

**BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO**

Appeal of  
MOLLY SAUER, )  
Appellant(s) )  
vs. )  
ZONING ADMINISTRATOR, )  
Respondent )

Appeal No. **19-032**

**NOTICE OF APPEAL**

**NOTICE IS HEREBY GIVEN THAT** on April 09, 2019, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the **ISSUANCE** on April 08, 2019, of a Letter of Determination (regarding how the City's Inclusionary Housing fee will be calculated for an approved project at the subject property which proposes to demolish a two-story-plus-mezzanine commercial building and construct a six-story mixed-use building with 54 dwelling units above approximately 7,500 square feet of ground-floor and basement-level commercial retail space) at 1145 Polk Street.

**RECORD NO. 2019-002026ZAD**

**FOR HEARING ON June 12, 2019**

Address of Appellant(s):

Address of Other Parties:

Molly Sauer, Appellant c/o Peter Ziblatt, Attorney for Appellant Pelosi Law Group 12 Geary Street, 8th Floor San Francisco, CA 94108	N/A
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**BOARD OF APPEALS**

Date Filed:

**APR 09 2019**

**CITY & COUNTY OF SAN FRANCISCO  
BOARD OF APPEALS**

**APPEAL # 19-032**

**PRELIMINARY STATEMENT OF APPEAL**

I / We, **Molly Sauer**, hereby appeal the following departmental action: **ISSUANCE** of **Letter of Determination**, **Record No. 2019-002026ZAD** by the **Zoning Administrator** which was issued or became effective on: **April 08, 2019**, for the property located at: **1145 Polk Street**.

**BRIEFING SCHEDULE:**

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: **May 23, 2019, (no later than three Thursdays prior to the hearing date)**, up to 12 pages in length, double-spaced, with unlimited exhibits, with eleven (11) copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day. In addition, an electronic copy should be emailed to: boardofappeals@sfgov.org if possible. PS

Respondent's and Other Parties' Briefs are due on or before: **June 06, 2019, (no later than one Thursday prior to hearing date)**, up to 12 pages in length, doubled-spaced, with unlimited exhibits, with eleven (11) copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day. In addition, an electronic copy should be emailed to: boardofappeals@sfgov.org if possible.

**Only photographs and drawings may be submitted by the parties at the hearing.**

Hearing Date: **Wednesday, June 12, 2019, 5:00 p.m., City Hall, Room 416**, One Dr. Carlton B. Goodlett Place.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule **MAY** also be changed. Written notice will be provided of any change to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should submit eleven (11) copies of all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

**Please note** that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection at the Board's office. You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

***If you have any questions please call the Board of Appeals at 415-575-6880***

**The reasons for this appeal are as follows:**

See attached statement.

**Appellant or Agent (Circle One):**

Signature:

Print Name: PETER ZIBLAT

PRELIMINARY STATEMENT OF APPEAL

1145 Polk Street, LLC is appealing the Letter of Determination issued by the Planning Department's Zoning Administrator, Corey Teague, dated March 25, 2019 as well as a revised Letter of Determination dated April 8, 2019, concerning the method for calculating the Inclusionary Housing obligation for the proposed development of 1145 Polk Street (Project). The basis of the appeal is as follows:

1. The Project was approved on December 11, 2017. At that time, 1145 Polk, LLC agreed to comply with the City's Inclusionary Housing requirements by providing on-site inclusionary housing units in the amount of 14.5 percent. As is permitted under Planning Code section 415.5(g), 1145 Polk, LLC now intends to seek a revision to its Project approvals to allow it to comply with the City's Inclusionary Housing requirement by paying the in-lieu fee, which is 30 percent.
2. The Zoning Administrator has established a clear precedent for how to calculate the amount of the in-lieu fee for projects seeking to change from on-site inclusionary to payment of the in-lieu fee. Any such change must, under the Planning Code, be approved by the Planning Commission in a noticed public hearing and any in-lieu fee paid must be based on the fee schedule in place as of the date the first construction permit is issued. The determination of the proper amount of the in-lieu fee is the subject of this appeal. Although the Project was issued a Site Permit for the development in 2018, the Project has not been issued its first construction document. As such, the in-lieu fee amount should be based on the fee schedule in place at the time of the first construction permit, not the 2018 City Fee Schedule that was in place at the time of the issuance of the Project's Site Permit. The Project anticipates the approval of its first construction document in 2019 and, therefore, the Project's in lieu fee amount should be based on the 2019 Fee Schedule. The appellant specifically appeals the Zoning Administrator's determination that the Project is subject to the in-lieu fee calculation method contained in the 2018 Fee Schedule.



# SAN FRANCISCO PLANNING DEPARTMENT

BOARD OF APPEALS

APR 09 2019

APPEAL # 19-032

## REVISED Letter of Determination

April 8, 2019

Ms. Alexis M. Pelosi  
Pelosi Law Group  
12 Geary Street, Eight Floor  
San Francisco, CA 94108

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

<b>Site Address:</b>	1145 Polk Street
<b>Assessor's Block/Lot:</b>	0691/001
<b>Zoning District:</b>	Polk Street Neighborhood Commercial District
<b>Staff Contact:</b>	Nicholas Foster, (415) 575-9167 or <a href="mailto:nicholas.foster@sfgov.org">nicholas.foster@sfgov.org</a>
<b>Record No.:</b>	2019-002026ZAD

Dear Ms. Pelosi:

This letter is in response to your request for a Letter of Determination regarding the property at 1145 Polk Street ("Property"). The Property is located within the Polk Street Neighborhood Commercial District, the Lower Polk Street Alcohol Restricted Use District, and the 65-A Height and Bulk District. Your letter requested a determination on how the City's Inclusionary Housing fee will be calculated for an approved Project ("Project") at the Property.

### BACKGROUND

The Project proposes to demolish a two-story-plus-mezzanine commercial building and construct a 6-story mixed-use building with 54 dwelling units above approximately 7,500 square feet of ground-floor and basement-level commercial retail space (4 total retail spaces). The Project received a Rear Yard Modification on December 11, 2017, and a Site Permit (Building Permit Application No. 2015.11.20.3273) was issued on August 29, 2018. As of the date of this letter, the first construction document has not been issued.

The Project's Environmental Evaluation Application (EEA) was accepted on August 31, 2015, so the Project is subject to the Inclusionary Requirements listed under Chart 1-A of the Compliance with the Inclusionary Affordable Housing Program ("Program"). Chart 1-A of the Program Affidavit ("Affidavit") dictates that those projects with greater than 25 dwelling units with EEAs deemed complete before January 12, 2016 shall be subject to either the on-site rate of 14.5% or a fee or off-site rate of 30%. The project sponsor submitted a completed Affidavit on June 14, 2018, indicating compliance with the Program through the on-site option ("Alternative #1: On-Site Units," Planning Code ("Code") Section 415.5(g)(1)(A)).

In your letter, you state that the project sponsor has now elected to satisfy the requirements of the Program through payment of the Affordable Housing Fee instead of the on-site option.

Effective January 1, 2019, residential development projects that comply by paying the Affordable Housing Fee are subject to a fee calculated from the Gross Floor Area of residential use, rather than the number of dwelling units. The fee is applied to the applicable percentage of the project, as set forth in Section 415.5 of the Code.

#### DETERMINATION

Impact fees for a building permit are first calculated and assessed at the issuance of the site permit because Planning Code Section 175 prohibits any building permit from being issued if it is contrary to Code requirements. Additionally, Planning Code Section 404 and Building Code Section 107A.13.7 require that assessment to be reported to the project sponsor. Planning Code Section 415.5(a) clarifies that the actual payment of the Affordable Housing Fee is not due until the issuance of the first construction document. This is because Section 409 directs the City Controller review the amount of each development fee established in the San Francisco Planning Code and adjust the dollar amount of any development fee on an annual basis every January 1<sup>st</sup>, so that the rates of collected impact fees more closely align with the actual costs of providing the associated improvements. However, this fee adjustment does not apply to affordable housing fees, which are adjusted separately by the Mayor's Office of Housing and Community Development (MOHCD).

Planning Code Section 415.5(b)(3) states that MOHCD will annually adjust the Affordable Housing Fee based on the cost of constructing affordable housing, including development and land acquisition costs. For the January 1, 2019 Affordable Housing Fee adjustment, MOHCD chose not to simply adjust the fee rate, but to completely change the method of calculation of the fee. This guidance was provided publicly on December 1, 2018 when the draft 2019 Citywide Development Impact Fee Register was first posted on the Planning Department website, and projects that had elected to pay the Affordable Housing Fee at that time were sent letters notifying them of this change. It is also provided directly on the January 1, 2019 Citywide Development Impact Fee Register, and on MOHCD's Inclusionary Housing Program Fee Schedule website

Therefore, it is my determination that because the Project's Site Permit was issued on August 29, 2018, the Project remains subject to the fee method and amount set forth in the Citywide Development Impact Fee Register effective on December 31, 2018. Further, any change in Program compliance, resulting in the reduction in the number of on-site units, shall require public notice for a hearing and approval from the Planning Commission pursuant to Code Sections 415.5(g)(2). Pursuant to Code Section 415.5(g)(3), the Planning Commission shall be limited to considering issues related to Section 415 *et seq.* in considering the request for modification.

**Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.**

**APPEAL:** If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within

Ms. Alexis M. Pelosi  
12 Geary Street, Eight Floor  
San Francisco, CA 94108

April 8, 2019  
REVISED Letter of Determination  
1145 Polk Street

15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Corey A. Teague  
Zoning Administrator

cc: Nicholas Foster, Planner  
Property Owner  
Neighborhood Groups  
BBN Requestor (if any)

# **BRIEF(S) SUBMITTED BY APPELLANT(S)**

HD 6/12/19



FILE

BOARD OF APPEALS

MAY 21 2019

APPEAL # 19-032

May 21, 2019

Via Hand Delivery

President (Acting) Rick Swig and Commissioners  
San Francisco Board of Appeals  
San Francisco Planning Department  
1650 Mission Street, Suite 304  
San Francisco, CA 94103

**Re: Appellant Brief in Support of Appeal No. 19-032**  
**Sauer v. ZA**  
**Letter of Determination**  
**1145 Polk Street, San Francisco**

Dear President and Commissioners:

We represent 1145 Polk, LLC ("1145 Polk"), the project sponsor of an approved but not built 54-unit multifamily residential development located at 1145 Polk Street in San Francisco, California ("Project"). On behalf of 1145 Polk, we are submitting this brief in support of the appeal of a Letter of Determination issued by the Zoning Administrator ("ZA") dated March 25, 2019 as well as a revised Letter of Determination issued April 8, 2019 (together the "LOD") that we believe incorrectly concluded that the Project's payment of its in-lieu Inclusionary Housing Fee should be based on the City's 2018 Fee Schedule and not the City's 2019 Fee Schedule.

**Specifically, we respectfully request that the Board of Appeals reject the ZA's conclusions in the LOD that the Project's in-lieu Inclusionary Housing Fee be based on the 2018 City Fee Schedule and instead find that the Project's in-lieu Inclusionary Housing Fee should be based on the City fee schedule in place at the time the Project receives its first construction permit, anticipated to occur in 2019.**





## I. INTRODUCTION

The Project was approved on December 11, 2017. At that time, 1145 Polk agreed to comply with the City Inclusionary Housing requirements by providing on-site inclusionary housing units in the amount of 14.5 percent. As is permitted under Planning Code section 415.5(g), and for the reasons outlined below, 1145 Polk wishes to seek a revision to its Project approvals to allow it to comply with the City's Inclusionary Housing requirement by paying the in-lieu fee, instead of constructing the inclusionary units on-site.<sup>1</sup> Those facts are not in dispute.

On February 14, 2019, the Pelosi Law Group on behalf of 1145 Polk requested an LOD seeking confirmation from the ZA, that in the event the Project opted to pay the in-lieu fee instead of construct affordable units on-site, that the calculation of the in-lieu fee amount would be based on the 2019 City Fee Schedule (assuming the Project pulls its building permit in 2019) and not the 2018 City Fee Schedule. Confirmation of the method of calculation is necessary because the fee calculation methodology substantially changed between 2018 and 2019 for the express purpose of bringing fairness to the Inclusionary Housing in-lieu fee program.<sup>2</sup> Our position that the 2018 City Fee Schedule does not apply is based on the fact that although the Project has been issued a Site Permit, it has not been issued its first construction document (i.e. Building Permit). Established ZA precedent requires that the in-lieu fee amount be calculated based on the date the first construction document is issued for the Project – not the site Permit.

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<sup>1</sup> As noted, the Project must provide 14.5 percent of the Project as affordable units if the units are constructed on site. As an alternative, the Project may pay the fee equivalent of 30 percent of the Project as affordable units.

<sup>2</sup> Specifically, effective January 1, 2019 residential development projects that comply with the City's Inclusionary Housing requirements are subject to a fee calculated from the Gross Floor Area of residential use, rather than the number of dwelling units. The fee is applied to the applicable percentage of the project. The policy justification for this change was to allow smaller projects with smaller units had the option to pay the in-lieu fee.



As noted above, the ZA issued an LOD that simply concluded that the Project was subject to the 2018 City Fee Schedule with **no additional direct analysis or discussion provided**. In the LOD request, copies of prior LOD's issued by the ZA were provided indicating that the ZA has specifically concluded in the past that the **in-lieu fee is amount is calculated at the time of the issuance of the first construction document**. The ZA did not reconcile its conclusion in the LOD with the conclusions contained in prior LODs.

The Board of Appeals is required to defer to the ZA, **unless** the Board finds that the ZA erred or abused his discretion. Here, **we believe that substantial evidence exists to support our claim that the ZA has erred in his interpretation and that the LOD issued directly conflicts with prior conclusions and interpretations of the Planning Code. For these reasons, as discussed in detail below, we believe that the ZA has erred in his interpretation of the Planning Code and the LOD issued should be overturned.**

## II. **OVERVIEW OF 1145 POLK STREET**

On December 11, 2017, the Zoning Administrator approved a rear yard modification for the Project. The Project included 54-units and 35,716 gross residential square feet. The Project qualified as a "pipeline project" under changes made to the City's Inclusionary Housing requirements in 2016. Because the Project submitted its environmental evaluation application ("EEA") on July 30, 2015, it was only required to provide 14.5 percent of the units as inclusionary on-site units or pay an in-lieu fee equivalent to providing 30 percent of the units as affordable.<sup>3</sup>

As a "pipeline project," the Project had until December 7, 2018, to pull a Site Permit or the protections would disappear and the Project would be subject to an 18 percent on-site inclusionary

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<sup>3</sup> If the Project elected to comply by providing off-site inclusionary units, the same 30 percent would apply.



requirement. On August 29, 2018, a Site Permit was pulled for the Project. **Pulling the Site Permit vested the on-site inclusionary housing percentage at 14.5 percent<sup>4</sup> but it did not lock in the methodology for calculating the fee as that is determined at the time a Project pulls a building permit.**

On November 27, 2018, the Board of Supervisors passed legislation extending the “pipeline protections” for projects until the later of December 7, 2018 or 18 months after project approval. (Ordinance No. 290-18). This legislation, as applied to the Project, extended the time period to pull a Project Site Permit until June 11, 2019. However, because the Project’s Site Permit had already been issued, this extension was not applicable.

Since pulling the Site Permit on August 29, 2018, the Project has not been issued any other permits, including its first construction document (i.e. building permit) nor commenced any construction work on the Project other than authorized demolition. **1145 Polk only pulled its Site Permit on August 29, 2018, to protect itself from the elimination of the “pipeline protections.” Because building smaller units, like those in the Project, cost more on a per square foot basis than bigger units, the Project is now requesting to pay the in-lieu fee as opposed to building Inclusionary Housing units on-site. Changing from providing on-site inclusionary units to payment of the in-lieu fee allows the Project to contribute in-lieu fees to the City that can be used to construct affordable housing but is only an option for the Project if the 2019 Fee Schedule is used.**

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<sup>4</sup> It also vested the off-site or in-lieu fee at 30% but as that is the same percentage as is currently required its vesting is not relevant.



### III. ANALYSIS

#### A. **Process for Project to Change from On-Site Inclusionary Housing to In-Lieu Fee**

Pursuant to the City's Inclusionary Housing Ordinance, all housing development projects must elect how they intend to provide affordable housing units at the time the project entitlements are granted. Over the years, multiple projects have changed how they comply with the City's Inclusionary Housing Ordinance after entitlements have been granted. Planning Code section 415.5(g)(2) explicitly states that projects can change how they comply and requires that the Planning Commission review and approve any request for a project to change from providing on-site inclusionary units to the payment of the in-lieu fee. In addition, Planning Code section 415.5(g)(3), requires the project sponsor to immediately inform the Planning Department and the Mayor's Office of Housing and Community Development ("MOH") of the change and pay the applicable Inclusionary Housing in-lieu fee plus interest and any applicable penalties. The assessment of the Inclusionary Housing in-lieu fee and calculation of interest and applicable penalties are always based on the date the first construction document is issued.

As noted above, the Project is electing to change the method of compliance with the City's Inclusionary Housing Ordinance from providing on-site affordable units to paying the in-lieu fee. This request is perfectly acceptable, consistent with the Inclusionary Housing Ordinance, and within 1145 Polk's right to request. 1145 Polk's rationale for requesting this change is something that the Planning Commission will consider in a noticed public hearing.<sup>5</sup> Whether to approve the change will

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<sup>5</sup> For reference, 1145 Polk is electing to make the change because the City's change in methodology in how the Affordable Housing Fee is calculated now makes payment of the fee financially feasible. Payment of a fee will also provide the City with funds to construct affordable housing while also placing more small, efficient units into the marketplace. Removing the on-site inclusionary units results in more "entry-level market rate units," units that are three to eight percent (3-8%) below market and typically occupied by restaurant servers, teachers, social workers etc. These types of units, as inclusionary units, tend to sit vacant, as evidenced by the attached articles and other information



be made by the Planning Commission, however, the question of how the Inclusionary Housing in-lieu fee will be calculated is properly within the Board of Appeals' purview and is the subject of this appeal.

### **B. The 2019 In-Lieu Fee Calculation Change**

On January 1, 2019, the City changed the methodology it uses to calculate the in-lieu fee. Before that date, the in-lieu fee was calculated on a per door/per unit pricing structure, a structure that benefits developments with larger units while penalizing developments with smaller units.<sup>6</sup> Recognizing this unintended consequence of applying a per door/per unit pricing structure, the City changed the calculation methodology for the in-lieu fee to a gross square foot assessment, effective 2019. The change was specifically made to address a flaw that existed in the old methodology and to make the fee calculation fair to all projects regardless of unit count or unit size. In instituting a better fee calculation methodology, the City sought to encourage developments to consider payment of the fee which would help address City shortfalls in affordable housing funding while also placing more units in the marketplace. The change inserted equity into the in-lieu fee calculation allowing projects like 1145 Polk, with smaller, more efficient and functional units to have flexibility in how they comply with the City's Inclusionary Requirements.

In implementing the change in the in-lieu fee methodology, the City also made the unprecedented decision that projects issued a Site Permit before 2019 would be subject to the in-lieu

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(Exhibit A), because they are smaller, located in less desirable locations and are rarely a tenant's first choice, or even, second choice.

<sup>6</sup> Under the old methodology, the in-lieu fee was calculated solely on a per door/per unit basis which resulted in projects with smaller units paying a higher burden per unit than projects with larger units. As a result, electing to pay the in-lieu fee was only financially feasible for these larger unit developments as the cost to pay the in-lieu fee per unit on smaller unit projects where the cost to construct each unit was 10-15% more expensive due to the concentration of square footage allocated to bathrooms, kitchens, etc. was infeasible.



fee calculation methodology in place at the time their Site Permit was issued. Prior to this change, the in-lieu fee had always been calculated at the time of issuance of the first construction document. No notice of this change was provided to projects in the pipeline that elected to provide on-site or off-site inclusionary units, like the Project, even though those projects could later elect to change how they comply with the Inclusionary Housing Ordinance.

### **C. The 2019 Fee Schedule Should Apply to the Project**

The ZA has an established process for evaluating requests to change from providing affordable housing units on-site to payment of the in-lieu fee. This process includes a bright line rule on how to calculate the in-lieu fee set forth in a series of LOD's issued by the ZA (see **Exhibit B**). **In each of these LOD's, the in-lieu fee was based on the fee schedule in place at the time of the issuance of the first construction document with several of the LODs expressly stating that the first construction document is NOT the issuance of a Site Permit.** These LODs are precedent and establish the process by which projects seeking to change from on-site to payment of the in-lieu fee should be evaluated. Unlike projects that always anticipated paying the in-lieu fee, projects that initially elected to provide on-site units, did not receive notice of the changes in methodology and were not aware that by pulling their Site Permit they would somehow be subject to a different set of rules than had previously applied to all other similarly situated projects. This is especially pertinent for pipeline projects that were strongly encouraged to pull Site Permits before the expiration of the pipeline protections. It is clear that if a pipeline project had known that pulling a Site Permit would lock-in the 2018 Fee Schedule and thus make the change from on-site to payment of the in-lieu fee infeasible, they very likely would have made a different decision. Instead they were not given the choice nor were they given any notice of the change and instead properly anticipated



they would be subject to the established LOD precedent that pulling a Site Permit does not lock in the fee calculation methodology.

The notice provided regarding the City's change in the Inclusionary Housing Program, as referenced in the ZA's response, is not relevant to the question of whether projects like 1145 Polk Street that are seeking to change from on-site to payment of the in-lieu fee should be subject to MOH guidance or established ZA precedent. The notice is not relevant because it had no impact on 1145 Polk's decision to pull its Site Permit. At the time the notice was given in December 2018, the Project's Site Permit had already been issued and under the ZA's logic, 1145 Polk was unknowingly locked into the 2018 Fee Schedule despite being subject to a different set of rules when its Site Permit was issued.

