenge to the TIDF.

B. In 2000, the Planning Department, with assistance from the Municipal Transportation Agency, commissioned a study of the TIDF. In 2001, the Department selected Nelson/Nygaard Associates, a nationally recognized transportation consulting firm, to perform the study. Later in 2001, Nelson/Nygaard issued its final report ("TIDF Study"). Before issuing the TIDF Study, Nelson/Nygaard prepared several Technical Memoranda, which provided detailed analyses of the methodology and assumptions used in the TIDF Study.

C. The TIDF Study concluded that new non-residential uses in San Francisco will generate demand for a substantial number of auto and transit trips by the year 2020. The TIDF Study confirmed that while new office construction will have a substantial impact on MUNI services, new development in a number of other land uses will also require MUNI to increase the number of revenue service hours. The TIDF Study recommended that the TIDF be extended to apply to most non-residential land uses. The TIDF Study found that certain types of new development generate very few daily trips and therefore may not appropriately be charged a new TIDF.

D. The TIDF Study further recommended that the City enact an ordinance to impose transit impact fees that would allow MUNI to maintain its base service standard as new development occurs throughout the City. The proposed ordinance would require sponsors of new development in the City to pay a fee that is reasonably related to the financial burden imposed on MUNI by the new development. This financial burden is measured by the cost that will be incurred by MUNI to provide increased service to maintain the applicable base service standard over the life of such new development.

E. *Subsequently, the City selected Cambridge Systematics, Inc. to prepare a TIDF Update Report, including an updated nexus study for the TIDF. This Report was completed in 2011, and in accordance with the applicable provisions of this Code, used updated data to calculate base service standard fee rates for the Economic Activity Categories subject to the TIDF. The Report also analyzed trip generation rates for these Economic Activity Categories using updated data, and also divided the Retail/Entertainment and Cultural/Institution/Education categories into subcategories in order to reflect the comparative diversity of trip generation rates among these land uses.*

F. Based on projected new development over the next 20 years, the TIDF will provide revenue to MUNI that is significantly below the costs that MUNI will incur to mitigate the transit impacts resulting from the new development.

~~F~~*G*. The TIDF is the most practical and equitable method of meeting a portion of the demand for additional Municipal Railway service and capital improvements for the City caused by new non-residential development.

~~G~~*H*. Based on the above findings and the nexus ~~*study*~~ *studies* performed, the City determines that the TIDF satisfies the requirements of the Mitigation Fee Act, California Government Code Section 66001, as follows:

(1) The purpose of the fee is to meet a portion of the demand for additional Municipal Railway service and capital improvements for the City caused by new nonresidential development.

(2) Funds from collection of the TIDF will be used to increase revenue service hours reasonably necessary to mitigate the impacts of new non-residential development on public transit and maintain the applicable base service standard.

(3) There is a reasonable relationship between the proposed uses of the TIDF and the impact on transit of the new developments on which the TIDF will be imposed.

(4) There is a reasonable relationship between the types of new development on which the TIDF will be imposed and the need to fund public transit for the uses specified in Section ~~*38.8*~~*411.6* of this ~~*ordinance*~~*Code*.

(5) There is a reasonable relationship between the amount of the TIDF to be imposed on new developments and the impact on public transit from the new developments.

SEC. 411.2. DEFINITIONS

(a) "New development." 1) any new construction, or addition to or conversion of, an existing structure under one or more building or site permits issued on or after September 4, 2004, but before October 1, 2012, that cumulatively results in 3,000 gross square feet or more of a use covered by the TIDF; or 2) any new construction, or addition to or conversion of, an existing structure under one or more building or site permits issued on or after October 1, 2012 that cumulatively result in 800

gross square feet or more of a use covered by the TIDF. In the case of mixed use development that includes residential development, the term "new development" shall refer to only the non-residential portion of such development. For purposes of this definition, "existing structure" shall include a structure for which a sponsor already paid a fee under the prior TIDF ordinance, as well as a structure for which no TIDF was paid.

(b) For additional definitions, ~~S~~see Section 401 of this Article.

SEC. 411.3. APPLICATION OF TIDF.

(a) Application. Except as provided in Subsections (1) and (2) below, the TIDF shall be payable with respect to any new development in the City for which a building or site permit is issued on or after September 4, 2004. In reviewing whether a development project is subject to the TIDF, the project shall be considered in its entirety. A sponsor shall not seek multiple applications for building permits to evade paying the TIDF for a single development project.