We understand and acknowledge the need to establish a clear line regarding calculating the Inclusionary Housing Fee for projects that always intended to pay the in-lieu fee. We believe, the notice provided, as referenced in the ZA's response, gave those projects a choice of whether to lock in the 2018 Fee Schedule by pulling their Site Permit or wait until January 1, 2019 and be subject to the new fee calculation methodology. Projects, however, that never intended to pay the in-lieu fee never had a choice and therefore should be treated differently. The fact that notice was given regarding the impact of Site Permit issuance on the Affordable Housing Fee calculation should not be a determinative factor. Instead, for this small subset of projects (i.e., ones seeking to change from building units on-site to payment of the in-lieu fee that pulled a Site Permit in 2018 but have not had a first construction permit issued) established precedent should prevail.

If the Board were to affirm the ZA's position, projects that pulled a Site Permit to lock in the "pipeline protections" (i.e. prior to escalation of the required percentage of units) would all have inadvertently vested how an in-lieu fee would be calculated should the project later opt to change how they comply with the City's Inclusionary Requirement. This result would be inequitable, an obvious



deviation from precedent and would frustrate one of the primary purposes of changing the fee calculation methodology effective January 1, 2019. **Put another way, the City changed the fee calculation methodology to benefit developments exactly like the Project (i.e. smaller projects with smaller units).** In response the Project has now opted to meet its inclusionary obligation by utilizing the new methodology, only to be told that they cannot because they were issued a Site Permit in 2018 even though the ZA historically uses the fee schedule in place at the time the first construction permit is issued.

Here, the Project was issued its Site Permit on August 29, 2018, and a first construction document has not been issued. Application of the 2018 Fee Schedule to the Project, even though the first construction document (i.e. building permit) has not been issued, is arbitrary, inequitable and makes no sense given the ZA's established precedent and historic policy to use the calculation methodology in place at issuance of the first construction document. Applying the old per unit/per door methodology to the Project runs counter to the policy purpose behind revising the calculation methodology in the 2019 Fee Schedule. It is unfair, unjust, and is an erroneous interpretation of the Planning Code. The change in methodology was specifically made to benefit developments like the Project that include smaller units that had until the 2019 change been disadvantaged by the Fee Schedule.

#### **IV. CONCLUSION**

In sum, we respectfully request that the Board of Appeals find that the ZA erred in concluding that if the Project opts to pay the in-lieu Inclusionary Housing Fee, the fee would be calculated based on the 2018 Fee Schedule. The appropriate fee scheduled instead is the 2019 Fee Schedule, assuming the Project pulls a building permit this year. Applying the 2018 Fee Schedule, deviates from City





practice, the ZA's prior LODs and undermines the policy purpose behind the City's 2019 change in fee calculation methodology.

**EXHIBIT A**

# SHOWING MATCHES FOR

## 1 PERSON AT \$35,000/YEAR

[EDIT ELIGIBILITY](https://housing.sfgov.org/eligibility-estimator)  
<https://housing.sfgov.org/eligibility-estimator>

### MATCHED

Based on information you entered, you may be eligible for units at the following property:

### THE CIVIC UNIT 103

<https://housing.sfgov.org/listings/a0W0P00000G1l8xUAF>

101 POLK STREET,  
SAN FRANCISCO CA 94102

#### AVAILABLE UNITS

UNIT TYPE	MINIMUM INCOME	RENT
1 BR	\$2,606/month	\$1,308/month

### 455 FELL

<https://housing.sfgov.org/listings/a0W0P00000Gdm2wUAB>

455 FELL STREET,  
SAN FRANCISCO CA 94102

#### AVAILABLE UNITS & OPEN WAITLIST

Includes Priority Units for Vision and/or Hearing Impairments, Mobility Impairments

UNIT TYPE	MINIMUM INCOME	RENT
Studio	\$2,374/month	\$1,107/month
1 BR	\$2,612-\$2,702/month	\$1,355-\$1,384/month
2 BR	\$3,000/month	\$1,592/month
3 BR	\$3,290/month	\$1,647/month

For more help, we suggest talking with a housing counselor to explore your options.

**FIND A HOUSING COUNSELOR**  
<https://housing.sfgov.org/housing-counselors>

### ADDITIONAL LISTINGS

We know you may have options about how many people will live with you. Here are listings for other household sizes and income levels.

### RINCON GREEN UNIT 356

<https://housing.sfgov.org/listings/a0W0P00000G1lhNUAV>

333 HARRISON STREET,  
SAN FRANCISCO CA, 94105

#### AVAILABLE UNITS

UNIT TYPE	MINIMUM INCOME	RENT
Studio	\$1,432/month	\$710/month

## Units Available After the Lottery was completed (from 2018)

### LOTTERY RESULTS

You can now check lottery results on the

#### WINFIELD DESIGN INTERNATIONAL UNIT 303

<https://housing.sfgov.org/listings/a0W0P00000HRDXtUAP>

3000 23RD STREET,  
SAN FRANCISCO CA, 94110

#### AVAILABLE UNITS

UNIT TYPE	MINIMUM INCOME	RENT
1 BR	\$2,712/month	\$1,356/month

#### MARCY ADELMAN AND JEANETTE GUREVITCH OPENHOUSE COMMUNITY

<https://housing.sfgov.org/listings/a0W0P00000HNFNTUA1>

95 LAGUNA STREET,  
SAN FRANCISCO CA, 94102

Senior Building

#### AVAILABLE UNITS & OPEN WAITLIST

Includes Priority Units for Mobility Impairments, Vision and/or Hearing Impairments

##### RESERVED FOR SENIORS 62+

UNIT TYPE	MINIMUM INCOME	RENT
Studio	\$2,000/month	\$1,000/month
1 BR	\$3,112-\$2,200/month	\$1,556-\$1,100/month
2 BR	\$2,514-\$2,449/month	\$1,257-\$1,270/month

#### CLAYTON HOTEL

<https://housing.sfgov.org/listings/a0W0P00000HMyyIUAD>

657 CLAY STREET,  
SAN FRANCISCO CA, 94111

#### AVAILABLE UNITS & OPEN WAITLIST

UNIT TYPE	MINIMUM INCOME	RENT
SRO	\$932/month	\$460/month

#### 77 BLUXOME UNITS 210 410

<https://housing.sfgov.org/listings/a0W0P00000HMHrwUAH>

77 BLUXOME STREET,  
SAN FRANCISCO CA, 94107

#### AVAILABLE UNITS

UNIT TYPE	MINIMUM INCOME	RENT
Studio	\$2,350/month	\$1,170/month

**450 FOLSOM**<https://housing.sfgov.org/listings/a0W0P00000H1BKFU45>450 FOLSOM STREET,  
SAN FRANCISCO CA, 94105**AVAILABLE UNITS**

Includes Priority Units for Mobility Impairments, Vision and/or Hearing Impairments

UNIT TYPE	MINIMUM INCOME	RENT
Studio	\$1,900-\$1,574/month	\$970-\$987/month
1 BR	\$3,300-\$2,252/month	\$1,116-\$1,126/month
2 BR	\$2,450-\$2,510/month	\$1,224-\$1,251/month

**MAGNOLIA PLACE UNIT 205**<https://housing.sfgov.org/listings/a0W0P00000HLclmUAD>3322 BUCHANAN STREET,  
SAN FRANCISCO CA,**AVAILABLE UNITS**

UNIT TYPE	MINIMUM INCOME	RENT
2 BR	\$3,925/month	\$1,514/month

**125 MASON UNITS 207, 303**<https://housing.sfgov.org/listings/a0W0P00000HLb9mUAD>125 MASON STREET,  
SAN FRANCISCO CA, 94102**AVAILABLE UNITS**

UNIT TYPE	MINIMUM INCOME	RENT
3 BR	\$3,337/month	\$1,567/month

**MERRY GO ROUND SHARED HOUSING ROOM 6 AND 7**<https://housing.sfgov.org/listings/a0W0P00000HKulJUAT>2976 23RD STREET,  
SAN FRANCISCO CA, 94110**AVAILABLE UNITS & OPEN WAITLIST**

UNIT TYPE	MINIMUM INCOME	RENT
Room	\$1,122-\$3,470/month	\$501-\$1,735/month

**380 SAN JOSE UNIT 1**<https://housing.sfgov.org/listings/a0W0P00000HHWd1UAH>**AVAILABLE UNITS**

UNIT TYPE	MINIMUM INCOME	RENT
1 BR	\$3,192/month	\$1,534/month

### 1101 CONNECTICUT

<https://housing.sfgov.org/listings/a0W0P00000HHURZUAP>

1101 CONNECTICUT STREET,  
SAN FRANCISCO CA, 94107

#### AVAILABLE UNITS & OPEN WAITLIST

Includes Priority Units for Mobility Impairments, Hearing Impairments

UNIT TYPE	MINIMUM INCOME	RENT
Studio	\$1,684-\$2,374/month	\$079-\$1,187/month
1 BR	\$2,220-\$3,701/month	\$1,115-\$1,811/month
2 BR	\$3,476-\$3,009/month	\$1,230-\$1,514/month
3 BR	\$3,360/month	\$1,150/month

### WOOLSEY

<https://housing.sfgov.org/listings/a0W0P00000HGoecUAD>

195 WOOLSEY STREET,  
SAN FRANCISCO CA, 94134

#### AVAILABLE UNITS & OPEN WAITLIST

UNIT TYPE	MINIMUM INCOME	RENT
Studio	\$2,072-\$2,443/month	\$1,086-\$1,244/month

### POTRERO 1010 UNIT 357

<https://housing.sfgov.org/listings/a0W0P00000HHVbJUAX>

1010 16TH STREET,  
SAN FRANCISCO CA, 94107

#### AVAILABLE UNITS

UNIT TYPE	MINIMUM INCOME	RENT
1 BR	\$3,210/month	\$1,303/month

### 250 FREMONT

<https://housing.sfgov.org/listings/a0W0P00000FBcqtUAD>

250 FREMONT STREET,  
SAN FRANCISCO CA, 94105

#### AVAILABLE UNITS & OPEN WAITLIST

Includes Priority Units for Vision and/or Hearing Impairments, Mobility Impairments

UNIT TYPE	MINIMUM INCOME	RENT
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UNIT TYPE	MINIMUM INCOME	RENT
1 BR	\$2,236/month	\$1,112/month
2 BR	\$2,486/month	\$1,243/month
3 BR	\$3,720/month	\$1,365/month

### ONE CHURCH STREET APARTMENTS

<https://housing.sfgov.org/listings/a0W0P00000FCBH1UAP>

1 CHURCH STREET,  
SAN FRANCISCO CA, 94114

#### AVAILABLE UNITS & OPEN WAITLIST

UNIT TYPE	MINIMUM INCOME	RENT
1 BR	\$2,210-\$2,702/month	\$1,114-\$1,221/month
2 BR	\$2,474-\$3,006/month	\$1,237-\$1,503/month
3 BR	\$2,703-\$3,300/month	\$1,354-\$1,650/month

### 480 POTRERO UNIT 411

<https://housing.sfgov.org/listings/a0W0P00000FCwdmUAD>

480 POTRERO,  
SAN FRANCISCO CA, 94110

#### AVAILABLE UNITS

UNIT TYPE	MINIMUM INCOME	RENT
2 BR	\$3,450/month	\$1,380/month

### 150 VAN NESS APARTMENTS

<https://housing.sfgov.org/listings/a0W0P00000GbyGCUAZ>

150 VAN NESS,  
SAN FRANCISCO CA, 94102

#### AVAILABLE UNITS

UNIT TYPE	MINIMUM INCOME	RENT
Studio	\$2,250/month	\$1,140/month
1 BR	\$2,328/month	\$1,204/month
2 BR	\$2,930/month	\$1,465/month
3 BR	\$3,356/month	\$1,535/month

### 1686 GROVE STREET

<https://housing.sfgov.org/listings/a0W0P00000GbxVXUAZ>

1684-1688 GROVE STREET,  
SAN FRANCISCO CA, 94117

**AVAILABLE UNITS**

UNIT TYPE	MINIMUM INCOME	RENT
2 BR	\$5,120/month	\$2,564/month

**METRO @ SHOWPLACE SQUARE UNITS 463, 466**

<https://housing.sfgov.org/listings/a0W0P00000G6bGHYUA3>

660 KING STREET,  
SAN FRANCISCO CA, 94107

**AVAILABLE UNITS**

UNIT TYPE	MINIMUM INCOME	RENT
Studio	\$2,100/month	\$1,190/month

**CHESHILL ON MISSION**

<https://housing.sfgov.org/listings/a0W0P00000H5JKgUAJ>

33 SENECA AVENUE,  
SAN FRANCISCO CA, 94112

**AVAILABLE UNITS**

UNIT TYPE	MINIMUM INCOME	RENT
1 BR	\$2,000/month	\$1,200/month
2 BR	\$2,900/month	\$2,145/month
3 BR	\$3,256/month	\$1,628/month

**125 MASON UNIT 602**

<https://housing.sfgov.org/listings/a0W0P00000H78KeUAJ>

125 MASON STREET,  
SAN FRANCISCO CA, 94102

**AVAILABLE UNITS**

UNIT TYPE	MINIMUM INCOME	RENT
2 BR	\$1,785/month	\$1,014/month

**568 -570 NATOMA**

<https://housing.sfgov.org/listings/a0W0P00000H5kBLUAZ>

568 -570 NATOMA,  
SAN FRANCISCO CA, 94103

**AVAILABLE UNITS**

UNIT TYPE	MINIMUM INCOME	RENT
1 BR	\$2,136/month	\$1,767/month



### 33 TEHAMA

<https://housing.sfgov.org/listings/a0W0P00000GqMp7UAF>

33 TEHAMA STREET,  
SAN FRANCISCO CA, 94105

#### AVAILABLE UNITS

UNIT TYPE	MINIMUM INCOME	RENT
1 BR	\$2,606/month	\$1,703/month
2 BR	\$3,350/month	\$1,465/month

### 111 JONES STREET APARTMENTS

<https://housing.sfgov.org/listings/a0W0P00000GphBuUAJ>

111 JONES STREET,  
SAN FRANCISCO CA, 94102

#### AVAILABLE UNITS & OPEN WAITLIST

UNIT TYPE	MINIMUM INCOME	RENT
Studio	\$1,500/month	\$1,293/month
1 BR	\$2,750/month	\$1,375/month
2 BR	\$3,300/month	\$1,500/month

### 205 JONES STREET APARTMENTS

<https://housing.sfgov.org/listings/a0W0P00000GwEyMUAU>

205 JONES STREET,  
SAN FRANCISCO CA, 94103

#### AVAILABLE UNITS & OPEN WAITLIST

UNIT TYPE	MINIMUM INCOME	RENT
Studio	\$2,072-\$2,400/month	\$1,006-\$1,244/month

### 22 FRANKLIN

<https://housing.sfgov.org/listings/a0W0P00000GvYWDUA3>

22 FRANKLIN STREET,  
SAN FRANCISCO CA, 94102

#### AVAILABLE UNITS

UNIT TYPE	MINIMUM INCOME	RENT
Studio	\$2,030/month	\$1,140/month
1 BR	\$3,252/month	\$1,290/month
2 BR	\$3,660/month	\$1,465/month

### 626 MISSION BAY FAMILY HOUSING

<https://housing.sfgov.org/listings/a0W0P00000GQqIQUAT>

626 MISSION BAY BOULEVARD NORTH,  
SAN FRANCISCO CA, 94158

**AVAILABLE UNITS & OPEN WAITLIST**

Includes Priority Units for Mobility Impairments, Vision and/or Hearing Impairments

UNIT TYPE	MINIMUM INCOME	RENT
1 BR	\$2,612/month	\$1,200/month
2 BR	\$3,110/month	\$1,300/month
3 BR	\$3,560/month	\$1,750/month

**LAP TEST LISTING (DO NOT MODIFY) - YELLOW ACRES**

<https://housing.sfgov.org/listings/a0W0P00000GbyuQUAR>

1 SOUTH VAN NESS AVE,  
SAN FRANCISCO CA, 94103

**AVAILABLE UNITS**

Includes Priority Units for Vision and/or Hearing Impairments, Mobility Impairments, Mobility/Hearing/Vision impairments

UNIT TYPE	MINIMUM INCOME	RENT
1 BR	\$2,665/month	\$1,300/month
2 BR	\$3,350/month	\$1,460/month
3 BR	\$3,750/month	\$1,620/month

**1335 FOLSOM STREET**

<https://housing.sfgov.org/listings/a0W0P00000Fluv3UAD>

1335-1339 FOLSOM STREET,  
SAN FRANCISCO CA, 94103

**AVAILABLE UNITS**

UNIT TYPE	MINIMUM INCOME	RENT
000	\$3,093/month	\$833/month

**1036 MISSION**

<https://housing.sfgov.org/listings/a0W0P00000F8dqNUAR>

1036 MISSION STREET,  
SAN FRANCISCO CA, 94103

**AVAILABLE UNITS & OPEN WAITLIST**

Includes Priority Units for Mobility Impairments

UNIT TYPE	MINIMUM INCOME	RENT
Junior 1 BR	\$2,092/month	\$1,016/month
1 BR	\$3,230/month	\$1,110/month
2 BR	\$2,470/month	\$1,255/month
3 BR	\$2,710/month	\$1,305/month

**More Detail on Available Units in Projects After the Lottery - Note Application Close Dates (i.e., lottery)**

**77 BLUXOME UNITS 210 410**

77 BLUXOME STREET, SAN FRANCISCO  
Equity Residential

Applications Closed Nov 28, 2018 at 5:00 PM

UNIT TYPE	MINIMUM INCOME	RENT	AVAILABILITY
Studio	\$2,380/month	\$1,190/month	1 unit
Studio	\$2,380/month	\$1,190/month	1 unit



**LOTTERY**  
Lottery selection, important dates and contact

Applications Closed Nov 28, 2018 at 5:00 PM

**Lottery Results**

DECEMBER 13, 2018

**WHAT TO EXPECT**

Applications will be contacted by the leasing agent in lottery rank order and responses are filed.  
 15 of the information that you have provided must be verified, and your eligibility confirmed. Any fraudulent information will cause your application to be removed from the lottery. You will also be removed from the lottery if you cannot show a housing preference, or if a household member has a criminal record that disqualifies you.  
 Should your household be drawn from the lottery, be prepared to fill out a lease, financial application and provide required supporting documents.

**CONTACT LEASING AGENT**

Michael Lopez

Call (415) 957-5887  
<https://housing.sfgov.org/tel:4159575887>  
 Enter to sign off mobile in your email address.  
 Email  
<https://housing.sfgov.org/mailto:77bluxome@eqr.com>

**OFFICE HOURS**

Tuesday-Saturday 10:00 AM -6:00 PM



**ELIGIBILITY**  
Income, occupancy, preferences, and subsidies

**Household Maximum Income**

For income calculations, household size includes everyone (all ages) living in the unit.

HOUSEHOLD SIZE	MAXIMUM INCOME/MONTH	MAXIMUM INCOME/YEAR
1 person	\$4,145/month	\$49,750/year
2 people	\$4,738/month	\$56,800/year

**Occupancy**

Occupancy limits for this building differ from household size, and do not include children under 5.

UNIT TYPE	OCCUPANCY
Studio	1-2 people

**Lottery Preferences**

Preference holders will be given highest ranking in the lottery process.

Anyone may enter the housing lottery for this listing. If your household has one of the following preferences, you will be considered in the order shown here. Each preference holder will be removed in lottery rank order.

CERTIFICATE OF PREFERENCE (COP)

### 33 TEHAMA

33 TEHAMA STREET, SAN FRANCISCO CA, 94105



UNIT TYPE	MINIMUM INCOME	RENT	AVAILABILITY
1 BR	\$2,606/month	\$1,303/month	46 units
2 BR	\$2,930/month	\$1,465/month	14 units



#### LOTTERY

Lottery selection, important dates and contact



### Lottery Results

JULY 24, 2018

#### WHAT TO EXPECT

Applications will be selected by the leasing agent. Lottery selections and all inquiries are final. All of the information that you have provided must be verified, and your eligibility confirmed. Any fraudulent statements will cause your application to be removed from the lottery. You will also be removed from the lottery if you cannot provide a housing preference, or if a household member appears on more than one application.

Should your household be chosen from the lottery, be prepared to fill out a more detailed application and provide required supporting documentation.

#### CONTACT LEASING AGENT

Brian Minall

Call (415) 647-7191 x127

<https://housing.sfgov.org/tel:4156477191127>

Due to legal restrictions you may receive messages.

Email

<https://housing.sfgov.org/mailto:brian.minall@cartasmanagement.com>

#### OFFICE HOURS

Monday - Friday 9:00 AM - 5:00 PM



#### ELIGIBILITY

Income, occupancy, preferences, and subsidies

#### Household Maximum Income

For income calculations, household size includes everyone (all ages) living in the unit.

HOUSEHOLD SIZE	MAXIMUM INCOME/MONTH	MAXIMUM INCOME/YEAR
1 person	\$3,800/month	\$45,600/year
2 people	\$4,241/month	\$50,892/year
3 people	\$4,883/month	\$58,600/year
4 people	\$5,425/month	\$65,100/year

#### Occupancy

Occupancy limits for this building differ from household size and do not include children under 6.

UNIT TYPE	OCCUPANCY
1 BR	1-3 people
2 BR	2-5 people

#### Lottery Preferences

Preference holders will be given highest ranking in the lottery process.

**150 VAN NESS APARTMENTS**

150 VAN NESS, SAN FRANCISCO CA, 94102  
 Emerald Fund, Inc.

**Applications Closed Aug 24, 2018 at 5:00 PM**

UNIT TYPE	MINIMUM INCOME	RENT	AVAILABILITY
Studio	\$2,280/month	\$1,140/month	3 units
1 BR	\$1,695/month	\$1,303/month	27 units
2 BR	\$2,930/month	\$1,465/month	18 units
3 BR	\$5,155/month	\$1,028/month	2 units

**LOTTERY**  
 Lottery selection, important dates and contact

**Applications Closed Aug 24, 2018 at 5:00 PM**

**Lottery Results**

SEPTEMBER 19, 2018

**WHAT TO EXPECT**

Applicants will be contacted by the leasing agent 15 days prior to lottery results notification. All applicants must be prepared to be contacted immediately after the lottery. Your application will be removed from the lottery if you cannot provide a working telephone number or a valid email address. If a household member appears on more than one application, should your application be chosen from the lottery, be prepared to fill out a more detailed application and provide required supporting documentation.

**CONTACT LEASING AGENT**

**Lisa Moorehead-Carr**

Call (916) 686-4126  
<https://housing.sfgov.org/tel:9166864126>  
 Due to high call volume, please try again later.  
 Email  
<https://housing.sfgov.org/mailto:bmr@150vanness.com>

**OFFICE HOURS**

Monday-Friday 9:00 AM - 6:00 PM

**ELIGIBILITY**  
 Income, occupancy, preferences, and subsidies

**Household Maximum Income**

For income calculations, household size includes everyone (all ages) living in the unit.

HOUSEHOLD SIZE	MAXIMUM INCOME/MONTH	MAXIMUM INCOME/YEAR
1 person	\$3,800/month	\$45,600/year
2 people	\$4,341/month	\$52,100/year
3 people	\$4,883/month	\$58,600/year
4 people	\$5,425/month	\$65,100/year
5 people	\$5,967/month	\$71,600/year
6 people	\$6,509/month	\$78,100/year

**Occupancy**

Occupancy limits for this building differ from household size, and do not include children under 6.

UNIT TYPE	OCCUPANCY
Studio	1-2 people
1 BR	1-3 people

**250 FREMONT**

250 FREMONT STREET, SAN FRANCISCO CA, 94105


Related Management Company, L.P.

 Applications Closed Sep 13, 2018 at 5:00 PM

UNIT TYPE	MINIMUM INCOME	RENT	AVAILABILITY
1 BR	\$2,235/month	\$1,118/month	39 units
2 BR	\$2,498/month	\$1,244/month	16 units
3 BR	\$2,730/month	\$1,365/month	24 units

**LOTTERY**

Lottery selection, important dates and contact


 Applications Closed Sep 13, 2018 at 5:00 PM**Lottery Results**

OCTOBER 11, 2018

**WHAT TO EXPECT**

Applications will be reviewed by the housing agent in listing order until vacancies are filled. All of the information that you have provided must be verified and your eligibility confirmed. Any successful applicants will have your application to be removed from the listing. You will also be removed from the lottery if you cannot accept a listing preference, or if a household member applies on their own to the application.

Should an applicant be chosen from the lottery, be prepared to fill out a lease, signed application and provide required supporting documents.

**CONTACT LEASING AGENT****Kelly Yee** Call (628) 241-2501<https://housing.sfgov.org/tel:6282412501>

This is a high call volume just may have a message.

 Email<https://housing.sfgov.org/mailto:250fremont@related.com>**OFFICE HOURS**

Monday - Friday 10:00 AM - 4:00 PM

**ELIGIBILITY**

Income, occupancy, preferences, and subsidies

**Household Maximum Income**

For income calculations, household size includes everyone (all ages) living in the unit

HOUSEHOLD SIZE	MAXIMUM INCOME/MONTH	MAXIMUM INCOME/YEAR
1 person	\$3,454/month	\$41,450/year
2 people	\$5,945/month	\$71,350/year
3 people	\$4,441/month	\$53,300/year
4 people	\$4,999/month	\$59,990/year
5 people	\$5,329/month	\$63,950/year
6 people	\$5,725/month	\$68,700/year

**Occupancy**

Occupancy limits for this building differ from household size, and do not include children under 6

UNIT TYPE	OCCUPANCY
1 BR	1-3 people
2 BR	2-5 people
3 BR	3-7 people

**1101 CONNECTICUT**

1101 CONNECTICUT STREET, SAN FRANCISCO CA, 94107

BRIDGEHOUSING

Applications Closed Oct 23, 2018 at 5 00 PM

**50% AMI Units**

UNIT TYPE	MINIMUM INCOME	RENT	AVAILABILITY
Studio	\$1,958/month	\$879/month	1 unit
1 BR	\$2,230/month	\$1,145/month	2 units
2 BR	\$2,476/month	\$1,238/month	6 units

**60% AMI Units**

UNIT TYPE	MINIMUM INCOME	RENT	AVAILABILITY
Studio	\$2,374/month	\$1,157/month	1 unit
1 BR	\$2,702/month	\$1,391/month	2 units
2 BR	\$3,007/month	\$1,704/month	5 units
3 BR	\$3,390/month	\$1,650/month	1 unit



**LOTTERY**

Lottery selection, important dates and contact

Applications Closed Oct 23, 2018 at 5 00 PM

**Lottery Results**

NOVEMBER 13, 2018

**WHAT TO EXPECT**

Applications will be processed by the leasing agent in lottery order until vacancies are filled. 25% of the units created are set aside for the lottery and your identity is not made. Any fraudulent statements will cause your application to be removed from the lottery. You will also be removed from the lottery if you commit, provide a building code number, or if a household member appears on more than one application. Should your application be selected, you will be required to fill out a lease application and provide required supporting documents.

**CONTACT LEASING AGENT**

Leopoldo Batlle

Call (415) 321-4073

<https://housing.sfgov.org/tel:4153214073>

Use call logs call volume you may have with us.

Email

<https://housing.sfgov.org/mailto:1101conn@bridgehousing.com>

**OFFICE HOURS**

Monday - Friday, 9 AM - 5 PM



**ELIGIBILITY**

Income, occupancy, preferences, and subsidies

**Household Maximum Income**

For income calculations, household size includes everyone (all ages) living in the unit.

HOUSEHOLD SIZE	50% AMI UNITS	60% AMI UNITS
1 person	\$41,450/year	\$49,750/year
2 people	\$47,350/year	\$56,800/year
3 people	\$53,300/year	\$63,950/year
4 people	\$59,700/year	\$71,650/year
5 people	\$63,950/year	\$76,700/year

**450 FOLSOM**

450 FOLSOM STREET, SAN FRANCISCO CA, 94105

Related/Assignment Company: L.P.

 Applications Closed Nov 1, 2018 at 5:00 PM**40% AMI Units**


UNIT TYPE	MINIMUM INCOME	RENT	AVAILABILITY
Studio	\$1,540/month	\$970/month	2 units
Studio	\$1,956/month	\$978/month	1 unit
1 BR	\$2,064/month	\$1,032/month	2 units
1 BR	\$2,084/month	\$1,042/month	3 units
2 BR	\$2,456/month	\$1,228/month	2 units
2 BR	\$2,494/month	\$1,242/month	1 unit

**50% AMI Units**

UNIT TYPE	MINIMUM INCOME	RENT	AVAILABILITY
Studio	\$1,958/month	\$979/month	7 units
Studio	\$1,976/month	\$987/month	10 units
1 BR	\$2,232/month	\$1,116/month	13 units
1 BR	\$2,252/month	\$1,126/month	14 units
2 BR	\$2,482/month	\$1,241/month	7 units
2 BR	\$2,510/month	\$1,255/month	8 units

**LOTTERY**

Lottery selection, important dates and contact

 Applications Closed Nov 1, 2018 at 5:00 PM**Lottery Results**

DECEMBER 11, 2018

**WHAT TO EXPECT**

Applications will be evaluated by the leasing agent in leasing units in leasing units on a first-come, first-served basis.

All of the information that you have provided must be verified, and your eligibility to rent must meet any regulatory requirements. Any regulatory requirements will cause your application to be removed from the lottery. You will also be removed from the lottery if you cannot provide a housing preference, or if a household member appears on more than one application.

Should your application be chosen from the lottery, be prepared to fill out a more detailed application and provide required supporting documentation.

**CONTACT LEASING AGENT**

Maria Rojas

 Call (628) 241-4501<https://housing.sfgov.org/tel:6282414501>

due to high call volume you may hear a message.

 Email<https://housing.sfgov.org/mailto:450folsom@related.com>**OFFICE HOURS**

Monday - Friday 10:00 AM - 4:00 PM

**ELIGIBILITY**

Income, occupancy, preferences, and subsidies

**Household Maximum Income**

For income calculations, household size includes everyone (all ages) living in the unit.

HOUSEHOLD SIZE

40% AMI UNITS

50% AMI UNITS



# Tenants Complain S.F. Affordable Rental Program Lets Landlords Play Favorites

by Susie Steimle and Abigail Sterling

January 11, 2018 at 11:12 pm Filed Under: Bay Area Housing, Bay Area Real Estate, Below Market Rate, Housing, Rent, Susie Steimle



SAN FRANCISCO (KPIX) — A few months ago, KPIX exposed cheaters taking advantage of San Francisco's affordable housing ownership program. Now we're discovering there are numerous complaints about the city's affordable rental program as well.

"If you're going to do an affordable housing program you might as well do it right," said David Osgood, president of the tenants association in a luxury high-rise near San Francisco's waterfront called Carmel Rincon.

Seventy-six apartments in Carmel Rincon are what are known as below market rate units or BMR. They're part of the city's affordable housing program.

While market-rate apartments in the building get luxury upgrades, Osgood says BMR units are neglected, even though rents are rising. Osgood relayed a rumor that: "in the past employees have been placed into below market rate units," he said.

There is supposed to be a waiting list for the affordable units, which are in high demand due to the housing crisis.

"Did the employees wait?" Osgood wonders. "That information is concealed from us so we don't know how fair it is. There's certainly stories about people jumping ahead," he said.

BMR renters aren't the only ones complaining. BMR landlords in San Francisco aren't happy either.

"It's a disservice to all parties involved," said Vanessa Khaleel, who is with the San Francisco Apartment Association.

**Kahleel says hundreds of BMRs are currently available for rent but are not occupied.**

**"The program was designed to get affordable housing to hard-working people — teachers, firefighters — not to sit empty. Our**

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owners want these units filled," she said.

She blames red tape at City Hall.

"It can take months to get somebody qualified and then moved in. In some cases we have owners who have had units vacant for six months," said Khaleel.

According to city records, 291 BMR apartments were available for rent last year. Of those, 178 are occupied. That's only 62 percent, even though more than 50,000 people applied.

"Are we perfect, no. But we have made great strides in recent years," said Kate Hartley, director of the San Francisco Mayor's Office of Housing and Community Development.

"Sometimes it might seem like it takes much too long but there's actually a lot of work to make sure that people are getting into the right units and that they are eligible for those units," she said.

Hartley says the city's new online portal for BMR rentals, called Dahlia, has streamlined the application process. But we heard the system is still too slow, too cumbersome, discriminatory, and unfair and we asked Hartley about that. Her response: "This program is so important and it's so great and it works beautifully 98 percent to 99 percent of the time. There are problems that occur, just as there are problems in the private building stock."

As for prior rumors of favoritism at Carmel Rincon: "The Carmel Rincon building was in the category of older buildings that came to my office through the redevelopment agency," Hartley said.

She says the city has no direct control over that building or other older affordable housing stock.

"The developer was allowed to keep the waiting list themselves and just work through the waiting list on their own," she said.

In a statement, Carmel Rincon's management company told KPIX: "We are proud to participate in the BMR program that offers affordable housing for many in the San Francisco area and operate all BMR units in compliance with the housing program guidelines."

Dave Osgood doesn't buy it.

"The city likes to talk a lot about these programs and every time they create one it gets a lot of attention but no one comes back after a while to see how it's going," he said.

For affordable rentals offered directly through the Mayor's Office of Housing's inclusionary program it's a lottery system, and each building has its own separate lottery. You can sign up for alerts at <https://housing.sfgov.org>

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**EXHIBIT B**



# SAN FRANCISCO PLANNING DEPARTMENT

## Reissued Letter of Determination CORRECTED INTEREST CALCULATION

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

July 26, 2016

Enda Keane  
2458 Polk Street #2  
San Francisco, CA 94109

<b>Site Address:</b>	<b>3520 20<sup>th</sup> Street</b>
<b>Assessor's Block/Lot:</b>	<b>3596/127</b>
<b>Zoning District:</b>	<b>Mission Street Neighborhood Commercial Transit (NCT) District</b>
<b>Staff Contact:</b>	<b>Kate Conner, (415) 575-6914 or <a href="mailto:kate.conner@sfgov.org">kate.conner@sfgov.org</a></b>
<b>Record No.:</b>	<b>2015-002238ZAD</b>

Dear Mr. Keane:

This letter is in response to your request for a Letter of Determination regarding the property at 3520 20th Street ("Project") and supersedes a previous determination issued on July 12, 2016. This parcel is located in the Mission Street Neighborhood Commercial Transit (NCT) Zoning District and 55-X Height and Bulk District. The Letter of Determination request is to resolve whether a previously approved 14-unit project may change the previously selected method of compliance with the Inclusionary Affordable Housing Program ("Program") after issuance of the first construction document and first Certificate of Occupancy.

The Project was approved by the Planning Department on May 5, 2006 (Building Permit Application Number (BPA) 200411229899) to construct a new four-story building with 14 dwelling units. The Project received its first construction document on September 5, 2006. The Letter of Determination request states that the first construction document was issued on May 12, 2006; however, this statement is incorrect. Rather, the site permit was issued on this date, which does not constitute a first construction document.

On November 30, 2006, the Project Sponsor recorded an NSR on the Property containing the restrictions imposed on the Property under the Inclusionary Housing Program ("Program") and indicating that, if the applicant chose to comply with Program requirements by providing on-site units, the applicant shall provide one Below Market Rate unit, Unit 5, which is a 2 bedroom unit. The NSR also provided that the applicant could comply through the off-site or in lieu fee option as provided in the Code.

<sup>1</sup> Pursuant to Section 107A.13.1 of the San Francisco Building Code, "First construction document" shall mean the first building permit issued for a development project or, in the case of a site permit, the first building permit addendum issued or other document that authorizes construction of the development project. Construction document shall not include permits or addenda for demolition, grading, shoring, pile driving, or site preparation work.

Enda Keane  
2458 Polk Street #2  
San Francisco, CA 94109

July 21, 2016  
Letter of Determination  
3520 20<sup>th</sup> Street

The Mayor's Office of Housing and Community Development has informed the Zoning Administrator that it pursued compliance efforts with the Project Sponsor from October 2010 to the present. In those discussions, the project sponsor indicated that it had elected to provide an on-site unit, but failed to comply with that requirement despite numerous attempts by MOHCD to gain compliance. As of 2011, the project sponsor represented to MOHCD that it would offer the units for sale. MOHCD staff referred the case to Planning staff in March 2011 and continued to work with the project sponsor to achieve compliance.

In March 2014, the Project Sponsor contacted the Planning Department about renting the affordable unit. Planning Department staff informed the Project Sponsor that the Project could only rent the affordable unit it first qualified for and entered into to a Costa Hawkins Exception Agreement with the City. This agreement would state that the Project's affordable unit is not subject to the Costa-Hawkins Rental Housing Act based upon a received bonus or other concessions (as defined in California Government Code Section 65915 et seq.) received by the Project from the City.

The owners then contacted the Planning Department to request a determination of the Project's eligibility to enter into a Costa-Hawkins Exception Agreement. Upon review, the Planning Department determined that the Project does not qualify for a Costa Hawkins Agreement because the Project did not receive a density bonus, concession, or incentive for the production of on-site inclusionary units. The Project complied with the Planning Code in all other respects.

As stated in the Letter of Determination request, on May 4, 2014, the Project Sponsor contacted the Department to pursue payment of the Affordable Housing Fee as an alternative to providing the affordable units on-site because the project sponsor now represented that the Project was a rental project. In past Letters of Determination, the Zoning Administrator has looked to Planning Code Section 415.5(g)(3) when a project changes from an ownership project to a rental project but does not qualify for an exception to Costa Hawkins and thus becomes ineligible for the Alternative of providing on-site units. Section 415.5(g)(3) states, in relevant part:

If a project sponsor fails to choose an Alternative before project approval by the Planning Commission or Planning Department or if a project becomes ineligible for an Alternative, the provisions of Section 415.5<sup>2</sup> shall apply.

Thus, if a project is no longer eligible for the on-site alternative, the Code states that the fee provisions of Section 415.5 shall apply. In this case, the Zoning Administrator has determined that that the Project located at 480 14<sup>th</sup> Street is ineligible for the On-Site Alternative because it is a rental project that cannot qualify for a Costa Hawkins agreement. As such, the project is no longer eligible to provide units on-site and therefore must pay the Fee. Payment of the fee is due prior to the issuance of first construction document, or in this particular case: May 12, 2006. Therefore, payment of the Fee is late. Planning Code Section 415.5(d) addresses recourse for late payment, including lien proceedings. Planning Code Section 415.5(d) states:

---

<sup>2</sup> Planning Code Section 415.5 refers to payment of the Affordable Housing Fee ("Fee").

If, for any reason, the Affordable Housing Fee imposed pursuant to Section 415.5 remains unpaid following issuance of the first Certificate of Occupancy, the Development Fee Collection Unit at DBI shall institute lien proceedings to make the entire unpaid balance of the fee, plus interest and any deferral surcharge, a lien against all parcels used for the development project in accordance with Section 408 of this Article and Section 107A.13.15 of the San Francisco Building Code

The Letter of Determination request for this Property serves as written acknowledgement of the intent to pay the Fee. Interest on the Fee began accruing after the issuance of the first construction document, on May 12, 2006. Accrual ceased on May 4, 2014, when the Project Sponsor filed the Letter of Determination, formally requesting to pay the Affordable Housing Fee as an alternative to providing an on-site affordable unit. The

The applicable Interest Rate is adjusted monthly and is based on the most current Pooled Fund Portfolio Statistic Report issued by the Treasurer/Tax Collector's Office. The Interest Rate used is the Earned Income Yield. The Earned Income Yield is divided by the number of days in a given month to determine the daily interest rate. The interest rate applicable to this project is 0.002% per day.

MOHCD determines the Affordable Housing Fee and issued a Fee Determination Letter on January 28, 2014 stating that the Affordable Housing Fee for the Project is \$469,135. The first construction document for the Project was issued on May 12, 2006 and interest accrual ceased on May 4, 2014, resulting in 2,914 days of interest accrual. The interest total is: \$30,337. The table below includes the necessary payment due to MOHCD.

Affordable Housing Fee	\$469,135
Interest 0.002%/day for 2914 days	\$30,337
<b>Total Affordable Housing Fee + Interest due to MOHCD: \$499,472</b>	

Planning Code Section 415.9 addresses enforcement procedures for projects that fail to meet Program requirements after issuance of first Certificate of Occupancy. Planning Code Section 415.9 states:

If, after issuance of the first Certificate of Occupancy, the Commission or Department determines that a project sponsor has failed to comply with any requirement in Section 415.1et seq. or any reporting requirements detailed in the Procedures Manual, or has violated the Notice of Special Restrictions, the Commission, Department, or DBI may, until the violation is cured, (a) revoke the Certificate of Occupancy for the principal project or required affordable units, (b) impose a penalty on the project pursuant to Section 176(c) of this Code, and/or (c) the Zoning Administrator may enforce the provisions of Section 415.1et seq. through any means provided for in Section 176 of this Code.

Penalties may be assessed after the issuance of first Certificate of Occupancy under Section 176 of the Planning Code at a maximum rate of \$250 per day. As admitted and detailed in the Request for

Enda Keane  
2458 Polk Street #2  
San Francisco, CA 94109

July 21, 2016  
Letter of Determination  
3520 20<sup>th</sup> Street

Determination, the Project has failed to comply with the Program. As such, penalties began accrual on May 8, 2008 and ceased on May 4, 2014, resulting in 2,187 days of penalty accrual.

The Zoning Administrator has considered this balance due and determined that the amount is excessive under the circumstances. Balancing the extended period of admitted noncompliance, and the significant amount of accrued interest, the Zoning Administrator has determined that \$50.00/day is an appropriate penalty. The table below includes the necessary payment due to MOHCD.

Number of Days (from 5/8/08 to 5/4/14)	Amount of Penalty
2187	\$109,350
<b>Total Penalty due to Planning Department: \$109,350</b>	

The Fee, interest, and penalty must be paid within one month of the issuance of this letter, or June 24, 2016. If the payment is late, interest and penalty will continue accrual from May 14, 2014 until payment is received at the same rate as stated in this letter, which is equal to \$140.74/day for the interest and \$50.00/day for the penalties. The table below includes the necessary payment due to the Planning Department.

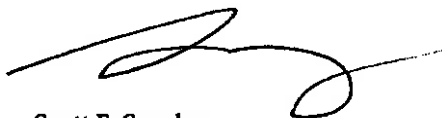
<b>Total Affordable Housing Fee and Interest due to MOHCD:</b> \$499,472	<b>Total Penalty due to Planning:</b> \$109,350	<b>Total: : \$608,822</b>
---	--	---------------------------

In summary, based on the information provided, in order for the Project to pay the Affordable Housing Fee after issuance of the first construction document as an alternative to providing an on-site affordable unit, the Project must pay the Affordable Housing Fee plus interest and penalties as listed above. A new Notice of Special Restrictions must be recorded on the property, to document this modification.

**APPEAL:** If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

If the City has not previously given notice under Government Code Section 66020 of an earlier discretionary approval of the project involving a fee or exaction as defined by Government Code Section 66020, the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not recommence the 90-day approval period.