(1) The TIDF shall not be payable on new development, or any portion thereof, for which a TIDF has been paid, in full or in part, under the prior TIDF Ordinance adopted in 1981 (Ordinance No. 224-81; former Chapter 38 of the Administrative Code *as amended through June 30, 2010*), except where (A) gross square feet of use is being added to the building; or (B) the TIDF rate for the new development is in an economic activity category with a higher fee rate than the *current rate for the economic activity category under which the TIDF was originally paid~~rate set for MIPS~~*, as set forth in Section 411.3(e).

(2) No TIDF shall be payable on the following types of new development.

(A) New development on property owned ~~*(including beneficially owned)*~~ by the City, except for that portion of the new development that may be developed by a private sponsor and not intended to be occupied by the City or other agency or entity exempted under

Section 411.1 et seq., in which case the TIDF shall apply only to such non-exempted portion. New development on property owned by a private person or entity and leased to the City shall be subject to the fee, unless ~~*the City is the beneficial owner of such new development or unless*~~ such new development is otherwise exempted under this Section.

(B) Any new development in Mission Bay North or South to the extent application of this Chapter would be inconsistent with the Mission Bay North Redevelopment Plan and Interagency Cooperation Agreement or the Mission Bay South Redevelopment Plan and Interagency Cooperation Agreement, as applicable.

(C) New development located on property owned by the United States or any of its agencies to be used exclusively for governmental purposes.

(D) New development located on property owned by the State of California or any of its agencies to be used exclusively for governmental purposes.

(E) New development for which a project sponsor filed an application for environmental evaluation or a categorical exemption prior to April 1, 2004, and for which the City issued a building or site permit on or before September 4, 2008; provided however, that such new development may be subject to the TIDF imposed by Ordinance No. 224-81, as amended through June 30, 2004, except that the Department and the Development Fee Collection Unit at DBI shall be responsible for the administration, imposition, review and collection of any such fee consistent with the administrative procedures set forth in Section 411.1 et seq. The Department shall make the text of Ordinance No. 224-81, as amended through June 30, 2004, available on the Department's website and shall provide copies of that ordinance upon request.

(F) The following types of new developments*, except to the extent that such new development is also captured under a more specific use under this Code that is not otherwise exempt*:

(i) Public facilities/utilities, as defined in Section 209.6 of this Code, *except that this exclusion shall not apply to new development on property owned by a private person or entity and leased to the City*;

(ii) Open recreation/horticulture, as defined in Section 209.5 of this Code, including private noncommercial recreation open use, as referred to in Section 221(g) of this Code;

(iii) Vehicle storage and access, as defined in Section 209.7 of this Code;

(iv) ~~*Automotive services, as defined in Section 223(l)-(v) of this Code, that are in a new development;*~~

~~*(v) Wholesale storage of materials and equipment, as defined in Section 225 of this Code;*~~

~~*(vi)*~~ Other Uses, as defined in Section 227(~~*a*~~*c*)-(~~*o*~~*l*), *(n)-(o)*, and (q)-(r) of this Code;

(b) Timing of Payment. Except for those Integrated PDR projects subject to Section 328 of this Code, the TIDF shall be paid prior to issuance of the first construction document, with an option for the project sponsor to defer payment until prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge in accordance with Section 107A.13 of the San Francisco Building Code. Under no circumstances may any City official or agency, including the Port of San Francisco, issue a certificate of final completion and occupancy for any new development subject to the TIDF until the TIDF has been paid;

(c) Calculation of TIDF. The TIDF shall be calculated on the basis of the number of *gross* square feet of new development, multiplied by the square foot rate in effect at the time of building or site permit issuance for each of the applicable economic activity categories within the new development, as provided in Subsection 411.3(e) below. An accessory use

shall be charged at the same rate as the underlying use to which it is accessory*, except that where the underlying use is exempt from the TIDF under this Section, the fee shall nonetheless be charged for the accessory use unless such accessory use is otherwise exempt*. Whenever any new development or series of new developments cumulatively creates more than 3,000 gross square feet of covered use within a structure, *in the case of a building or site permit issued on or before September 30, 2012, or more than 800 gross square feet of covered use within a structure, in the case of a building or site permit issued on or after October 1, 2012,* the TIDF shall be imposed on every square foot of such covered use (including any portion that was part of prior new development below the ~~*3,000*~~ square foot *applicable* threshold).