Sincerely,



Scott F. Sanchez  
Zoning Administrator

Enda Keane  
2458 Polk Street #2  
San Francisco, CA 94109

July 21, 2016  
Letter of Determination  
3520 20<sup>th</sup> Street

**Enclosures:**

Affordable Housing Fee Letter issued by MOHCD on April 20, 2015  
DBI print out of permit information for subject permit 200411229899 including site permit and first construction permit information.  
Interest Calculation

cc: Kate Conner, Planner  
Daniel A. Frattin, Reuben, Junius & Rose, LLP, One Bush Street, Suite 600, San Francisco, CA 94104  
Olson Lee, Director of San Francisco Mayor's Office of Housing and Community Development  
Property Owner  
Neighborhood Groups  
Block Book Notifications





# SAN FRANCISCO PLANNING DEPARTMENT

## Reissued Letter of Determination

### CORRECTED INTEREST CALCULATION

July 26, 2016

Enda Keane  
2458 Polk Street #2  
San Francisco, CA 94109

Site Address:	3520 20 <sup>th</sup> Street
Assessor's Block/Lot:	3596/127
Zoning District:	Mission Street Neighborhood Commercial Transit (NCT) District
Staff Contact:	Kate Conner, (415) 575-6914 or <a href="mailto:kate.conner@sfgov.org">kate.conner@sfgov.org</a>
Record No.:	2015-002238ZAD

Dear Mr. Keane:

This letter is in response to your request for a Letter of Determination regarding the property at 3520 20<sup>th</sup> Street ("Project") and supersedes a previous determination issued on July 12, 2016. This parcel is located in the Mission Street Neighborhood Commercial Transit (NCT) Zoning District and 55-X Height and Bulk District. The Letter of Determination request is to resolve whether a previously approved 14-unit project may change the previously selected method of compliance with the Inclusionary Affordable Housing Program ("Program") after issuance of the first construction document and first Certificate of Occupancy.

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1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

The Mayor's Office of Housing and Community Development has informed the Zoning Administrator that it pursued compliance efforts with the Project Sponsor from October 2010 to the present. In those discussions, the project sponsor indicated that it had elected to provide an on-site unit, but failed to comply with that requirement despite numerous attempts by MOHCD to gain compliance. As of 2011, the project sponsor represented to MOHCD that it would offer the units for sale. MOHCD staff referred the case to Planning staff in March 2011 and continued to work with the project sponsor to achieve compliance.

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Enda Keane  
2458 Polk Street #2  
San Francisco, CA 94109

July 21, 2016  
Letter of Determination  
3520 20<sup>th</sup> Street

Determination, the Project has failed to comply with the Program. As such, penalties began accrual on May 8, 2008 and ceased on May 4, 2014, resulting in 2,187 days of penalty accrual.

The Zoning Administrator has considered this balance due and determined that the amount is excessive under the circumstances. Balancing the extended period of admitted noncompliance, and the significant amount of accrued interest, the Zoning Administrator has determined that \$50.00/day is an appropriate penalty. The table below includes the necessary payment due to MOHCD.

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<b>Total Penalty due to Planning Department: \$109,350</b>	

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<b>Total Affordable Housing Fee and Interest due to MOHCD:</b> \$499,472	<b>Total Penalty due to Planning:</b> \$109,350	<b>Total: : \$608,822</b>
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**APPEAL:** If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

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Sincerely,



Scott F. Sanchez  
Zoning Administrator

Enda Keane  
2458 Polk Street #2  
San Francisco, CA 94109

July 21, 2016  
Letter of Determination  
3520 20<sup>th</sup> Street

**Enclosures:**

Affordable Housing Fee Letter issued by MOHCD on April 20, 2015  
DBI print out of permit information for subject permit 200411229899 including site permit and first construction permit information.  
Interest Calculation

cc: Kate Conner, Planner  
Daniel A. Frattin, Reuben, Junius & Rose, LLP, One Bush Street, Suite 600, San Francisco, CA 94104  
Olson Lee, Director of San Francisco Mayor's Office of Housing and Community Development  
Property Owner  
Neighborhood Groups  
Block Book Notifications

**MAYOR'S OFFICE OF HOUSING AND COMMUNITY  
DEVELOPMENT  
CITY AND COUNTY OF SAN FRANCISCO**



**EDWIN M. LEE  
MAYOR**

**OLSON LEE  
DIRECTOR**

April 29, 2015

Enda Keene  
Developer and Owner  
3520 20<sup>th</sup> Street

Denis McMahon  
Developer and Owner  
3520 20<sup>th</sup> Street

c/o Daniel Frattin  
Reuben, Junius & Rose, LLC  
One Bush Street, Suite 600  
San Francisco, CA 94104  
[dfrattin@reubenlaw.com](mailto:dfrattin@reubenlaw.com)

Re: San Francisco Planning Code Section 415 ("Inclusionary Housing Program")  
Affordable Housing Fee Determination for 3520 20<sup>th</sup> Street

Dear Enda Keene and Denis McMahon:

In response to your letter received 3/30/2015 regarding the above referenced project at 3520 20<sup>th</sup> Street, we are providing the following fee calculations:

1. The fee which is applicable per Planning Code Section 415.5; and,
2. The total number and size distribution of affordable housing units that are required by Planning Code Section 415.7 if the units are provided off-site in lieu of a fee payment.

Based on the project application date of 11/22/2004, the Planning Code specifies that the project sponsor shall pay a fee that is equivalent to the provision of 15% of the market rate units as off-site affordable housing units. (See the table below.) Using the off-site calculation, you would be required to provide 15% of the 14 new dwelling units in the primary project to meet the off-site requirement, or a total of 2.1 units. As for the unit size, the Planning Code requires that the off-site housing be comparable to the unit size (by number of bedrooms) reflected in the market rate units of the principal project.

According to your plans, the principal project will have a total of 0 studio unit(s); 0 one-bedroom unit(s); 13 two-bedroom unit(s); 1 three-bedroom unit(s); and 0 four-bedroom unit(s). Using that ratio, the off-site and fee allocation results in 0 studio unit(s); 0 one-bedroom unit(s); 1.95 two-bedroom unit(s); .15 three-bedroom unit(s); and 0 four-bedroom unit(s), as shown in the following chart.

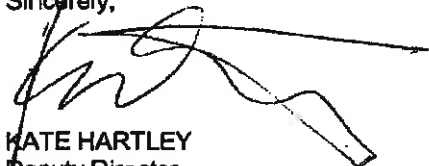
Inclusionary Housing Program Affordable Housing Fee Determination					
Address: 3520 20th Street					
Unit Size	Market Rate Total	15% Off-site Requirement	Off-Site Unit Requirement	Fee By Unit Size*	Fee Payable
Studio	0	15%	0.00	\$100,280	\$0
1 bedroom	0	15%	0.00	\$150,062	\$0
2 bedroom	13	15%	1.95	\$216,851	\$422,859
3 bedroom	1	15%	0.15	\$308,501	\$46,275
<b>Totals:</b>	<b>14</b>		<b>2.10</b>		<b>\$469,135</b>
*January 1, 2006 Fee Schedule					

Inclusionary fees must be paid before the issuance of a project's first construction document. However, in the case of your project, the project received its first construction document on May 12, 2006. Therefore, this letter reflects the fee schedule that was in place when your project received its first construction document. This letter will be shared with the Planning Department, who will add applicable interest and penalties to the fee amount due in order to determine the final amount due. The Planning Department must also grant you permission to make this payment and guide you in the payment process.

If the City has not previously given notice under Government Code Section 66020 of an earlier discretionary approval of the project involving imposition of a fee or exaction as defined by Government Code Section 66020, the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day period has begun for the subject development, then this document does not recommence the 90-day protest period.

Please feel free to contact Chandra Egan of the Mayor's Office of Housing and Community Development at (415) 701-5546 or [chandra.egan@sfgov.org](mailto:chandra.egan@sfgov.org) if you have any questions about this letter.

Sincerely,



KATE HARTLEY  
Deputy Director

Attachment: Inclusionary Fee Notice January 1, 2006

cc: Kate Conner, Planner, San Francisco Planning Department  
 Julian Banales, Southeast Team Manager, San Francisco Planning Department  
 Taras Madison, San Francisco Department of Building Inspection  
 John Blackshear, San Francisco Department of Building Inspection  
 Sophie Hayward, San Francisco Mayor's Office of Housing and Community Development  
 Teresa Yanga, San Francisco Mayor's Office of Housing and Community Development

**MAYOR'S OFFICE OF HOUSING  
CITY AND COUNTY OF SAN FRANCISCO**



**GAVIN NEWSOM,  
MAYOR**

**Matthew O. Franklin  
DIRECTOR**

**NOTICE OF ANNUAL ADJUSTED INCLUSIONARY HOUSING FEES UNDER  
PLANNING CODE SECTION 315.6 EFFECTIVE JANUARY 1, 2006**

As adopted by the Board of Supervisors, the Inclusionary Affordable Housing Program ("Inclusionary Ordinance") provides that a developer of a residential project may pay a fee in-lieu of constructing and providing on- or off-site below-market rate units (San Francisco Planning Code § 315.6). The option to pay an in lieu fee applies to all projects subject to the Ordinance. In lieu fees are based on the number and bedroom size of below-market rate units which a developer would be required to provide if the units are developed off-site (that is, 15% of the total number of units in a project requiring 10% below-market rate units on-site, and 17% for projects requiring 12% below-market rate units on-site).

The Inclusionary Ordinance requires the Mayor's Office of Housing to establish the fee as the amount of the affordability gap identified pursuant to criteria set forth in Section 315.6(b) of the Planning Code. The Inclusionary Ordinance provides for adjustments to reflect annual changes in the average area purchase price of a newly constructed home in the San Francisco Primary Metropolitan Statistical Area (PMSA).

Adjusted fees, based on data reflecting the annual change in the San Francisco PMSA average area purchase prices from calendar year 2003 to calendar year 2004, will go into effect for all requests received beginning January 1, 2006. The adjusted fees represent an 11.26% increase over current fees.

The following fees are the new fees based on 2004 purchase price data per unit at specified unit sizes. For any given project, the fee will be multiplied by the number of off-site units required by the Inclusionary Ordinance, taking into account the unit sizes of the market-rate project.

Unit Size:	Studio	1 bedroom	2 bedroom	3 bedroom
Fee:	\$100,280	\$150,062	\$216,851	\$308,501

Effective Jan. 1, 2006, the above fees are applicable to all developments that are subject to the Ordinance, and must be paid prior to issuance of the first site or building permit. The next fee schedule will be published in mid-2006 based on 2005 purchase price data. For more information please contact Martha Brown at (415) 252-3101 or email her at [Martha.Brown@sfgov.org](mailto:Martha.Brown@sfgov.org).





# SAN FRANCISCO PLANNING DEPARTMENT

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## Reissued Letter of Determination

### CORRECTED INTEREST CALCULATION

March 19, 2014

Melinda Anne Sarjapur  
Reuben, Junius & Rose  
One Bush Street, Suite 600  
San Francisco, CA 94104

Site Address:	246 Ritch Street
Assessor's Block/Lot:	3776/092
Zoning District:	SLI (Service Light Industrial) District
Staff Contact:	Kate Conner, (415) 575-6914 or <a href="mailto:kate.conner@sfgov.org">kate.conner@sfgov.org</a>

Dear Ms. Sarjapur:

This letter is in response to your request for a Letter of Determination regarding the property at 246 Ritch Street ("Project"). This parcel is located in the SLI (Service Light Industrial) Zoning District and 55-X Height and Bulk District. The Letter of Determination request is to resolve whether a previously approved Single Room Occupancy (SRO) Project may switch the method of compliance with the Inclusionary Affordable Housing Program ("Program") after issuance of the first construction document.

The Project was approved by the Planning Commission on June 17, 2010 (Case No. 2006.1348EKC – Motion No. 18108) to demolish the existing 4,130 square-foot building and to construct a five-story, 50-foot tall building with 19 market-rate SRO residential units. Conditions of Approval Nos. 6-11 of Motion 18108 address compliance with the Program and mandate that three of the SRO units be provided as on-site affordable units. Motion 18108 stated that the units are ownership-only unless the Project Sponsor enters in an agreement with the City in order to provide rental units. This agreement ("Costa Hawkins Agreement") would state that the Project is not subject to the Costa-Hawkins Rental Housing Act based upon a received density bonus or concessions (as defined in California Government Code Section 65915 et seq.) The Project received its first construction document on August 14, 2012.

As stated in the Letter of Determination Request, the owners contacted the Planning Department on August 13, 2013 to request a determination of the Project's eligibility to enter into a Costa-Hawkins Agreement. On August 21, 2013 the Planning Department determined that the Project did not qualify for a Costa Hawkins Agreement because the Project did not receive a density bonus, concession, or incentive for the production of on-site inclusionary units. The Conditional Use Application was to allow for a type of housing (SRO units) to be constructed within the SLI Zoning District. The Project complied with the Planning Code in all other respects. The Planning Commission did not grant a separate density bonus because SRO's are permitted by the Planning Code to have a higher density and the Planning Commission did not grant any other significant concessions or incentives.

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

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415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

Melinda Anne Sarjapur  
Reuben, Junius & Rose  
One Bush Street, Suite 600  
San Francisco, CA 94104

March 19, 2014  
Letter of Determination  
246 Ritch Street

Subsequent to this decision, the Project Sponsor contacted the Planning Department to pursue payment of the Affordable Housing Fee as an alternative to providing the affordable units on-site because it was a rental project. There is no mechanism within the Planning Code to allow for payment of the Affordable Housing Fee after the issuance of the first construction document. Planning Code Section 415.5(g)(3) states:

If a project sponsor fails to choose an Alternative before project approval by the Planning Commission or Planning Department or if a project becomes ineligible for an Alternative, the provisions of Section 415.5 shall apply.

Planning Code Section 415.5 refers to payment of the Affordable Housing Fee ("Fee"). The Zoning Administrator has determined that that the Project located at 246 Ritch Street is ineligible for the On-Site Alternative because it is a rental project that cannot qualify for a Costa Hawkins agreement. The project is no longer eligible to provide units on-site and therefore must pay the Fee. Payment of the fee is due prior to the issuance of first construction document or in this particular case August 14, 2012.<sup>1</sup> Payment of the Fee is late. Planning Code Section 415.5(d) addresses recourse for late payment, including lien proceedings. Planning Code Section 415.5(d) states:

If, for any reason, the Affordable Housing Fee imposed pursuant to Section 415.5 remains unpaid following issuance of the first Certificate of Occupancy, the Development Fee Collection Unit at DBI shall institute lien proceedings to make the entire unpaid balance of the fee, plus interest and any deferral surcharge, a lien against all parcels used for the development project in accordance with Section 408 of this Article and Section 107A.13.15 of the San Francisco Building Code

Although the Project has not received its first Certificate of Occupancy, this Letter of Determination request serves as written acknowledgement of the intent to pay the Fee. Interest on the Fee would begin accruing after the issuance of the first construction document, on August 14, 2012. Accrual would cease on September 23, 2013, when the Project Sponsor filed the Letter of Determination, formally requesting switching to payment of the Affordable Housing Fee.

The Interest Rate is adjusted monthly and is based on the most current Pooled Fund Portfolio Statistic Report issued by the Treasurer/Tax Collector's Office. The Interest Rate used is the Earned Income Yield which represents the annualized rate based on one month of earnings. The interest rate applicable to this project is 0.002% per day.

The Mayor's Office of Housing and Community Development (MOHCD) determines the Affordable Housing Fee and issued a Fee Determination Letter on August 1, 2013 stating that the Affordable Housing Fee for the Project is \$ 683,818.00. The first construction document for the Project was issued on

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<sup>1</sup> Building Permit Application No. 2007.01.05.1074 received its first construction document on August 14, 2012. This fee cannot be deferred. In order to defer payment of the Affordable Housing Fee, the Project Sponsor would have had to submit a deferral request to the Department of Building Inspection. The deferral option expired on July 1, 2013.

Melinda Anne Sarjapur  
Reuben, Junius & Rose  
One Bush Street, Suite 600  
San Francisco, CA 94104

March 19, 2014  
Letter of Determination  
246 Ritch Street

August 14, 2012 and interest accrual ceased on September 23, 2013, resulting in 405 days subject to interest and penalty accrual. The interest total is: \$5,615. The table below includes the necessary payment due to MOHCD.

Affordable Housing Fee	\$683,818
Interest 0.002%/day for 405 days	\$5,615
<b>Total due to MOHCD: \$689,433</b>	

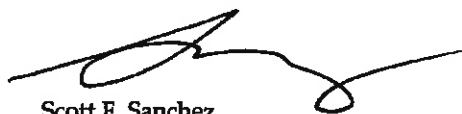
The Fee and interest must be paid within one month of the issuance of this letter, or April 19, 2014. If the payment is late, interest will continue accrual from September 23, 2013 until payment is received at the same rate as stated in this letter, which is equal to \$13.86/day.

In summary, based on the information provided, in order for the Project to pay the Affordable Housing Fee after issuance of the first construction document, the Project must pay the Affordable Housing Fee plus interest as listed above. A Notice of Special Restrictions must be recorded on the property, to document this modification.

**APPEAL:** If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

If the City has not previously given notice under Government Code Section 66020 of an earlier discretionary approval of the project involving a fee or exaction as defined by Government Code Section 66020, the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not recommence the 90-day approval period.

Sincerely,



Scott F. Sanchez  
Zoning Administrator

cc: Kate Conner, Planner  
Olson Lee, Director of San Francisco Mayor's Office of Housing and Community Development  
Property Owner  
Neighborhood Groups  
Block Book Notifications

**San Francisco Planning Department  
Interest Calculation**

**Property Address:**

246 Ritch Street

**Block:**

3776

**Lot:**

92

	Date	Earned Income Yield	Rate/Day	Number of Days	Interest	Interest Per Day
Issuance Date of 1st Construction Document	8/1/2012	0.74%	0.002%	405	\$5,615	\$13.86
Applicable Affordable Housing Fee	\$683,818					
Date notified Planning want to pay fee	9/23/2013					

**Planning Code Section 415.5(g)(4)**

The interest rate is based on the most current Pooled Fund Portfolio Statistic Report issued by the Treasurer/Tax Collector's Office.

<http://www.sftreasurer.org/index.aspx?page=16>

The Interest Rate to use is the Earned Income Yield (represents annualized rate based on one month of earnings)

Take the Earned Income Yield and divide it by 365 days to determine the daily interest rate

<b>Total Penalty, Interest, Fee Owed</b>	<b>\$689,433</b>
Affordable Housing Fee (Paid to MOHCD)	\$683,818
Interest (Paid to MOHCD)	\$5,615
Penalties (Paid to Planning)	\$0.00

**Important Notes**

Interest and Affordable Housing Fee subject to change because the fee amount is based on a figure provided by sponsor.

A formal fee letter must be secured from MOHCD.

**MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT  
CITY AND COUNTY OF SAN FRANCISCO**



**EDWIN M. LEE  
MAYOR**

**OLSON LEE  
DIRECTOR**

August 1, 2013

Ritch Street Studios, L.P.  
John Steven Cooney  
1501 Mariposa Street, Suite 320  
San Francisco, CA 94107

Re: San Francisco Planning Code Section 415 ("Inclusionary Housing Program")  
Affordable Housing Fee Determination for 246 Ritch Street

Dear John Steven Cooney,

In response to your letter submitted 7/31/13 regarding the above referenced project at 246 Ritch Street, we are providing the following fee calculations:

1. The total number and size distribution of affordable housing units that would be required by Planning Code Section 415.7 if the units are provided off-site.
2. The fee which would be payable per Planning Code Section 415.5.

In the case of your project, your project has already received its first construction document, which appears to have been issued on August 14, 2012. Therefore, you are requesting this fee determination in order to confirm the payment that would be due should you choose not to provide one on-site unit as your planning approval dictates. This fee amount in this letter will be shared with the Planning Department, who will then add penalties and interest onto this fee to determine the final amount that would be due. The Planning Department must also grant you permission to make such payment.

The Planning Code specifies that the project sponsor shall pay a fee that is equivalent to the provision of 20% of the market rate units as off-site affordable housing units. Using the off-site calculation, you would be required to provide 20% of the 19 new dwelling units in the primary project to meet the off-site requirement, or a total of 3.8 units. As for the unit size, the Planning Code requires that the off-site housing be comparable to the unit size (by number of bedrooms) reflected in the market rate units of the principal project.

According to your plans, the principal project will have a total of 19 studio unit(s); 0 one-bedroom unit(s); 0 two-bedroom unit(s); 0 three-bedroom unit(s); and 0 four-bedroom unit(s). Using that ratio, the off-site and fee allocation results in 3.8 studio unit(s); 0 one-bedroom unit(s); 0 two-bedroom unit(s); 0 three-bedroom unit(s); and 0 four-bedroom unit(s) as shown in the following chart.

Inclusionary Housing Fee Determination 246 Ritch Street Fee Due as of Date of Issuance of First Construction Document					
Unit Size	Market Rate Total	20% Off-site Requirement	Off-Site Unit Requirement	In Lieu Fee By Unit Size*	Fee Payable
Studio	19	20%	3.80	\$179,952	\$683,818
1 bedroom	0	20%	0.00	\$248,210	\$0
2 bedroom	0	20%	0.00	\$334,478	\$0
3 bedroom	0	20%	0.00	\$374,712	\$0
4 bedroom	0	20%	0.00	\$374,712	\$0
<b>Totals:</b>	<b>19</b>		<b>3.8</b>		<b>\$683,818</b>

\*2008-09 fee schedule in effect until May 10, 2013

The following language refers to projects paying their fee before the issuance of the first construction document. Should you pay the fee, penalties and interest due, please work with the Planning Department to determine how your fee will be paid in light of the atypical nature of your payment.

*"The Department of Building Inspection (DBI) is responsible for issuing a report outlining preliminary estimates of all development impact and in-lieu fees owed for a development project. Prior to issuance of the first building permit or, in the case where a site permit is issued, the first addendum authorizing construction of the project, a final report will be issued and project sponsors must commit to either paying the full amount of development impact and in-lieu fees or, if eligible, deferring a portion of all development impact and in-lieu fees owed based on the formula in San Francisco Building Code Section 107A.13. A surcharge on the amount deferred will be due prior to issuance of the first certificate of occupancy. The Development Deferral Surcharge Rate is posted on the DBI website at <http://www.sfdbi.org/> and it will be updated monthly.*

*Payments for development impact and in-lieu fees must be made at the Permit Center, DBI, 1660 Mission, 6th floor, San Francisco, CA 94103. Questions should be directed to 558-6131. Please contact DBI before paying the fee. DBI must issue you a report on all fees owed before you can pay this fee."*

Please feel free to contact Chandra Egan of the Mayor's Office of Housing at (415) 701-5546 or [chandra.egan@sfgov.org](mailto:chandra.egan@sfgov.org) if you have any questions about this letter.

Sincerely,



OLSON LEE  
Director

cc: Corey Teague, Planner, San Francisco Planning Department  
Julian Banales, Southwest Team Manager, San Francisco Planning Department  
Kate Conner, San Francisco Planning Department  
Pamela Levin, Deputy Director, San Francisco Department of Building Inspection  
John Blackshear, San Francisco Department of Building Inspection  
Teresa Yanga, San Francisco Mayor's Office of Housing  
Gigi Whitley, San Francisco Mayor's Office of Housing  
Flor Bugarin, San Francisco Mayor's Office of Housing

**BRIEF(S) SUBMITTED BY RESPONDENT DEPARTMENT(S)**



# SAN FRANCISCO PLANNING DEPARTMENT

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## Board of Appeals Brief

*Date:* July 11, 2019  
*Hearing Date:* July 17, 2019  
*Appeal No.:* 19-032  
*Project Address:* 1145 Polk Street  
*Block/Lot:* 0691/001  
*Zoning/Height:* Polk Street Neighborhood Commercial District (NCD)  
65-A Height and Bulk District  
*Staff Contact:* Scott F. Sanchez – (415) 558-6326  
[scott.sanchez@sfgov.org](mailto:scott.sanchez@sfgov.org)

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Planning  
Information:  
**415.558.6377**

### INTRODUCTION

On April 9, 2019, Molly Sauer (Appellant) appealed the Zoning Administrator's Letter of Determination (LOD) for the property at 1145 Polk Street (Property). The LOD provided a determination on how the City's Inclusionary Affordable Housing Fee will be calculated for an approved project at the Property consistent with policies and procedures developed in response to the adoption of Proposition C (Affordable Housing Requirements Charter Amendment) in 2016 and Planning Code Section 415.5(b)(2).

### PROPERTY INFORMATION

The Property is located at 1145 Polk Street (between Sutter and Hemlock Streets) within the Polk Street Neighborhood Commercial District (NCD), 65-A Height and Bulk District, and Lower Polk Street Alcohol Restricted Use District. The Property previously contained a two-story-plus-mezzanine commercial building constructed in 1906 that was demolished earlier this year to allow the construction of a 6-story mixed-use building with 54 dwelling units above approximately 7,500 square feet of ground-floor and basement-level commercial retail space (Project).

The Project (Case No. 2014-001674) received a Categorical Exemption (Class 32) from the California Environmental Quality Act (CEQA) on October 5, 2017 and a Rear Yard



**Board of Appeals Brief**  
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**Hearing Date: July 17, 2019**

Modification from the Zoning Administrator on December 11, 2017. On July 23, 2018, Building Permit Application No. 201712065621 was issued to allow demolition of the previous structure. On August 29, 2018, Building Permit Application No. 201511203273 (the Site Permit) was issued to allow construction of the Project. While the Appellant has commenced construction of the Project through the demolition of the previous structure, the Appellant has not yet obtained the First Construction Document for the new construction Project.

The Project's Environmental Evaluation Application (EEA) was accepted on August 31, 2015, so the Project is subject to the Inclusionary Affordable Housing Program (Program) requirements listed under Chart 1-A on the Affidavit for Compliance with the Inclusionary Affordable Housing Program (Affidavit). Chart 1-A of the Affidavit specifies that projects with greater than 25 dwelling units with EEAs deemed complete between January 1, 2015 and January 12, 2016 shall be subject to either the on-site rate of 14.5% or a fee or off-site rate of 30%. On June 14, 2018, the Appellant submitted a completed Affidavit indicating compliance with the Program through the on-site option (Exhibit A).

**BACKGROUND**

On April 5, 2002, the Board of Supervisors (Board) adopted Ordinance No. 37-02 (Inclusionary Affordable Housing Program) to add Planning Code Sections 315 to 315.9 to establish requirements for all residential developments of 10 units or more to provide inclusionary housing units. Section 315.6 (Compliance Through In-Lieu Fee) allowed a project to pay an in-lieu fee to satisfy the requirements of the Program (Affordable Housing Fee). Per Section 315.6(b) the Affordable Housing Fee amount is determined by the Mayor's Office of Housing and Community Development (MOHCD) and updated annually. The initial fee method adopted by MOHCD resulted in an Affordable Housing Fee payment based upon

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**1145 Polk Street**  
**Hearing Date: July 17, 2019**

the number of affordable units that would have otherwise been required for the project (Old Fee Method). This fee varied based upon the number of bedrooms in these units.

Since 2002, the Inclusionary Program has been amended numerous times and is now designated as Planning Code Sections 415 to 415.11.

On June 7, 2016, the voters passed Proposition C (Affordable Housing Requirements Charter Amendment). This set temporary inclusionary requirements and required the Controller and a Technical Advisory Committee (TAC) to conduct a feasibility study and recommend a permanent inclusionary rate and other changes to requirements, including to the Affordable Housing Fee.

In February 2017, the Controller and TAC issued their final report with several policy recommendations. The study assumed the Old Fee Method but stated that the fee methodology should be revisited in future TAC reports (the TAC is supposed to reconvene to look at feasibility of the program every 3 years).

On July 18, 2017, the Board adopted Ordinance No. 158-17 (Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements) making significant changes to the Program. This was the conclusion of the process that began with Proposition C in June 2016 and set permanent rates and new rules. The Board went further than the TAC and Controller's recommendation and required the TAC to reconvene to propose a new method for calculating and applying the Affordable Housing Fee (Planning Code Section 415.5(b)(2)), including a requirement for annual updates to the fee.

Between December 2017 and February 2018, the Controller reconvened the TAC to develop the new Affordable Housing Fee methodology.

On May 4, 2018, the Controller issued a memo to the Board (Inclusionary Housing Fee Methodology – Exhibit B) outlining a switch from per-unit fees (Old Fee Method) to a

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per-gross square foot (GSF) basis (New Fee Method). The memo also directs MOHCD and the Planning Department to work together to determine the exact amount and implement the New Fee Method by the January 1, 2019 annual update.

On November 19, 2018, MOHCD and the Planning Department issued a memo to the Board (Inclusionary Fees Update, January 1, 2019 – Exhibit C) stating the final amount, and the methodology the agencies used to develop the fee. The memo also outlined the implementation plan, noting the following: “As with all other impact fees, the amount of the Affordable Housing Fee will be assessed at the time of a project’s entitlement, and due when the project’s First Construction Document (generally, the first building permit for vertical construction) is issued. The fee amount for entitled projects will be updated annually on January 1 until the First Construction Document is issued.” This memo provided notice to the Board and all parties that the Planning Department would use the fee method in effect at the time of Site Permit issuance.

On December 1, 2018, the Planning Department mailed a notice to all projects with pending impact fee payments that the annual fee adjustment would occur on January 1, 2019 (Exhibit D). The notice advised project applicants to visit the Department of Building Inspection’s website to view the draft 2019 Fee Register, which noted the New Fee Method in addition to the updated fee rates.

At this time, MOHCD and the Planning Department also updated their websites with detailed information about the 2019 fee update, including the New Fee Method and the policies and procedures for its implementation (Exhibit E). These materials state: *“The impact fee register in place at the time of payment shall be applied. However, a project for which a Site Permit has been issued prior to January 1, 2019 shall remain subject to the fee method and amount set forth in the impact fee register in place as of December 31, 2018.”*

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On December 5, 2018, the Planning Department sent an additional courtesy letter to all 16 projects that had selected to satisfy the requirements of Section 415 through the Affordable Housing Fee that were pending payment at that time (2019 Inclusionary Affordable Housing Fee Update – Exhibit F). This letter provided details on the policies and procedures to implement the 2019 fee update (similar to the information contained on the MOHCD and Planning Department websites).

On January 2, 2019, the Planning Department posted the final 2019 Impact Fee Register (Exhibit G).

On February 19, 2019, the Appellant submitted a request for a LOD indicating their intent to switch their method of compliance from the on-site alternative to payment of the Affordable Housing Fee and requesting confirmation on how the fee will be calculated for the Project.

On April 8, 2019, the Zoning Administrator issued the LOD finding that because the Project's site permit was issued on August 29, 2018, the Project remains subject to the fee method and amount set forth in the impact fee register in place as of December 31, 2018 (Old Fee Method). This determination is consistent with the policies and procedures established by MOHCD and the Planning Department for implementation of the New Fee Method. The LOD also found that the proposed switch from on-site to Affordable Housing Fee would require public notice for a hearing and approval from the Planning Commission pursuant to Planning Code Section 415.5(g)(2).

As noted in the LOD, *impact fees are first calculated and assessed at issuance of the site permit* because Planning Code Section 175 prohibits any building permit from being issued if it is contrary to Code requirements. Additionally, Planning Code Sections 402 and 404 and Building Code Section 107A.13.7 require that assessment to be reported to the

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project sponsor. Planning Code Section 415.5(a) clarifies that the actual payment of the Affordable Housing Fee is not due until the issuance of the first construction document. This is because Section 409 directs the Controller to review the amount of any development fee on an annual basis every January 1<sup>st</sup>, so that the rates of collected impact fees more closely align with the actual costs of providing the associated improvements. However, this fee adjustment does not apply to the Affordable Housing Fee, which is adjusted separately by MOHCD.

Planning Code Section 415.5(b)(3) states that MOHCD will annually adjust the Affordable Housing Fee based on the cost of constructing affordable housing, including development and land acquisition costs. As required by Proposition C, Planning Code Section 415.5(b)(2) and as directed by the Board and Controller, MOHCD changed the fee method on January 1, 2019. The change from a per-unit fee (Old Fee Method) to a per-GSF fee (New Fee Method) is a discrete change in the underlying methodology of the fee calculation and is not simply a routine annual adjustment. To implement the New Fee Method in a fair, consistent, and efficient manner, the Zoning Administrator established the policies and procedures for its implementation in coordination with MOHCD. This includes the requirement for projects to be subject to the fee method in effect at the time of Site Permit issuance. Planning Code Section 307(a)<sup>1</sup> explicitly authorizes the Zoning

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<sup>1</sup> **Planning Code Section 307(a) (Other Powers and Duties of the Zoning Administrator – Rules, Regulations and Interpretations):** The Zoning Administrator shall, consistent with the expressed standards, purposes and intent of this Code and pursuant to its objectives, issue and adopt such rules, regulations and interpretations as are in the Zoning Administrator's opinion necessary to administer and enforce the provisions of this Code. Such rules and regulations, and any such interpretations that will be of general application in future cases, shall be made a part of the permanent public records of the Planning Department. The Zoning Administrator shall respond to all written requests for determinations regarding the classification of uses and the interpretation and applicability of the provisions of this Code.

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Administrator to adopt such policies and procedures to administer and enforce the provisions of the Planning Code.

On April 9, 2019, the Appellant filed Appeal No. 19-032 on the LOD issued by the Zoning Administrator.

**ISSUES ON APPEAL**

On May 21, 2019, the Appellant filed a brief; however, the Appellant failed to provide evidence that the Zoning Administrator erred or abused their discretion in issuing the LOD.

The Appellant takes issue with the Zoning Administrator's determination that the Project (which received its Site Permit on August 29, 2018) is subject to the Old Fee Method as outlined in the City's policies and procedures for implementing the 2019 Affordable Housing Impact Fee Update. The Appellant does not challenge the Zoning Administrator's determination that a public notice for a hearing and approval from the Planning Commission pursuant to Planning Code Section 415.5(g)(2) is required for the switch from on-site provision of affordable housing to payment of the Affordable Housing Fee.

The Appellant cites past Zoning Administrator determinations whereby the Affordable Housing Fee is calculated based upon the fee schedule in place at issuance of the First Construction Document and argues that the New Fee Method should apply to the Project. While the Zoning Administrator concurs with these past determinations, they are not applicable in this case because they refer to routine annual adjustments of impact fee amounts, or "indexing," whereas in this case the City implemented a discrete change to the underlying methodology to calculate the Affordable Housing Fee. As noted previously, to implement the New Fee Method in a fair, consistent, and efficient manner, the Zoning Administrator established the policies and procedures for its implementation with MOHCD. This includes the requirement for projects to be subject to the fee method in effect at the time

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of Site Permit issuance, which is consistent with the requirements of Planning Code Sections 175, 402, 404 and Building Code Section 107A.13.7 to calculate and assess impact fees at the time of Site Permit issuance. This information was published on the Planning Department and MOHCD websites, and all applicants with pending permit applications that were to be subject to the Affordable Housing Fee were additionally notified of the change and how it would be applied.

The Appellant argues that imposition of the Old Fee Method would be unfair and that they were not provided adequate notice of the change. Yet the policies and procedures outlined in the LOD do not impose any changes on the Appellant or their compliance options with the Program. In fact, the Appellant is subject to the same rules and fees that were in effect at the time their Site Permit was issued. The Appellant is now seeking to change not only their method of compliance with the Program (which is allowed under the Planning Code), but also the methodology of the calculation itself (which is not allowed under the Planning Code).

The Appellant argues that it would be unfair to continue with rules that were in place at the time of Site Permit issuance (when impact fees are calculated and assessed pursuant to Planning Code Sections 175, 402 and 404 and Building Code Section 107A.13.7); however, the consequences of the change promoted by the Appellant could be far-reaching and negatively impact the Program. For the Appellant, their proposed interpretation of the Planning Code would result in a reduction in the Affordable Housing Fee from \$3,359,255 to \$2,077,573.05<sup>2</sup>. The City is obligated to apply its rules and regulations consistently to all applicants. Here, changing the rule for Appellant would mean that the fee methodology

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<sup>2</sup> Based upon an estimate prepared by Planning Department staff. These numbers are only an estimate and do not represent the final fee calculation for this or any project.

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**1145 Polk Street**  
**Hearing Date: July 17, 2019**

should also change for other applicants similarly situated. The result will not be the same for all Projects, as some projects will see an unpredictable increase in their fees after the impact fees have already been calculated and assessed. While changes in policy, procedure and legislation occur during the development process, the Zoning Administrator developed policies and procedures with MOHCD to implement the New Fee Method in a fair, consistent, and efficient manner that would result in the least amount of disruption for ongoing projects, including the requirement for projects to be subject to the fee method in effect at the time of Site Permit issuance (when impact fees are calculated and assessed by the City).

The Appellant acknowledges the Zoning Administrator's determination regarding projects that always intended to pay the Affordable Housing Fee; however, the Appellant argues that projects that always intended to provide on-site housing should be treated differently and have the option to use the New Fee Method. The Appellant fails to provide a legal or policy rationale for such a distinction, and the result of changing the application of the Fee methodology for all projects would be to hamper the City's ability to implement the Program consistently and in keeping with the direction provided by the Board of Supervisors and Controller and could have a negative impact on other applicants whose fees would be changed.

The Appellant argues that the City changed the fee method to benefit developments exactly like the Project and thus they should be eligible for the New Fee Method. This is incorrect. The City did not change the fee method to benefit any specific project or type of project. The methodology was changed to assess fees that link typical market-rate production with the cost of addressing the affordable housing production need defined in the inclusionary nexus analysis. The use of a per-GSF fee was found to simplify administration (because many impact fees are assessed in a similar manner) and assess the fee in an



**Board of Appeals Brief**  
**Appeal No. 19-032**  
**1145 Polk Street**  
**Hearing Date: July 17, 2019**

equitable manner for projects with varying unit sizes consistent with the project's impacts on the need for affordable housing.

The Appellant argues that they only pulled their Site Permit on August 29, 2018 to preserve their pipeline protection (the reduced 14.5% on-site requirement) and intimate that on-site units are not feasible or desirable. However, it is noted that they have since chosen to commence construction of the Project (with demolition of the previous structure) and are currently pursuing designation of the proposed on-site units<sup>3</sup>.

**CONCLUSION**

In light of the forgoing, the Planning Department respectfully requests that the Board of Appeals deny the appeal and uphold the Zoning Administrator's Letter of Determination (LOD). Such action will preserve the policies and procedures developed by the Planning Department and MOHCD to implement the New Fee Method as required by Proposition C, Planning Code Section 415.5(b)(2) and as directed by the Board of Supervisors. If the Board of Appeals were to overturn the Zoning Administrator's Letter of Determination based upon the Appellant's arguments, such action would have far-reaching and negative impacts on the City's implementation of the Inclusionary Affordable Housing Program.

**Attachments:**

- Exhibit A: Affidavit for Compliance with the Inclusionary Affordable Housing Program
- Exhibit B: Memo to Board of Supervisors from Controller (May 4, 2018)
- Exhibit C: Memo to Board of Supervisors from MOHCD and Planning Department (November 19, 2018)
- Exhibit D: Development Impact Fee Notice (December 1, 2018)
- Exhibit E: MOHCD and Planning Department Webpages
- Exhibit F: 2019 Inclusionary Affordable Housing Fee Update Example (December 5, 2018)
- Exhibit G: 2019 Impact Fee Register

**Cc:** Peter Ziblatt (by email) – Attorney for Appellant

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<sup>3</sup> The Appellant is required to record a Notice of Special Restrictions (NSR) designating location of the on-site affordable units before the City can issue their architectural addendum for construction of the proposed building.

# Exhibit A

AFFIDAVIT

## COMPLIANCE WITH THE INCLUSIONARY AFFORDABLE HOUSING PROGRAM



San Francisco  
**Planning**

SAN FRANCISCO PLANNING DEPARTMENT  
1650 MISSION STREET, SUITE 400  
SAN FRANCISCO, CA 94103-2479  
MAIN: (415) 558-6378 SFPLANNING.ORG

Date: October 25, 2017  
To: Applicants subject to Planning Code Section 415 and 419: *Inclusionary Affordable Housing Program*  
From: San Francisco Planning Department  
Re: **Compliance with the Inclusionary Affordable Housing Program**

All projects that include 10 or more dwelling units must participate in the *Inclusionary Affordable Housing Program* contained in Planning Code Sections 415 and 419. Every project subject to the requirements of Planning Code Section 415 or 419 is required to pay the Affordable Housing Fee. A project may be eligible for an Alternative to the Affordable Housing Fee if the developer chooses to commit to sell the new residential units rather than offer them as rental units. Projects may be eligible to provide rental affordable units if it demonstrates the affordable units are not subject to the Costa Hawkins Rental Housing Act. All projects that can demonstrate that they are eligible for an Alternative to the Affordable Housing Fee must provide necessary documentation to the Planning Department and Mayor's Office of Housing and Community Development.

**Before the Planning Department and/or Planning Commission can act on the project**, this Affidavit for Compliance with the Inclusionary Affordable Housing Program must be completed. Please note that this affidavit is required to be included in Planning Commission packets and therefore, must comply with packet submittal guidelines.

The provisions of the Inclusionary Housing Program have recently been revised by the Board of Supervisors, effective on August 26, 2017 (Ord. No. 158-17 and File NO. 161351). Please be aware that the inclusionary requirements may differ for projects depending on when a complete Environmental Evaluation Application (EEA) was deemed complete by the Department ("EEA Accepted date"). Please also note that there are different requirements for smaller projects (10-24 units) and larger projects (25+ units). Please use the attached charts to determine the applicable requirement. Charts 1-3 include two sections. The first section is devoted to projects that are subject to Planning Code Section 415. The second section covers projects that are located in the Urban Mixed Use (UMU) Zoning District and certain projects within the Mission Neighborhood Commercial Transit District that are subject to Planning Code Section 419. Please use the applicable form and contact Planning staff with any questions.

For new projects with complete EEA's accepted on or after January 12, 2016, the Inclusionary Affordable Housing Program requires the provision of on-site and off-site affordable units at a mix of income levels. The number of units provided at each income level depends on the project tenure, date the EEA for the project is deemed complete, and the applicable schedule of on-site rate increases. Income levels are defined as a percentage of the Area Median Income (AMI), for low-income, moderate-income, and middle-income units, as shown in Chart 5. Projects with a complete EEA accepted prior to January 12, 2016 must provide the all of the inclusionary units at the low income AMI. **NOTE: Any project with a complete EEA accepted prior to January 12, 2016 must obtain a site or building permit by December 7, 2018, or will be subject to the Inclusionary Housing rates and requirements in effect at the time the project proceeds to pursue a permit.**

**Summary of requirements.** Please determine what requirement is applicable for your project based on the size of the project, the zoning of the property, and the date that a complete Environmental Evaluation Application (EEA) was submitted deemed complete by Planning Staff. Chart 1-A applies to all projects throughout San Francisco with EEA's accepted prior to January 12, 2016, whereas Chart 1-B specifically addresses UMU (Urban Mixed Use District) Zoning Districts. Charts 2-A and 2-B apply to rental projects and Charts 3-A and 3-B apply to ownership projects with a complete EEA accepted on or after January 12, 2016. Charts 4-A and 4-B apply to three geographic areas with higher inclusionary requirements: the North of Market Residential SUD, SOMA NCT, and Mission Area Plan.

Projects that received a first discretionary approval prior to January 12, 2016 are not subject to the revised Inclusionary requirement. The applicable requirements for these projects are those listed in the "EEA accepted before 1/1/13" column.