(d) Credits. In determining the number of gross square feet of use to which the TIDF applies, the Department shall provide a credit for prior uses eliminated on the site. The credit shall be calculated according to the following formula:

(1) There shall be a credit for the number of gross square feet of use being eliminated by the new development, multiplied by an adjustment factor to reflect the difference in the fee rate of the use being added and the use being eliminated. The adjustment factor shall be determined by the Department as follows:

(A) The adjustment factor shall be a fraction, the numerator of which shall be the fee rate which the Department shall determine, in consultation with the MTA, if necessary, applies to the economic activity category in the most recent calculation of the TIDF Schedule approved by the ~~*MTA*~~ Board *of Supervisors* for the prior use being eliminated by the project.

(B) The denominator of the fraction shall be the fee rate for the use being added, as set forth in the most recent calculation of the TIDF Schedule approved by the ~~*MTA*~~ Board *of Supervisors*.

(2) A credit for a prior use may be given only if the prior *was not abandoned as set forth in Sections 178(d), 183, 186.1(d) of this Code*~~*use was active on the site within five years before the date of the application for a building or site permit for the proposed use*~~.

(3) As of September 4, 2004, no sponsor shall be entitled to a refund of the TIDF on a building for which the fee was paid under the former Chapter 38 of the San Francisco Administrative Code.

(4) Notwithstanding the foregoing, the adjustment factor shall not exceed one.

(e) TIDF Schedule. The TIDF Schedule shall be as follows:

Economic Activity Category ***or Subcategory***	**TIDF Per Gross Square Foot of Development**
Cultural/Institution/Education	~~*$10.00*~~
Day Care/Community Center	*$13.30*
Post-Secondary School	*$13.30*
Museum	*$11.05*
Other Institutional	*$13.30*
Management, Information and Professional Services	$~~*10.00*~~*12.64*
Medical and Health Services	$~~*10.00*~~*13.30*
Production/Distribution/Repair	$~~*8.00*~~*6.80*
Retail/Entertainment	$~~*10.00*~~*13.30*
Visitor Services	$~~*8.00*~~*12.64*

SEC. 411.4. IMPOSITION OF TIDF.

(a) Determination of Requirements.

(1) Except for projects where the building or site permit was issued prior to July 1, 2010, *t*~~T~~he Department shall determine the applicability of Section 411.1 et seq. to any development project requiring a first construction document and, if Section 411.1 is applicable, shall impose any TIDF owed as a condition of approval for issuance of the first construction document for the development project. The project sponsor shall supply any information necessary to assist the Department in this determination. The Zoning Administrator may seek the advice and consent of the MTA regarding any interpretations that may affect implementation of this section.

(2) For projects where the building or site permit was issued prior to July 1, 2010, the applicability of Section 411.1 et seq. shall be determined by MTA in accordance with Section 411.7.

(b) Department Notice to Development Fee Collection Unit at DBI ~~*and MTA*~~ of Requirements. After the Department *or, in the case of a determination under Section 411.7, MTA,* has made its final determination regarding the application of the TIDF to a development project under Section 411.1 et seq., it shall immediately notify the Development Fee Collection Unit at DBI ~~*and the Director of MTA*~~ of any TIDF owed in addition to the other information required by Section 402(b) of this Article. ~~*If the MTA Director disputes the Department's calculation, he or she shall promptly inform the Development Fee Collection Unit and the MTA Director's determination shall prevail.*~~

(c) Process for Revisions of Determination of Requirements. In the event that the Department or the Commission takes action affecting any development project subject to Section 411.1 et seq. and such action is subsequently modified, superseded, vacated, or reversed by the Board of Appeals, the Board of Supervisors, or by court action, the procedures of Section 402(c) of this Article shall be followed.

SEC. 411.5. ~~*REVIEW OF TIDF SCHEDULE*~~*PRINCIPLES IN CALCULATING FEE.*

~~*(a) Five-Year Review.*~~

~~*(1) Every five years, or more often as the MTA Board may deem necessary, the Director of MTA shall prepare a report for the MTA Board and the Board of Supervisors with recommendations regarding whether the TIDF for each economic activity category should be increased, decreased, or remain the same. The Director of MTA shall coordinate this report with the five-year evaluation by the Director of Planning required by Section 410 of this Article.*~~

~~*(2) In making such recommendations, and to the extent that new information is available, the Director of MTA shall update the following information and estimates that were used in the TIDF Study to calculate the base service standard fee rates, and any other information that the Director deems appropriate.*~~