# Exhibit A

The Project contains: <b>54</b> UNITS	The zoning of the property is: <b>NCD: Polk St Neighborhood Commercial</b>	Complete EEA was submitted on: <b>07/08/15</b>
--	---	---

**CHART 1-A: Inclusionary Requirements for all projects with Complete EEA accepted before 1/12/2016**

	Complete EEA Accepted: →	Before 1/1/13	Before 1/1/14	Before 1/1/15	Before 1/12/16
<b>Fee or Off-site</b>					
10-24 unit projects		20.0%	20.0%	20.0%	20.0%
25+ unit projects at or below 120'		20.0%	25.0%	27.5%	30.0%
25+ unit projects over 120' in height *		20.0%	30.0%	30.0%	30.0%
<b>On-site</b>					
10-24 unit projects		12.0%	12.0%	12.0%	12.0%
25+ unit projects		12.0%	13.0%	13.5%	14.5%

\* except buildings up to 130 feet in height located both within a special use district and within a height and bulk district that allows a maximum building height of 130 feet, which are subject to the requirements of 25+ unit projects at or below 120 feet.

**CHART 1-B: Requirements for all projects in UMU Districts with Complete EEA accepted before 1/12/2016**

Please note that certain projects in the SOMA Youth and Family SUD and Western SOMA SUD also rely upon UMU requirements.

	Complete EEA Accepted: →	Before 1/1/13	Before 1/1/14	Before 1/1/15	Before 1/12/16
<b>On-site UMU</b>					
Tier A 10-24 unit projects		14.4%	14.4%	14.4%	14.4%
Tier A 25+ unit projects		14.4%	15.4%	15.9%	16.4%
Tier B 10-24 unit projects		16.0%	16.0%	16.0%	16.0%
Tier B 25+ unit projects		16.0%	17.0%	17.5%	18.0%
Tier C 10-24 unit projects		17.6%	17.6%	17.6%	17.6%
Tier C 25+ unit projects		17.6%	18.6%	19.1%	19.6%
<b>Fee or Off-site UMU</b>					
Tier A 10-24 unit projects		23.0%	23.0%	23.0%	23.0%
Tier A 25+ unit projects		23.0%	28.0%	30.0%	30.0%
Tier B 10-24 unit projects		25.0%	25.0%	25.0%	25.0%
Tier B 25+ unit projects		25.0%	30.0%	30.0%	30.0%
Tier C 10-24 unit projects		27.0%	27.0%	27.0%	27.0%
Tier C 25+ unit projects		27.0%	30.0%	30.0%	30.0%
<b>Land Dedication in UMU or Mission NCT</b>					
Tier A 10-24 unit < 30K		35.0%	35.0%	35.0%	35.0%
Tier A 10-24 unit > 30K		30.0%	30.0%	30.0%	30.0%
Tier A 25+ unit < 30K		35.0%	40.0%	42.5%	45.0%
Tier A 25+ unit > 30K		30.0%	35.0%	37.5%	40.0%
Tier B 10-24 unit < 30K		40.0%	40.0%	40.0%	40.0%
Tier B 10-24 unit > 30K		35.0%	35.0%	35.0%	35.0%
Tier B 25+ unit < 30K		40.0%	45.0%	47.5%	50.0%
Tier B 25+ unit > 30K		35.0%	40.0%	42.5%	45.0%
Tier C 10-24 unit < 30K		45.0%	45.0%	45.0%	45.0%
Tier C 10-24 unit > 30K		40.0%	40.0%	40.0%	40.0%
Tier C 25+ unit < 30K		45.0%	50.0%	52.5%	55.0%
Tier C 25+ unit > 30K		40.0%	45.0%	47.5%	50.0%









# Exhibit A

**AFFIDAVIT**

## COMPLIANCE WITH THE INCLUSIONARY AFFORDABLE HOUSING PROGRAM

PLANNING CODE SECTION 415, 417 & 419



**San Francisco Planning**

SAN FRANCISCO PLANNING DEPARTMENT  
1650 MISSION STREET, SUITE 400  
SAN FRANCISCO, CA 94103-2479  
MAIN: (415) 558-6378 SFPLANNING.ORG

6/14/18  
Date

I, Molly Sauer  
do hereby declare as follows:

**A** The subject property is located at (address and block/lot):

1145 POLK ST  
Address

0691/001  
Block / Lot

**B** The proposed project at the above address is subject to the *Inclusionary Affordable Housing Program*, Planning Code Section 415 and 419 et seq.

The Planning Case Number and/or Building Permit Number is:

2015.1120.3273  
Planning Case Number

2015.1120.3273  
Building Permit Number

This project requires the following approval:

- Planning Commission approval (e.g. Conditional Use Authorization, Large Project Authorization)
- Zoning Administrator approval (e.g. Variance)
- This project is principally permitted.

The Current Planner assigned to my project within the Planning Department is:

Nicholas Foster  
Planner Name

This project is exempt from the *Inclusionary Affordable Housing Program* because:

- This project is 100% affordable.
- This project is 100% student housing.

Is this project in an UMU Zoning District within the Eastern Neighborhoods Plan Area?

- Yes \_\_\_\_\_
  - No
- (If yes, please indicate Affordable Housing Tier)

Is this project a HOME-SF Project?

- Yes
- No

Is this project a State Density Bonus Project?

- Yes \_\_\_\_\_
  - No
- (If yes, please indicate whether the project is an Analyzed or Individually Requested State Density Bonus Project)

**C** This project will comply with the Inclusionary Affordable Housing Program by:

- Payment of the Affordable Housing Fee prior to the first construction document issuance (Planning Code Section 415.5)
- On-site Affordable Housing Alternative (Planning Code Sections 415.6)
- Off-site Affordable Housing Alternative (Planning Code Sections 415.7)
- Combination of payment of the Affordable Housing Fee and the construction of on-site or off-site units (Planning Code Section 415.5 - required for Individually Requested State Density Bonus Projects)
- Eastern Neighborhoods Alternate Affordable Housing Fee (Planning Code Section 417)
- Land Dedication (Planning Code Section 419)



# Exhibit A

- D** If the project will comply with the Inclusionary Affordable Housing Program through an **On-site or Off-site Affordable Housing Alternative**, please fill out the following regarding how the project is eligible for an alternative.
- Ownership.** All affordable housing units will be sold as ownership units and will remain as ownership units for the life of the project.
  - Rental.** Exemption from Costa Hawkins Rental Housing Act.<sup>1</sup> The Project Sponsor has demonstrated to the Department that the affordable units are not subject to the Costa Hawkins Rental Housing Act, under the exception provided in Civil Code Sections 1954.50 through one of the following:
    - Direct financial contribution from a public entity.
    - Development or density bonus, or other public form of assistance.
    - Development Agreement with the City. The Project Sponsor has entered into or has applied to enter into a Development Agreement with the City and County of San Francisco pursuant to Chapter 56 of the San Francisco Administrative Code and, as part of that Agreement, is receiving a direct financial contribution, development or density bonus, or other form of public assistance.
- E** The Project Sponsor acknowledges that any change which results in the reduction of the number of on-site affordable units following the project approval shall require public notice for a hearing and approval by the Planning Commission.
- F** The Project Sponsor acknowledges that failure to sell the affordable units as ownership units or to eliminate the on-site or off-site affordable ownership-only units at any time will require the Project Sponsor to:
- (1) Inform the Planning Department and the Mayor's Office of Housing and, if applicable, fill out a new affidavit;
  - (2) Record a new Notice of Special Restrictions; and
  - (3) Pay the Affordable Housing Fee plus applicable interest (using the fee schedule in place at the time that the units are converted from ownership to rental units) and any applicable penalties by law.
- G** The Project Sponsor acknowledges that in the event that one or more rental units in the principal project become ownership units, the Project Sponsor shall notify the Planning Department of the conversion, and shall either reimburse the City the proportional amount of the Inclusionary Affordable Housing Fee equivalent to the then-current requirement for ownership units, or provide additional on-site or off-site affordable units equivalent to the then-current requirements for ownership units.
- H** For projects with EEA's accepted before January 12 2016, in the event that the Project Sponsor does not procure a building or site permit for construction of the principal project before December 7, 2018, the Project shall comply with the Inclusionary Affordable Housing Requirements applicable thereafter at the time the Sponsor proceeds with pursuing a permit.
- I** For projects with EEA's accepted on or after January 12 2016, in the event that the Project Sponsor does not procure a building or site permit for construction of the principal project within 30 months of the Project's approval, the Project shall comply with the Inclusionary Affordable Housing Requirements applicable thereafter at the time the Sponsor is issued a site or building permit.
- J** If a Project Sponsor elects to completely or partially satisfy their Inclusionary Housing requirement by paying the Affordable Housing Fee, the Sponsor must pay the fee in full sum to the Development Fee Collection Unit at the Department of Building Inspection for use by the Mayor's Office of Housing prior to the issuance of the first construction document.
- K** I am a duly authorized agent or owner of the subject property.

<sup>1</sup> California Civil Code Section 1954.50 and following.

# Exhibit A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this day in:

San Francisco, CA

Location

6/14/18

Date

Sign Here



Signature

MOLLY SAUER

Name (Print), Title

415-531-0294

Contact Phone Number

cc: Mayor's Office of Housing and  
Community Development  
Planning Department Case Docket

# Exhibit A

## UNIT MIX TABLES

### Number of All Units in PRINCIPAL PROJECT:

<b>TOTAL UNITS:</b> <span style="font-size: 1.5em; color: blue;">54</span>	SRO / Group Housing:	Studios: <span style="font-size: 1.5em; color: blue;">51</span>	One-Bedroom Units:	Two-Bedroom Units: <span style="font-size: 1.5em; color: blue;">3</span>	Three (or more) Bedroom Units:
---	----------------------	--	--------------------	---	--------------------------------

*If you selected the On-site, Off-Site, or Combination Alternative, please fill out the applicable section below. The On-Site Affordable Housing Alternative is required for HOME-SF Projects pursuant to Planning Code Section 206.3. State Density Bonus Projects that have submitted an Environmental Evaluation Application prior to January 12, 2016 must select the On-Site Affordable Housing Alternative. State Density Bonus Projects that have submitted an Environmental Evaluation Application on or after to January 12, 2016 must select the Combination Affordable Housing Alternative to record the required fee on the density bonus pursuant to Planning Code Section 415.3. If the Project includes the demolition, conversion, or removal of any qualifying affordable units, please complete the Affordable Unit Replacement Section.*

**On-site Affordable Housing Alternative** (Planning Code Section 415.6): 14.5 % of the unit total.

### Number of Affordable Units to be Located ON-SITE:

<b>TOTAL UNITS:</b> <span style="font-size: 1.5em; color: blue;">8</span>	SRO / Group Housing:	Studios: <span style="font-size: 1.5em; color: blue;">8</span>	One-Bedroom Units:	Two-Bedroom Units: <span style="font-size: 1.5em; color: blue;">0</span>	Three (or more) Bedroom Units:
<b>LOW-INCOME</b>	Number of Affordable Units <span style="font-size: 1.5em; color: blue;">8</span>	% of Total Units <span style="font-size: 1.5em; color: blue;">14.5%</span>		AMI Level <span style="font-size: 1.5em; color: blue;">55%</span>	
<b>MODERATE-INCOME</b>	Number of Affordable Units	% of Total Units		AMI Level	
<b>MIDDLE-INCOME</b>	Number of Affordable Units	% of Total Units		AMI Level	

**Off-site Affordable Housing Alternative** (Planning Code Section 415.7):  % of the unit total.

### Number of Affordable Units to be Located OFF-SITE:

<b>TOTAL UNITS:</b>	SRO / Group Housing:	Studios:	One-Bedroom Units:	Two-Bedroom Units:	Three (or more) Bedroom Units:
Area of Dwellings in Principal Project (in sq. feet):		Off-Site Project Address:			
Area of Dwellings in Off-Site Project (in sq. feet):					
Off-Site Block/Lot(s):		Motion No. for Off-Site Project (if applicable):		Number of Market-Rate Units in the Off-site Project:	

<b>AMI LEVELS:</b>	Number of Affordable Units	% of Total Units	AMI Level
	Number of Affordable Units	% of Total Units	AMI Level
	Number of Affordable Units	% of Total Units	AMI Level

# Exhibit A

## UNIT MIX TABLES: CONTINUED

**Combination** of payment of a fee, on-site affordable units, or off-site affordable units with the following distribution:  
*Indicate what percent of each option will be implemented (from 0% to 99%) and the number of on-site and/or off-site below market rate units for rent and/or for sale.*

1. On-Site  % of affordable housing requirement.

If the project is a State Density Bonus Project, please enter "100%" for the on-site requirement field and complete the Density Bonus section below.

Number of Affordable Units to be Located ON-SITE:					
TOTAL UNITS:	SRO / Group Housing:	Studios:	One-Bedroom Units:	Two-Bedroom Units:	Three (or more) Bedroom Units:

2. Off-Site  % of affordable housing requirement.

Number of Affordable Units to be Located OFF-SITE:					
TOTAL UNITS:	SRO / Group Housing:	Studios:	One-Bedroom Units:	Two-Bedroom Units:	Three (or more) Bedroom Units:
Area of Dwellings in Principal Project (in sq. feet):		Off-Site Project Address:			
Area of Dwellings in Off-Site Project (in sq. feet):					
Off-Site Block/Lot(s):		Motion No. for Off-Site Project (if applicable):		Number of Market-Rate Units in the Off-site Project:	

Income Levels for On-Site or Off-Site Units in Combination Projects:			
AMI LEVELS:	Number of Affordable Units	% of Total Units	AMI Level
AMI LEVELS:	Number of Affordable Units	% of Total Units	AMI Level
AMI LEVELS:	Number of Affordable Units	% of Total Units	AMI Level

3. Fee  % of affordable housing requirement.

**Is this Project a State Density Bonus Project?**  Yes  No

If yes, please indicate the bonus percentage, up to 35% \_\_\_\_\_, and the number of bonus units and the bonus amount of residential gross floor area, if applicable \_\_\_\_\_

I acknowledge that Planning Code Section 415.4 requires that the Inclusionary Fee be charged on the bonus units or the bonus residential floor area.

Affordable Unit Replacement: Existing Number of Affordable Units to be Demolished, Converted, or Removed for the Project					
TOTAL UNITS:	SRO / Group Housing:	Studios:	One-Bedroom Units:	Two-Bedroom Units:	Three (or more) Bedroom Units:

This project will replace the affordable units to be demolished, converted, or removed using the following method:

- On-site Affordable Housing Alternative
- Payment of the Affordable Housing Fee prior to the first construction document issuance
- Off-site Affordable Housing Alternative (Planning Code Sections 415.7)
- Combination of payment of the Affordable Housing Fee and the construction of on-site or off-site units (Planning Code Section 415.5)

# Exhibit A

## Contact Information and Declaration of Sponsor of PRINCIPAL PROJECT

1145 POLK, LLC

Company Name

MOLLY SAUER

Name (Print) of Contact Person

1452 BROADWAY

Address

SAN FRANCISCO, CA 94109

City, State, Zip

415-531-0294

Phone / Fax

molly@dolmenpropertygroup.com

Email

I hereby declare that the information herein is accurate to the best of my knowledge and that I intend to satisfy the requirements of Planning Code Section 415 as indicated above.

### Sign Here

Signature:



Name (Print), Title:

MOLLY SAUER, PROJECT MANAGER

## Contact Information and Declaration of Sponsor of OFF-SITE PROJECT ( If Different )

Company Name

Name (Print) of Contact Person

Address

City, State, Zip

Phone / Fax

Email

I hereby declare that the information herein is accurate to the best of my knowledge and that I intend to satisfy the requirements of Planning Code Section 415 as indicated above.

### Sign Here

Signature:

Name (Print), Title:

# Exhibit B



## OFFICE OF THE CONTROLLER CITY AND COUNTY OF SAN FRANCISCO

Ben Rosenfield  
Controller

Todd Rydstrom  
Deputy Controller

### MEMORANDUM

**TO:** The Honorable Board of Supervisors

**FROM:** Ben Rosenfield, Controller  
Ted Egan, Chief Economist

**DATE:** May 4, 2018

**SUBJECT:** **Inclusionary Housing Fee Methodology**

---

In August 2017, the Board passed Ordinance 158-17, which modified inclusionary housing requirements in San Francisco. These requirements oblige developers of new market-rate housing to either directly produce a certain number of below-market rate (BMR) affordable housing units, or pay a fee (the “in-lieu fee”) to the City to offset its cost of producing BMR housing units.

In the past, the amount of the fee was tied to the subsidy required to make a market-rate for-sale housing unit affordable to a low-income household in San Francisco. However, since the city does not typically construct for-sale affordable units, this formula did not represent the actual cost to the City of building affordable housing. Thus, the Ordinance indicated a desire to redefine the fee around the actual cost to the City of constructing a new unit of a BMR housing. In keeping with that, the Ordinance directed the Controller, along with the Mayor’s Office of Housing and Community Development (MOHCD) and the Inclusionary Housing Technical Advisory Committee (TAC), to develop a methodology for the calculation, indexing, and application of this fee. The Ordinance further directed MOHCD to annually update the fee, and the Planning Department, MOHCD, and the TAC to update the methodology and technical report every three years.

This memo presents the results and recommendations of the Controller’s study, which were discussed and ultimately unanimously supported by the TAC at three meetings from December 2017 to February 2018. We gratefully acknowledge the assistance of MOHCD, Planning, and the Office of Economic and Workforce Development, as well as the members of the TAC.

The recommendations cover three areas: the process for calculating the fee, the process for annually updating the fee, and the process for applying the fee.

# Exhibit B

## Calculation of the Fee

As directed by the Ordinance, the Controller's Office and the TAC reviewed data provided by MOHCD on its cost of producing affordable housing over the past three years, including actual and appraised land costs, and any State or Federal subsidy. The project's development costs, less subsidies but including land costs, defines a funding gap for MOHCD. This funding gap is divided by the total number of affordable units produced in these projects to obtain MOHCD's average cost of construction for an affordable unit. Utilizing this methodology on the most recent 3-year period resulted in an average fee of \$235,000 per unit.

## Indexing the Fee

At the TAC meetings, City Staff and the TAC discussed a variety of inflation indicators that could be used to index the fee in the first and second year after the establishment of a new fee. These indices included government sources such as the Consumer Price Index or Producer Price Index (for new construction) for the San Francisco Bay Area; industry indices such as the Building Cost Index produced by Engineering News Record, or the City's own Annual Infrastructure Construction Cost Inflation Estimate. As mentioned earlier, the Ordinance requires the methodology itself to be re-assessed every three years, so the choice of an indexing method is particularly important in the next two years.

After discussion with the TAC, we recommend that a pre-existing inflation indicator not be used, and that, instead, MOHCD should repeat its 3-year construction cost methodology annually, adding the most recent year's projects, and dropping the oldest projects from the sample.

While this approach is somewhat more time-consuming, and an inflation measure like CPI or the Building Cost Index could lead to greater stability in the fee in these in-between years, it could also cause greater instability in the third year when the MOHCD is due to re-calculate its cost per unit. We feel this approach would lead to the least overall volatility in the annual fee, given the inherent volatility in MOHCD's average funding gap.

## Applying the Fee

In the past, market-rate units were charged different fees, depending on their number of bedrooms. However, the number of bedrooms in a BMR unit constructed by the City are often distinctly different than in units produced by the market, because of the different needs and different sizes of lower income households, making such a comparison difficult.

Instead, as mentioned earlier, MOHCD's costs are calculated on a flat per-BMR unit basis. One option could be to apply the fee on a per market-rate unit basis, without reference to bedroom count. However, doing so would have two consequences. It could disproportionately burden developers of smaller units (who under the current bedroom method often pay a smaller average fee). It would also likely provide a lower overall fee for larger units, who under the current system typically pay a slightly larger fee. A policy goal that was widely expressed by the TAC was the desire to see projects with larger, more expensive units pay a proportionately larger fee, and this goal would be undermined by a fee that was charged on a simple per-unit basis.

# Exhibit B

## 3 | Inclusionary Housing Fee Methodology

Additionally, many other City fees are charged on a per-gross square foot (GSF) basis, and the Inclusionary Housing fee is the only fee charged on a per-unit basis. Charging this fee on a GSF basis could simplify administration, as well as assessing fees more equitably.

In principle, the administration of a per-GSF fee would involve dividing the per-unit fee (the \$235,000 discussed above) by the average size of new market-rate units. In practice, however, estimates of the average size of new units in San Francisco vary widely. The question of the average unit size is particularly important since it directly affects if the City receives more overall fee revenue from the per-GSF or per-unit method. If the average unit size is too small, the per-GSF becomes too large, and would result in more revenue. Conversely, if the average unit size estimate is too large, the per-GSF fee becomes too small, and the City would receive less fee revenue.

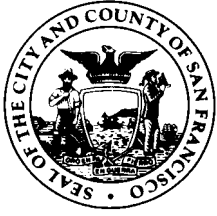
To try and arrive at a data-driven answer to this question, we recommend that the Planning Department provide MOHCD with the average unit size of new housing developments in the last three years, for each of the three types of market-rate housing that have a distinctive fee percentage: small projects (20%), larger rental (30%), and large ownership (33%).

By establishing a GSF fee derived from MOHCD's actual average cost to construct (\$235,000) and the average size of a market-rate unit, the proposed in-lieu fee calculation should come as close as possible to assessing a fee that links typical market-rate production with the cost of addressing the affordable housing production need defined in the inclusionary nexus analysis.



# Exhibit C

## Mayor's Office of Housing and Community Development City and County of San Francisco



**London N. Breed**  
Mayor

**Kate Hartley**  
Director

To: The San Francisco Board of Supervisors  
From: The Mayor's Office of Housing and Community Development  
The San Francisco Planning Department  
Date: November 19, 2018  
Re: Inclusionary Fees Update, January 1, 2019

---

In August 2017, the Board passed Ordinance 158-17, modifying the City's inclusionary housing requirements. Those amendments, specifically those in Section 415.5(b)(2) of the Planning Code, directed the Controller, along with the Mayor's Office of Housing and Community Development (MOHCD) and the Inclusionary Housing Technical Advisory Committee (TAC), to develop a methodology for the calculation, indexing, and application of this fee:

*No later than January 31, 2018, the Controller, with the support of consultants as necessary, and in consultation with the Inclusionary Housing Technical Advisory Committee (TAC) established in Planning Code Section 415.10, shall conduct a study to develop an appropriate methodology for calculating, indexing, and applying the appropriate amount of the Inclusionary Affordable Housing Fee.*

In May 2018, as noted in Attachment 1, *Inclusionary Housing Fee Methodology*, the Controller's Office completed this effort and conveyed its recommendations to the Board of Supervisors. Its primary recommendations were to:

1. Calculate the fee based on MOHCD's funding gap, calculated from the actual documented costs of producing affordable housing over the three years prior to any annual update.
2. Index the fee on an annual basis by utilizing an annual, rolling update of its 3-year construction cost survey, in place of any pre-existing inflation indicator.
3. Apply the fee on a per-gross square foot (GSF) basis, to simplify administration, as well as to apply the fee more equitably for projects with varying unit sizes.

The Ordinance further directed MOHCD to implement the results of the Controller's recommendations, by updating the fee accordingly on an annual basis, and furthermore updating the methodology and technical report every three years:

# Exhibit C

*For all housing developments, no later than January 1 of each year, MOHCD shall adjust the fee based on the cost of constructing affordable housing, including development and land acquisition costs.*

*The Department and MOHCD shall update the fee methodology and technical report every three years, with analysis from the Technical Advisory Committee, in order to ensure that the affordability gap remains current, consistent with the requirements set forth below in Section 415.5(b)(3) and Section 415.10.*

This memorandum summarizes how MOHCD proposes to implement those recommendations.

## Calculation of the Fee

Calculating the fee according to the direction of the Board of Supervisors, and the recommendations of the Controller's Office and the TAC requires adhering to the following basic formula:

$$\frac{\text{Actual Funding Gap per unit}}{\text{Average Size of New Unit In San Francisco}} = \text{In Lieu Fee per GSF} \times \frac{\text{Percent Required Under Planning Code Section 415}}{100} = \text{Fee required per Gross Square Foot of Development}$$

### ***Actual Funding Gap Per Unit***

As noted in the Controller's memo, MOHCD previously determined that the actual documented cost of producing an affordable housing unit between January 2015 and December 2017 was, on average, \$235,000 per unit. MOHCD has updated their survey of costs to cover the most recent 3-year period for which data is available, which is the Third Quarter of 2015 through Third Quarter of 2018 (Q3 2015 – Q3 2018), and has determined that the current, actual documented costs of producing an affordable housing unit over that period is \$239,000 per unit.

### ***Average Size of New Unit In San Francisco***

Also as noted in the Controller's memorandum, applying the fee on a per-gross square foot (GSF) basis requires dividing MOHCD's per-unit cost by an estimated average size of units in new projects to which the fee will be applied. To determine this, the Planning Department reviewed recently approved residential projects that have elected to pay the Affordable Housing Fee as their method of compliance with the Inclusionary program. For each project, the residential gross floor area was divided by the total project units to estimate the average gross square feet per unit. This method was deemed appropriate for this analysis because it captures the actual residential gross square feet of fee projects, as calculated in the same manner that will be used by Planning when assessing the fee for future projects.

# Exhibit C

Using this methodology, Planning reviewed 26 residential projects that were entitled between Q3 2015 and Q3 2018 that elected to pay the Affordable Housing Fee. Of these, seven were small projects below 25 units, seven were large rental projects, and 12 were large ownership projects. The average gross residential square feet per unit across all projects was 1,198 gross square feet. Note that this measurement includes all space in a building associated with residential uses, including amenity and lobby space, except for parking, so it is expected to be considerably larger than the net unit sizes that are frequently referred to in the development process.

## ***Affordable Housing Fee for 2019***

This method yields an Affordable Housing Fee (or “in-lieu” fee) for the 2019 calendar year of:

$$\frac{\$239,000}{1,198} = \$199.50$$

(Actual Funding Gap) (Average residential GSF per unit) (In Lieu Fee per GSF)

When applied to a project, the Affordable Housing Fee would then be multiplied by the applicable inclusionary percentage in Section 415, based on whether the project is less than 25 units (20%); or for projects that are 25 units or greater, based on its tenure as a rental (30%) or ownership (33%) project.

For example, a large (25 or more units) condominium project with 100,000 residential gross square feet would pay an Affordable Housing Fee of \$6,583,500 (100,000 gsf x 33% x \$199.50).

## ***Sample Analysis of Fee Revenue***

To evaluate the effect of this new fee on MOHCD revenue into the Affordable Housing Fund, as compared with the prior fee methodology in place before Proposition C, and as compared with a per unit fee, Planning finally applied the fee rate to a set of 45 projects entitled since 2014 (including the 26 from Q3 2015 to Q3 2018 that were used to determine the fee) for which data was available. These projects were used simply as test cases and this analysis is *not* a projection of fee revenue, and does not consider the particular requirements of any specific project.

This analysis found that overall, the new methodology described here would result in 27 percent higher fee payments than under the previous methodology (20% x unit type x per unit fee). The analysis also found that total fee payments would be roughly equal whether the MOHCD Actual Funding Gap were applied on a per unit or per square foot basis. The difference is that projects proposing units that are larger than the average unit size would pay more when the fee is applied per gross square foot, rather than on a per unit basis. This ensures that the fee paid is proportional to the actual project size, rather than rewarding projects with very large units with a relatively lower fee, as under the current method.

# Exhibit C

## Implementation and Indexing

### *Implementation*

The above fee will be included in the San Francisco Citywide Development Impact Fee Register that will be effective as of January 1, 2019. The Planning Code requires that the updated Fee Register be published 30 days in advance, or December 1, 2018.

As with all other impact fees, the amount of the Affordable Housing Fee will be assessed at the time of a project's entitlement, and due when the project's First Construction Document (generally, the first building permit for vertical construction) is issued. The fee amount for entitled projects will be updated annually on January 1 until the First Construction Document is issued.

### *Indexing*

As indicated in the Controller's memorandum, the fee will be updated annually by re-calculating the Actual Funding Gap, and the average unit size of fee projects, using data from projects recorded in the most recent 3-year period. The updated fee amount will be effective on January 1 of the following year. MOHCD and Planning will include data available as of the end of the third quarter of each calendar year. For example, to set the 2020 fee, projects from Q3 2016 – Q3 2019 will be included in the analysis. This "rolling" look-back will allow for the fee to keep up with MOHCD's actual cost to subsidize new affordable housing and trends in unit sizes of entitled projects, but without resulting in sharp swings in the fee amount from year to year that could result from using data from only a single year or point in time. The fee methodology, manner of indexing, and inclusionary percentage rates would be subject to review by the Controller and Technical Advisory Committee every three years, as per Planning Code Section 415.10.



## **NEW DEVELOPMENT IMPACT FEES EFFECTIVE JANUARY 1, 2019**

Annually adjusted **development impact fee** rates will take effect at the San Francisco Planning Department on **January 1, 2019**. Project applicants are advised to visit the Department of Building Inspection's website at <http://sfdbi.org/index.aspx?page=617> to become familiar with the new rates. Fees affected include most development impact fees in Planning Code, Article 4. For questions about the new fees, please contact:

Corey Teaque at [Corey.Teaque@sfgov.org](mailto:Corey.Teaque@sfgov.org) or (415) 575-9081, or  
Judy Lam at [Judy.M.Lam@sfgov.org](mailto:Judy.M.Lam@sfgov.org) or (415) 575-8736

**The new fee schedule applies to Development Impact Fees collected on or after  
January 1, 2019.**

# Exhibit E

Visit our [new website SF.gov](#)

Mayor's Office of Housing and Community  
Development

## Inclusionary Housing Program Fee Schedule 2019

Effective January 1, 2019, residential development projects that comply with the Inclusionary Affordable Housing Program by paying the Affordable Housing Fee will be subject to the following fee based on the Gross Floor Area of residential use, rather than the number of dwelling units. The fee will be applied to the applicable percentage of the project, as set forth in Section 415.5 of the Planning Code and indicated below.

The impact fee register in place at the time of payment shall be applied. However, a project for which a Site Permit has been issued prior to January 1, 2019 shall remain subject to the fee method and amount set forth in the impact fee register in place as of December 31, 2018. Additionally, projects with an Environmental Evaluation Application that was accepted prior to January 1, 2013 pursuant to Planning Code Section 415.3(b) shall also remain subject to the fee method and amount set forth in the impact fee register in place as of December 31, 2018.

### 2019 Fee Schedule

**Affordable Housing Fee:** \$199.50 per square foot of Gross Floor Area of residential use, applied to the applicable percentage of the project:

- **Small Projects** (fewer than 25 dwelling units): 20% of the project's Gross Floor Area of residential use
- **Large Projects** (25 or more units), **Rental**: 30% of the project's Gross Floor Area of residential use
- **Large Projects** (25 or more units), **Ownership**: 33% of the project's Gross Floor Area of residential use

Project Sponsors should work with their assigned Planner to determine their fee due and to receive a fee determination. Any overarching questions regarding the fee application should be directed to the Planning Department, Carly Grob at [carly.grob@sfgov.org](mailto:carly.grob@sfgov.org) or Jacob Bintliff at [jacob.bintliff@sfgov.org](mailto:jacob.bintliff@sfgov.org).

### Background

# Exhibit E

The Inclusionary Affordable Housing Program (Section 415 of the Planning Code) requires that all residential projects of 10 or more dwelling units pay the Affordable Housing Fee (the “Fee”), or elect an alternative method of compliance, including providing affordable units On-site, Off-site, or via the Land Dedication or Small Sites option in certain cases.

In previous years, the Fee was applied on a per unit basis, varied by dwelling unit type. As of January 1, 2019, the Fee is applied on a Gross Floor Area basis. This change is pursuant to amendments to Section 415.5 that were adopted by the Board of Supervisors in July, 2017 (Board File No. 161351). Specifically, the Code requires that the Fee reflect MOHCD’s actual cost to subsidize the construction of affordable housing units over the past three years, and directed the Controller to develop a new methodology for calculating, indexing, and applying the Fee, in consultation with the Inclusionary Housing Technical Advisory Committee (TAC). In May, 2018 the Controller and TAC determined that the Fee should be applied on a per gross square foot basis to ensure that MOHCD’s cost to construct the required amount of off-site affordable housing is appropriately and equitably captured from all projects, regardless of the size and number of units distributed within the project. The Controller directed MOHCD, in consultation with the Planning Department, to convert MOHCD’s per unit cost to a per-square-foot fee, based on the average residential Gross Floor Area of projects that have paid the Fee in the past three years. The Fee amount indicated above has been calculated accordingly.

Please see [San Francisco Planning Department’s Inclusionary Housing Program Overview](#) for more.

## Annual Updates to the Fee

Pursuant to Section 415.5 and the specific direction of the Controller and TAC, MOHCD shall update the amount of the Affordable Housing Fee each year on January 1, using the MOHCD average cost to construct an affordable unit in projects that were financed in the previous three years and the Planning Department’s average residential Gross Floor Area of projects that have elected to pay the Fee and have been entitled in the same time period. Each year this analysis will be updated to include new projects from the most recent year, and drop older projects that no longer fall into the three year period of analysis. The updated Fee amount will be included in the Citywide Impact Fee Register that is posted December 1 and effective on January 1.



## Inclusionary Affordable Housing Program



# Exhibit E

San Francisco's Inclusionary Housing Program requires new residential projects of 10 or more units to pay an Affordable Housing Fee, or meet the inclusionary requirement by providing a percentage of the units as "below market rate" (BMR) units at a price that is affordable to low or middle income households, either "on-site" within the project, or "off-site" at another location in the City.

**To apply for an affordable housing unit to rent or buy, please apply with the [Mayor's Office of Housing and Community Development](#) (MOHCD).**

About

Timeline

[2019 Fee Update](#)

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Supporting Info

Contact

Effective January 1, 2019, residential development projects that comply by paying the Affordable Housing Fee will be subject to the following fee based on the Gross Floor Area of residential use, rather than the number of dwelling units. The fee will be applied to the applicable percentage of the project, as set forth in Section 415.5 of the Planning Code:

**Affordable Housing Fee:** \$199.50 per square foot of Gross Floor Area of residential use, applied to the applicable percentage of the project:

- **Small Projects** (fewer than 25 dwelling units): 20% of the project's Gross Floor

## Exhibit E

Area of residential use

- **Large Projects** (25 or more units), **Rental:** 30% of the project's Gross Floor Area of residential use
- **Large Projects** (25 or more units), **Ownership:** 33% of the project's Gross Floor Area of residential use

**Note:** The impact fee register in place at the time of payment shall be applied. However, a project for which a Site Permit has been issued prior to January 1, 2019 shall remain subject to the fee method and amount set forth in the impact fee register in place as of December 31, 2018. Additionally, projects with an Environmental Evaluation Application that was accepted prior to January 1, 2013 pursuant to Planning Code Section 415.3(b) shall also remain subject to the fee method and amount set forth in the impact fee register in place as of December 31, 2018. [The impact fee register may be found here.](#)

This change is pursuant to amendments to Section 415.5 that were adopted by the Board of Supervisors in July, 2017 (Board File No. 161351). Specifically, the Code requires that the Fee reflect MOHCD's actual cost to subsidize the construction of affordable housing units over the past three years, and directed the Controller to develop a new methodology for calculating, indexing, and applying the Fee, in consultation with the Inclusionary Housing Technical Advisory Committee (TAC). In May, 2018 the Controller and TAC determined that the Fee should be applied on a per gross square foot basis to ensure that MOHCD's cost to construct the required amount of off-site affordable housing is appropriately and equitably captured from all projects, regardless of the size and number of units distributed within the project. The Controller directed MOHCD, in consultation with the Planning Department, to convert MOHCD's per unit cost to a per-square-foot fee, based on the average residential Gross Floor Area of projects that have paid the Fee in the past three years. The Fee amount indicated above has been calculated accordingly.

Pursuant to Section 415.5 and the specific direction of the Controller and TAC, MOHCD shall update the amount of the Affordable Housing Fee each year on January 1, using the MOHCD average cost to construct an affordable unit in projects that were financed in the

## Exhibit E

previous three years and the Planning Department's average residential Gross Floor Area of projects that have elected to pay the Fee and have been entitled in the same time period. Each year this analysis will be updated to include new projects from the most recent year, and drop older projects that no longer fall into the three year period of analysis. The updated Fee amount will be included in the Citywide Impact Fee Register that is posted December 1 and effective on January 1.



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# 2019 Affordable Housing Fee Update

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Effective January 1, 2019, residential development projects that comply by paying the Affordable Housing Fee will be subject to the following fee based on the Gross Floor Area of residential use, rather than the number of dwelling units. The fee will be applied to the applicable percentage of the project, as set forth in [Section 415.5](#) of the Planning Code:

## Exhibit E

**Affordable Housing Fee:** \$199.50 per square foot of Gross Floor Area of residential use, applied to the applicable percentage of the project:

- **Small Projects** (fewer than 25 dwelling units): 20% of the project's Gross Floor Area of residential use
- **Large Projects** (25 or more units), **Rental:** 30% of the project's Gross Floor Area of residential use
- **Large Projects** (25 or more units), **Ownership:** 33% of the project's Gross Floor Area of residential use

**Note:** The impact fee register in place at the time of payment shall be applied. However, a project for which a Site Permit has been issued prior to January 1, 2019 shall remain subject to the fee method and amount set forth in the impact fee register in place as of December 31, 2018.

Additionally, projects with an Environmental Evaluation Application that was accepted prior to January 1, 2013 pursuant to Planning Code Section 415.3(b) shall also remain subject to the fee method and amount set forth in the impact fee register in place as of December 31, 2018. The impact fee register may be found here: <https://sfplanning.org/impact-fees>.

For more information on the impact fee register, please visit the Inclusionary Housing Program webpage here: <https://sfplanning.org/inclusionary-affordable-housing-program>.

## UPCOMING EVENTS

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# Exhibit E



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HISTORIC  
PRESERVATION  
COMMISSION

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*Hearing*

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PLANNING  
COMMISSION  
HEARING

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*Holiday (Closed)*

CLOSED - SF  
PLANNING AND  
PUBLIC

## INFORMATION CENTER

All day

## Media Contact

**Gina Simi**

*Communications Manager*

[gina.simi@sfgov.org](mailto:gina.simi@sfgov.org)

[Newsroom](#)

## Our Mission

Under the direction of the [Planning Commission](#), shapes the future of San Francisco and the region by: generating an extraordinary vision for the [General Plan](#) and in neighborhood plans; fostering exemplary design through planning controls; improving our surroundings through environmental analysis; preserving our unique heritage; encouraging a broad range of housing and a diverse job base; and enforcing the [Planning Code](#).

- [Organizational Chart](#)
- [Location and Hours](#)



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# Exhibit E

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# Exhibit F



**San Francisco  
Planning**

1650 MISSION STREET, SUITE 400  
SAN FRANCISCO, CA 94103  
SFPLANNING.ORG / 415.575.9010

## 2019 Inclusionary Affordable Housing Fee Update

December 5, 2018

Ed Duffy  
768 Harrison, LLC  
414 Pine Hill Road  
San Francisco, CA 94010

Re: 768 Harrison  
Planning Department File No. 2013.1872

### AFFORDABLE HOUSING FEE UPDATE

Effective January 1, 2019, the amount of the Affordable Housing Fee (Fee) will be updated for most residential developments that have elected to comply with the Inclusionary Affordable Housing Program by paying the Fee. **The Fee will no longer be applied based on the number of dwelling units and will instead be calculated based on the Gross Floor Area of residential use in the project.** The percentage required by Code will not change, that is the Fee will continue to be applied only to the applicable percentage of the project, as set forth in Section 415.5 of the Planning Code, as follows.

**Affordable Housing Fee:** \$199.50 per square foot of Gross Floor Area of residential use, as applicable:

- **Small Projects** (fewer than 25 dwelling units): 20% of the project's Gross Floor Area of residential use
- **Large Projects** (25 or more units), **Rental:** 30% of the project's Gross Floor Area of residential use
- **Large Projects** (25 or more units), **Ownership:** 33% of the project's Gross Floor Area of residential use

This change is pursuant to amendments to Section 415.5 that were adopted by the Board of Supervisors in July 2017 (Board File No. 161351) and required that the Fee reflect the City's actual cost to subsidize the construction of affordable housing units over the past three years, and directed the Controller to develop a new methodology for calculating, indexing, and applying the Fee. In May 2018 the Controller, in consultation with the Inclusionary Housing Technical Advisory Committee (TAC), determined that the Fee should be applied on a per-square-foot basis to ensure that the City's cost to construct the required amount of off-site affordable housing is appropriately and equitably captured from all projects, regardless of the size and number of units distributed within the project. In general, this means that **projects with relatively small unit sizes will owe a lower Fee and projects with relatively large unit sizes will owe a higher Fee.** The Controller directed the Mayor's Office of Housing and Community Development (MOHCD), in consultation with the Planning Department, to convert MOHCD's average per unit cost to a per-square-foot fee, based on the average residential Gross Floor Area of projects that have paid the Fee in the past three years. The average subsidy cost per unit was \$239,000 and the average GFA of residential use was 1,198 gross square feet, yielding the Fee amount above (Note: the GFA calculation includes all areas of the building associated with residential use, exclusive of parking areas). For more, please visit: <https://sf-planning.org/inclusionary-affordable-housing-program>.

# Exhibit F

## APPLICATION OF THE NEW FEE METHOD TO PIPELINE PROJECTS

Generally, the fee amounts stated in the Citywide Impact Fee Register in place at the time a project's First Construction Document is issued are applied. For the purposes of the Affordable Housing Fee, there are two exceptions. First, a project for which a Site Permit has been issued prior to January 1, 2019 shall remain subject to the fee method and amount set forth in the Register in place as of December 31, 2018. Second, projects with an Environmental Evaluation Application that was accepted prior to January 1, 2013, pursuant to Planning Code Section 415.3(b), shall also remain subject to the fee method and amount set forth in the Register in place as of December 31, 2018. The Citywide Impact Fee Register is available here: <https://sf-planning.org/impact-fees>

## ANNUAL INDEXING OF THE FEE

Pursuant to Section 415.5 and the direction of the Controller and TAC, MOHCD shall update the amount of the Affordable Housing Fee each year on January 1, using the MOHCD average cost to construct an affordable unit in projects that were financed in the previous three years and the Planning Department's average residential Gross Floor Area of projects that have elected to pay the Fee and have been entitled in the same time period. Each year this analysis will be updated to include new projects from the most recent year and drop older projects that no longer fall into the three-year period. The updated Fee amount will be included in the Citywide Impact Fee Register that is posted December 1 and effective on January 1 each year.

## REQUIRED ACTION

You are receiving this courtesy notice because our records indicate that your project has filed for a Site Permit, but has not yet paid the Affordable Housing Fee, meaning the project may be subject to the new Fee method. **No action on your part is required at this time**, though you are encouraged to review the financial implications of the new Fee method for your project before finalizing payment for a Site Permit, as this may affect the Fee amount payable for your project in some cases.

For more information, or for assistance in estimating how this new Fee would apply to your project, you may contact Jacob Bintliff at (415) 575-9170 or [jacob.bintliff@sfgov.org](mailto:jacob.bintliff@sfgov.org), or Kate Conner at (415) 575-6914 or [kate.conner@sfgov.org](mailto:kate.conner@sfgov.org).