~~*(A) The base service standard;*~~

~~*(B) Capital and operating costs;*~~

~~*(C) Federal and state grant funds received by MUNI;*~~

~~*(D) Passenger fare revenue;*~~

~~*(E) Daily revenue service hours;*~~

~~*(F) Cost per revenue service hour;*~~

~~*(G) Trip generation rates by economic activity category;*~~

~~*(H) Cost per trip;*~~

~~*(I) Cost per gross square foot of development by economic activity category;*~~

~~*(J) Net present value factor;*~~

~~*(K) Useful life period(s) for new development by economic activity category;*~~

~~*(L) Estimated annual rate of return on the proceeds of the fee;*~~

~~*(M) The placement of particular land uses in economic activity categories.*~~

~~*Where applicable, the Director of MTA shall use the most recent MUNI information as submitted to the National Transit Database. The denominator of the revised base service standard shall be calculated using the most recent estimates of daily automobile and transit trips developed by the Planning Department or other City or State agency.*~~

~~*(3) In the report, the Director of MTA shall (A) identify the base service standard fee rates per gross square foot in each economic activity category; and (2) propose a fee for each economic activity category.*~~

~~*(4) After receiving this report and making it available for public distribution, the Board of Supervisors shall conduct a public hearing in which it shall consider the MTA Director's report, hear testimony from any interested members of the public, and receive such other evidence as it may deem necessary. At the conclusion of that hearing, the Board shall make findings regarding whether the revenues projected to be recovered under the proposed Fee Schedule would be reasonably related to and would not exceed the costs incurred by MUNI to maintain the applicable base service standard, in light of demands caused by new development. The Board shall then make any necessary or appropriate revisions to the TIDF Schedule.*~~

~~*(5) The Board shall consider the MTA Director's report in light of the most recent five-year review of development fees under Section 410 of this Article). MUNI and the Planning Department shall make every effort to coordinate application of the TIDF with the City's other development fees to avoid unnecessarily encumbering sponsors of new development.*~~

~~*(b) Principles in Calculating Fee.*~~ The following principles have been and shall in the future be observed in calculating the TIDF:

(1) Actual cost information provided to the National Transit Database shall be used in calculating the fee rates. Where estimates must be made, those estimates should be based on such information as the Director of ~~*MTA*~~ *Transportation* or his or her delegate considers reasonable for the purpose.

(2) The rates shall be set at an actuarially sound level to ensure that the proceeds, including such earnings as may be derived from investment of the proceeds and amortization thereof, do not exceed the capital and operating costs incurred in order to maintain the applicable base service standard in light of the demands created by new development subject to the fee over the estimated useful life of such new development. For purposes of this Section 411.1 et seq., *and any Comprehensive Five Year Evaluation of the TIDF under Section 410*, the estimated useful life of a new development is 45 years.

~~*SEC. 411.7. RULES AND REGULATIONS.*~~

~~*The MTA is empowered to adopt such rules, regulations, and administrative procedures as it deems necessary to implement this Section 411.1 et seq. In the event of a conflict between any MTA rule, regulation or procedure and this Section 411.1 et seq., this Section shall prevail.*~~

SEC. 411.7. IMPOSITION AND COLLECTION OF TIDF UNDER FORMER LAW.

(a) Where TIDF is owed to the City for new development for which a building or site permit was issued prior to July 1, 2010, the Director of Transportation shall be responsible for determining the amount of any TIDF due, and for providing written notification to the project sponsor of the amount due. This determination, including calculating the amount of the fee, and providing notification to the project sponsor shall be made in accordance with former San Francisco Administrative Code Chapter 38 as it read on June 30, 2010, with the following exceptions:

(i) The fee shall be based on the TIDF rates in effect as of the date that the fee is or was due and payable;

(ii) Any payments of TIDF due shall be made to the DBI Development Fee Collection Unit in accordance with Section 402 of this Code and Section 107A.13 of the San Francisco Building Code; and

(iii) Any notification of the amount of TIDF due shall inform the project sponsor that the sponsor may seek review of the TIDF determination in accordance with Section 404 of this Code and Section 107A.13.9 of the San Francisco Building Code.

(b) Where the Director of Transportation determines that a development project authorized under a building or site permit issued prior to July 1, 2010 is subject to TIDF, but that the TIDF for the project is not yet due, the Director of Transportation shall make a preliminary determination of the TIDF due, and shall provide this information to DBI. Where DBI has been notified by MTA that TIDF is due on the project, DBI shall collect the TIDF prior to approving and issuing any temporary certificate of occupancy or certificate of final completion for the project. The project sponsor may seek review of the TIDF determination in accordance with paragraph (d) of this Section.

(c) Where the Director of Transportation determines that a development project authorized under a building or site permit issued prior to July 1, 2010 is subject to TIDF, but that no TIDF has been paid, and that a temporary certificate of occupancy and/or certificate of final completion has already been issued for the project, the Director of Transportation shall provide written notice to the project sponsor of the determination of the amount of TIDF due and the date that payment is due. The project sponsor may seek review of the TIDF determination in accordance with paragraph (d) of this Section.

(d) Where a project sponsor seeks review of the Director of Transportation's determination of the TIDF due under this Section, such review shall be conducted in accordance with Section 404 of this Code and Section 107A.13.9 of the San Francisco Building Code. A determination by the Director of Transportation of the TIDF due under this Section shall constitute a Project Fee Development Report for purposes of these code provisions governing review and appeal.

(e) Following the Director of Transportation's issuance of a determination of TIDF due, the subsequent payment of the fee, appeal, if any, and collection shall be in accordance with Sections 401 through 408 of this Code and Section 107A.13 of the San Francisco Building Code.

SEC. 411.8. CHARITABLE EXEMPTIONS

(a) The exemptions established by this Section shall be applicable only where a project sponsor for a new development has filed an application for environmental evaluation, a categorical exemption or a preliminary project assessment, or, for new development within the Mission Bay North Project Area, the Mission Bay South Project Area, the Hunters Point Shipyard Project Area, the Bayview Hunters Point Redevelopment Area, or the Transbay Redevelopment Project Area, the project sponsor submits proof that the sponsor has submitted to the City as successor agency to the Redevelopment Agency documentation comparable to that required for an application for environmental evaluation, a categorical exemption or a preliminary project assessment for the project, on or before October 1, 2012.

(~~a~~*b*) When the property or a portion thereof will be exempt from real property taxation or possessory interest taxation under California Constitution, Article XIII, Section 4, as implemented by California Revenue and Taxation Code Section 214, then the sponsor shall not be required to pay the TIDF attributed to the new development in the exempt property or portion thereof, so long as the property or portion thereof continues to enjoy the aforementioned exemption from real property taxation. This exemption from the TIDF shall not apply to the extent that the non-profit organization is engaging in activities falling under the Retail/Entertainment or Visitor Services economic activity categories in the new development that would otherwise be subject to the TIDF.

(~~b~~*c*) The TIDF shall be calculated for exempt structures in the same manner and at the same time as for all other structures. Prior to issuance of a building or site permit for the

development project, *t*he sponsor may apply to the ~~*MTA*~~*Department* for an exemption under the standards set forth in subsection (a) above. In the event the ~~*Agency*~~*Department* determines that the sponsor is entitled to an exemption under this Section, it shall cause to be recorded a notice advising that the TIDF has been calculated and imposed upon the structure and that the structure or a portion thereof has been exempted from payment of the fee but that if the property or portion thereof loses its exempt status during the 10-year period commencing with the date of the imposition of the TIDF, then the building owner shall be subject to the requirement to pay the fee.

(~~*c*~~*d*) If within 10 years from the date of the issuance of the Certificate of Final Completion and Occupancy, the exempt property or portion thereof loses its exempt status, then the sponsor shall, within 90 days thereafter, be obligated to pay the TIDF, reduced by an amount reflecting the duration of the charitable exempt status in relation to the useful life estimate used in determining the TIDF for that structure. The amount remaining to be paid shall be determined by recalculating the fee using a useful life equal to the useful life used in the initial calculation minus the number of years during which the exempt status has been in effect. After the TIDF has been paid, the ~~*Agency*~~*Department* shall record a release of the notice recorded under subsection (b) above.

(~~*d*~~*e*) In the event a property owner fails to pay a fee within the 90-day period, a notice for request of payment shall be served by the Development Fee Collection Unit at DBI under Section 107A.13 of the San Francisco Building Code. Thereafter, upon nonpayment, a lien proceeding shall be instituted under Section 408 of this Article and Section 107A.13.15 of the San Francisco Building Code.

Section 5. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 6. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Name of Code here Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

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

By: _____
DAVID A. GREENBURG
Deputy City Attorney