Sincerely,



John Rahaim  
Planning Director

cc:

Rich Sucre, Principal Planner

# Exhibit G

## SAN FRANCISCO CITYWIDE DEVELOPMENT IMPACT FEE REGISTER

(Updated as of December 1, 2018, rates effective as of January 1, 2019)

### Introduction

An impact fee is a fee that is imposed by a local government on a new or proposed development project to pay for all or a portion of the costs of providing public services to the new development. Impact fees are considered to be a charge on new development to help fund and pay for the construction or needed expansion of offsite capital improvements. These fees are usually implemented to help reduce the economic burden on local jurisdictions that are trying to deal with population growth within the area. The following Planning Department's Development Impact Fee website provides additional information:

[Planning Department Impact Fee Website](#)

To see which citywide impact fees may apply to a property, access the Property Information Map, Zoning tab for more information:

[Property Information Map](#)

### Terms & Definitions

Key	Description
C-3	Downtown
EN	Eastern Neighborhoods
FAR	Floor Area Ratio
GSF	Gross Square feet
NCT	Neighborhood Commercial Transit District
NSF	Net Square Feet
RH	Rincon Hill
RTO	Residential Transit Oriented District
SOMA	South of Market
UMU	Urban Mixed Use District

### Contact Information

Types of Development Impact Fees (DIF)	Questions Regarding...	Contact Person	Agency	Phone Number	Email Address
Citywide Development Impact Fees - Collection & Deferral Information	Collection, Fee Reports & Deferral	John Blackshear or Sarah Luu	Building Inspection	415-575-6801 / 415-558-6324	<a href="mailto:John.Blackshear@sfgov.org">John.Blackshear@sfgov.org</a>
Jobs-Housing Linkage Program Fee	Use of Funds	Benjamin McCloskey	Mayor's Office of Housing and Community Development	415-701-5575	<a href="mailto:Benjamin.McCloskey@sfgov.org">Benjamin.McCloskey@sfgov.org</a>
	Assessment & Calculation	Corey Teague	Planning Department	415-575-9081	<a href="mailto:Corey.Teague@sfgov.org">Corey.Teague@sfgov.org</a>
Inclusionary Affordable Housing Program Fee	Use of Funds	Benjamin McCloskey	Mayor's Office of Housing and Community Development	415-701-5575	<a href="mailto:Benjamin.McCloskey@sfgov.org">Benjamin.McCloskey@sfgov.org</a>
	Policy, Assessment & Calculation	Kate Conner	Planning Department	415-575-6914	<a href="mailto:Kate.Conner@sfgov.org">Kate.Conner@sfgov.org</a>
Downtown Park Fund Child Care Impact Fee	Policy & Use of Funds	Leo Chyi	Department of Children Youth and Families	415-554-8959	<a href="mailto:Leo.Chyi@dcyf.org">Leo.Chyi@dcyf.org</a>
	Assessment & Calculation	Corey Teague	Planning Department	415-575-9081	<a href="mailto:Corey.Teague@sfgov.org">Corey.Teague@sfgov.org</a>
Transit Impact Development Fee	Policy & Use of Funds	Kerstin Magary	Municipal Transportation Agency	415-701-4323	<a href="mailto:Kerstin.Magary@sfmta.com">Kerstin.Magary@sfmta.com</a>
	Assessment & Calculation	Corey Teague	Planning Department	415-575-9081	<a href="mailto:Corey.Teague@sfgov.org">Corey.Teague@sfgov.org</a>
School Development Impact Fee	Policy, Use of Funds, Assessment & Calculations	Cristina Mariscal	Unified School District	415-241-6090	<a href="mailto:MariscalC@sfsud.edu">MariscalC@sfsud.edu</a>
Adopted Plan Areas DIF	Assessment & Calculation	Corey Teague	Planning Department	415-575-9081	<a href="mailto:Corey.Teague@sfgov.org">Corey.Teague@sfgov.org</a>

### Annual Fee Indexing

Most of the City's Development Impact Fees will be adjusted annually in accordance with San Francisco Planning Code Article 4, Section 409(b) based on the Annual Infrastructure Construction Cost Inflation Estimate (AICCIE) published by Office of the City Administrator's Capital Planning Group and approved by the Capital Planning Committee. The new fee schedule will be posted on December 1st each year and effective on January 1st. To obtain a list of the fees and their adjusted rates, go to the following Department of Building Inspection's (DBI) Development Impact Fee Unit website:

[DBI Impact Fee Unit Website](#)

Fees associated with other departments also may be adjusted annually on this same schedule, effective July 1 of each year, or adjusted at other times in accordance with applicable legislation. The adjusted fee rates apply to development impact fees paid on or after the effective date of any such fee adjustments, regardless of the date of permit filing or issuance of the preliminary fee assessment rate as shown on DBI's Citywide Development Fee Register for the particular project.

# Exhibit G

Impact Fee	City Area Subject to the Fee	Ordinance Reference	Use	Fees	Residential & Non-Residential Threshold	Exempted Building Permit Types	Controlling Entity	Fee Unit (NSF, GSF, Unit, Etc.)	Choices	Effective Date
Alternative Means of Satisfying the Open Space Requirement in SOMA Mixed-Use Districts	<b>SOMA Mixed-Use Districts:</b> RSD, SLI, SLR, and SSO	<a href="#">Planning Code Section 425</a>	Non-residential	\$1.20 per square foot of required usable open space required, <u>but not provided.</u>	<b>Residential:</b> N/A; <b>Non-Residential:</b> Zoning Administrator discretion that open space cannot be provided on-site	4,5,6,7,8	Planning Department	Square Foot of Open Space	Optional Program	April 6, 1990
Alternative Means of Satisfying the Open Space Requirement in the Eastern Neighborhoods Mixed Use Districts	<b>Eastern Neighborhoods Mixed Use Districts:</b> RED, RED-MX, SPD, MUG, MUR, MUO, WMUO, SALI, and UMU	<a href="#">Planning Code Section 426</a>	Non-residential	\$113.99 per square foot of required usable open space required, <u>but not provided.</u>	<b>Residential:</b> N/A; <b>Non-Residential:</b> Any non-residential project with required open space	4,5,6,7,8	Planning Department	Square Feet of Open Space	Optional Program	December 19, 2008
Balboa Park Community Infrastructure Impact Fee	<b>Balboa Park</b>	<a href="#">Planning Code Section 422</a>	Residential + Non-Residential	\$12.00/sf for Residential, \$2.25/sf for Non-Residential.  Credit may be given for existing use on site. See Change of Use & Replacement table for reference.	<b>Residential:</b> At least one net new residential unit or additional space in an existing unit of more than 800 gross square feet; <b>Non-Residential:</b> Any new construction, or additional space in an existing building of more than 800 gross square feet	4,5,6,7,8	Planning Department	Gross Square Foot	Impact fee or in-kind improvement	April 17, 2009
Bicycle Parking (Class 2) In-Lieu Fee	<b>Citywide</b>	<a href="#">Planning Code Section 430</a>	Residential + Non-Residential	\$519.06 per Class 2 bicycle parking space	<b>Residential:</b> Varies; <b>Non-Residential:</b> Varies	4,5,6,7,8	Planning Department	Class 2 Bicycle Parking Space	In-lieu fee per Zoning Administrator approval	September 6, 2013
Child Care Fee - Office/Hotel	<b>Citywide</b>	<a href="#">Planning Code Section 414</a>	Office/Hotel	\$1.85 per square foot	<b>Non-Residential:</b> Office and hotel development projects proposing the net addition of 25,000 or more gross square feet of office or hotel space.	4,5,6,7,8	Planning Department and Department of Children Youth and Their Families	Gross Square Foot	On-site or off-site daycare	September 6, 1985
Child Care Fee - Residential	<b>Citywide</b>	<a href="#">Planning Code Section 414A</a>	Residential and Residential Care	<b>1-9 Units:</b> \$1.08 per square foot <b>10 Units and Above:</b> \$2.15 per square foot  Credit given for existing use on site and for child care portion of area plan impact fees. See Child Care-Residential Change/Replacement of Use and Plan Area Fee Credits Table.	<b>Residential:</b> At least one net new residential unit or additional space in an existing unit of more than 800 gross square feet, or additional group housing or residential care space.	4,5,6,7,8	Planning Department and Department of Children Youth and Their Families	Gross Square Foot	On-site or off-site daycare	February 18, 2016
Downtown C-3 Artwork (Optional)	<b>Downtown:</b> C-3 Districts	<a href="#">Planning Code Section 429</a>	New building construction or addition of floor area > or = 25,000 sf within C-3 Districts	1% of construction cost	<b>Residential &amp; Non-Residential:</b> New building construction or addition of floor area in C-3 > or = 25,000 s.f.	4,5,6,7,8	Planning Department and Recreation and Parks Department	N/A	Fee payment	September 17, 1985  (Amendmed as optional starting January 1, 2013)
Downtown Payment in Case of Variance for Open Space	<b>Downtown:</b> C-3-O(SD) Downtown Office Special Development	<a href="#">Planning Code Section 427</a>	Any use requiring open space pursuant to Section 135 or 138.	\$1,989 per gross sq. foot	<b>Residential:</b> Zoning Administrator discretion, through approval of a Variance (Section 305) that residential usable open space requirement cannot be met on-site.; <b>Non-Residential:</b> Zoning Administrator discretion, through a Variance (Section 305), that privately-owned public open space requirement cannot be met on-site.	4,5,6,7,8	Planning Department and Recreation and Parks Department	Gross Square Foot	Impact fee	August 8, 2012
Downtown Park Fee	<b>Downtown</b>	<a href="#">Planning Code Section 412</a>  <a href="#">Planning Code Section 249.28</a>	Office within C-3 Districts	\$3.00 per gross sq.foot	<b>Residential:</b> N/A; <b>Non-Residential:</b> Net addition of gross floor area	4,5,6,7,8	Planning Department and Recreation and Parks Department	Gross Square Foot	Impact fee	September 17, 1985
Eastern Neighborhoods Area Plans Alternative Inclusionary Affordable Housing Fee	<b>Eastern Neighborhoods</b>	<a href="#">Planning Code Section 417</a>	Residential	\$60.00 per gross sq foot	<b>Residential:</b> 20 units or less or less than 25,000 gsf; <b>Non-Residential:</b> N/A	4,5,6,7,8	Planning Department and Mayor's Office of Housing and Community Development	Gross Square Foot	Optional Program	January 19, 2009

# Exhibit G

Impact Fee	City Area Subject to the Fee	Ordinance Reference	Use	Fees	Residential & Non-Residential Threshold	Exempted Building Permit Types	Controlling Entity	Fee Unit (NSF, GSF, Unit, Etc.)	Choices	Effective Date
Eastern Neighborhoods Infrastructure Impact Fee (Mission, Central Waterfront, East SOMA, Western SoMa, Showplace)	Eastern Neighborhoods	<a href="#">Planning Code Section 423</a>	Residential + Non-Residential Uses	* Tier 1: \$12.00/square foot for Residential, * \$9.00/square foot for Non-Residential; * Tier 2: \$18.00/square foot for Residential, * \$15.00/s.f. for Non-Residential; * Tier 3: \$24.00/square foot for Residential, * \$21.00/square foot for Non-Residential. Credit may be given for existing use on site. See Change of Use & Replacement table for reference.	<b>Residential:</b> At least one net new residential unit or additional space in an existing unit of more than 800 gross square feet, or additional group housing space; <b>Non-Residential:</b> Any new construction, or additional space in an existing building of more than 800 gross square feet	4,5,6,7,8	Planning Department	Gross Square Foot	Impact fee or in-kind improvement	December 19, 2008
Eastern Neighborhoods Payment in Case of Variance or Exception for Open Space	Eastern Neighborhoods <b>Mixed Use Districts:</b> RED, RED-MX, SPD, MUG, MUR, MUO, and UMU	<a href="#">Planning Code Section 427</a>	Residential	\$490.43 per square feet of required <b>usable</b> open space not provided	<b>Residential:</b> Per a usable open space Variance (under Sec. 305) or Exemption (under Sec. 329); <b>Non-Residential:</b> N/A	4,5,6,7,8	Planning Department	Square Feet of Open Space	Optional Program	December 19, 2008
Jobs-Housing Linkage Program Fee	Citywide	<a href="#">Planning Code Section 413</a>	Entertainment, Hotel, Integrated PDR, Office, Research & Development, Retail, and Small Enterprise Workspace	* Entertainment: \$26.66/gsf * Hotel: \$21.39/gsf * Integrated PDR: \$22.46/gsf * Office: \$28.57/gsf * Research and Development: \$19.04/gsf * Retail: \$26.66/gsf * Small Enterprise Workspace: \$22.46/gsf. Credit may be given for existing use on site. See Change of Use & Replacement table for reference.	<b>Residential:</b> N/A; <b>Non-Residential:</b> Increase by 25,000 g.s.f. or more of any combination of entertainment, hotel, Integrated PDR, office, research and development, retail, and/or Small Enterprise Workspace	4,5,6,7,8	Planning Department and Mayor's Office of Housing and Community Development	Gross Square Foot	Funding off-site affordable housing or in-lieu fee. Certain Port properties may be eligible for Pre-payment credits under Section 61.12 of the Administrative Code.	March 28, 1996
Inclusionary Affordable Housing Program	Citywide	<a href="#">Planning Code Section 415</a> <a href="#">Planning Code Section 419</a>	Residential Dwelling Units > or = 10	\$199.50 per square foot of Gross Floor Area (as defined in Section 401) of Residential use, applied to the applicable percentage of the project: *Small Project (<25 units): 20% *Large Project, Rental: 30% *Large Project, Ownership: 33%  Projects with an Environmental Evaluation Application that was accepted prior to January 1, 2013 shall remain subject to the calculation method and rates set forth in the Citywide Development Impact Fee Register in effect as of December 31, 2018.	<b>Residential:</b> Any housing project that consists of ten or more units where an individual project or a phased project is to be undertaken, even if the development is on separate but adjacent lots; <b>Non-Residential:</b> N/A	4,5,6,7,8	Planning Department and Mayor's Office of Housing and Community Development	N/A	Affordable housing fee, on-site or off-site affordable units	April 5, 2002
Market & Octavia Community Infrastructure Impact Fee	Market/Octavia	<a href="#">Planning Code Section 421</a>	Residential + Non-Residential	* \$13.49/s.f. for Residential, * \$5.10/s.f. for Non-Residential (Table 421.3A). * Credit may be given for existing use on site. See Change of Use & Replacement table for reference.	<b>Residential:</b> At least one net new residential unit or additional space in an existing unit of more than 800 gross square feet, or additional group housing space; <b>Non-Residential:</b> Any new construction, or additional space in an existing building of more than 800 gross square feet	4,5,6,7,8	Planning Department	Gross Square Foot	Impact fee or in-kind improvement	April 3, 2008
Market & Octavia Affordable Housing Fee	Market/Octavia	<a href="#">Planning Code Section 416</a>	Residential	\$5.40/sf for NCT and \$10.79/ sf for Van Ness and Market SUD. Credit may be given for existing use on site. See Change of Use & Replacement table for reference.	<b>Residential:</b> Projects subject to the Residential Inclusionary Housing Program (Planning Code Section 415); <b>Non-Residential:</b> N/A	4,5,6,7,8	Planning Department	Gross Square Foot	Fee only	May 30, 2008
Public Art Fee (Optional)	<b>Downtown:</b> RH + SB + TB <b>South of Market:</b> SLI + SLR + SSO <b>Commercial:</b> C-3 + Part of C-2 <b>Eastern Neighborhoods:</b> UMU, WMUG, WMUO, + SALI, and MUG, MOU or MUR that are north of Division/Duboce/13th Streets	<a href="#">Planning Code Section 429</a>	Non Residential New building construction or addition of floor area > or = 25,000 sf	1% of construction cost	<b>Residential:</b> N/A; <b>Non-Residential:</b> New building construction or addition of floor area > or = 25,000 s.f. in the followings: (1) all parcels RH, TB, SB, SLI, SLR, SSO, C-M, UMU, WMUG, WMUO and SALI Districts; (2) properties that are zoned MUG, MOU, or MUR and that are north of Division/Duboce/13th Streets; (3) all parcels zoned C-2 except for those on Blocks 4991 (Executive Park) and 7295 (Stonestown Galleria Mall).	4,5,6,7,8	Planning Department and Recreation and Parks Department	N/A	Fee payment	January 1, 2013

# Exhibit G

Impact Fee	City Area Subject to the Fee	Ordinance Reference	Use	Fees	Residential & Non-Residential Threshold	Exempted Building Permit Types	Controlling Entity	Fee Unit (NSF, GSF, Unit, Etc.)	Choices	Effective Date
Rincon Hill Community Infrastructure Impact Fee	Rincon Hill	<a href="#">Planning Code Section 418</a>	Residential	\$12.90 per gross square foot (Table 418.3A). Credit may be given for existing use on site. See Change of Use & Replacement table for reference.	<b>Residential:</b> At least one net new residential unit or additional space in an existing unit of more than 800 gross square feet; <b>Non-Residential:</b> N/A	4,5,6,7,8	Planning Department	Gross Square Foot	Impact fee or in-kind improvement	August 19, 2005
School Impact Fee	Citywide	<a href="#">State Ed. Code Section 17620</a>	Residential / Hotel / Office / Senior Housing / Research & Development / Retail / Hospital / Industrial Warehouse Manufacturing	School Fee (effective 07/23/2018) Residential per square foot = \$3.790 / Hotel or Motel per square foot = \$0.314 / Office per square foot = \$0.610 / Senior Housing per square foot = \$0.314 / Research & Development per sf = \$0.610 / Retail per square foot = \$0.596 / Hospital per square foot = \$0.610 / Industrial, Warehouse, Manufacturing per square foot = \$0.610 / Self-Storage per square foot = \$0.012	<b>Residential:</b> Increased habitable floor area ; <b>Non-Residential:</b> Increased floor area	4,5,6,7,8	SFUSD	N/A	In-lieu fee	
South of Market Area (SOMA) Community Stabilization Fee	Rincon Hill	<a href="#">Planning Code Section 418.3(d)</a>	Residential	\$16.42 per gross square foot.	<b>Residential:</b> Each net addition of gross square feet of residential use; <b>Non-Residential:</b> N/A	4,5,6,7,8	Planning Department and Mayor's Office of Economic Development	Gross Square Foot	Impact fee or in-kind improvement	August 19, 2005
Street Trees, In-Lieu Fee	Citywide	<a href="#">Public Works Code Article 16 Section 802(h)</a>	All	From July 1, 2018 through June 30, 2019 - \$2,031 per required tree that cannot be planted.	<b>Residential:</b> N/A; <b>Non-Residential:</b> N/A	4,5,6,7,8	Planning Department and Department of Public Works	N/A	If tree planting is required but not approvable by DPW, the in-lieu fee is required.	September 17, 1985
Transit Center Open Space Fee	Transit Center -- C-3-O (SD)	<a href="#">Planning Code Section 424.6</a>	All	* <b>Residential:</b> \$3.38 base fee * <b>Office:</b> \$4.07 base fee, PLUS \$9.49 for any gsf that exceeds Floor Area Ratio (FAR) of 9:1 * <b>Retail:</b> \$6.78 base fee, PLUS \$6.10 for any gsf that exceeds FAR of 9:1 * <b>Hotel:</b> \$5.42 base fee * <b>Institutional/Cultural/Medical:</b> \$6.78 base fee, PLUS \$5.83 for any gsf that exceeds FAR of 9:1 * <b>Industrial:</b> \$3.38 base fee	<b>Residential:</b> (1) At least one net new residential unit; or (2) Addition of more than 800 gross square feet to an existing residential unit, or (3) At least one new group housing facility or residential care facility, or (4) Addition of more than 800 gross square feet to an existing group housing or residential care facility, or (5) Conversion of existing space to a different use where the project's total fee would exceed the total fee for the uses being replaced.; <b>Non-Residential:</b> (1) New construction, or (2) Addition of more than 800 gross square feet, or (3) Conversion of existing space to a different use where the project's total fee would exceed the total fee for the uses being replaced.	4,5,6,7,8	Planning Department	Gross Square Foot	Impact fee or in-kind improvement	September 7, 2012
Transit Center Transportation and Street Improvement Fee	Transit Center -- C-3-O (SD)	<a href="#">Planning Code Section 424.7</a>	All	<b>Includes only columns B, C and D of table 424.7A:</b> * <b>Residential:</b> \$5.34 base fee, PLUS \$8.14 for gsf that exceeds FAR of 9:1, PLUS \$4.07 for gsf that exceeds FAR of 18:1. * <b>Office:</b> \$5.16 base fee, PLUS \$26.44 for gsf that exceeds FAR of 9:1, PLUS \$13.56 for gsf that exceeds FAR of 18:1. * <b>Retail:</b> \$2.78 base fee, PLUS \$26.44 for gsf that exceeds FAR of 9:1, PLUS \$13.56 for gsf that exceeds FAR of 18:1. * <b>Hotel:</b> \$5.29 base fee, PLUS \$10.85 for gsf that exceeds FAR of 9:1, PLUS \$4.07 for gsf that exceeds FAR of 18:1. * <b>Institutional/Cultural/ Medical:</b> \$5.02 base fee, PLUS \$26.44 for gsf that exceeds FAR of 9:1, PLUS \$13.56 for gsf that exceeds FAR of 18:1. * <b>Industrial:</b> \$5.42 base fee	<b>Residential:</b> (1) At least one net new residential unit; or (2) Addition of more than 800 gross square feet to an existing residential unit, or (3) At least one new group housing facility or residential care facility, or (4) Addition of more than 800 gross square feet to an existing group housing or residential care facility, or (5) Conversion of existing space to a different use where the project's total fee would exceed the total fee for the uses being replaced.; <b>Non-Residential:</b> (1) New construction, or (2) Addition of more than 800 gross square feet, or (3) Conversion of existing space to a different use where the project's total fee would exceed the total fee for the uses being replaced.	4,5,6,7,8	Planning Department	Gross Square Foot	Impact fee or in-kind improvement	September 7, 2012

# Exhibit G

Impact Fee	City Area Subject to the Fee	Ordinance Reference	Use	Fees	Residential & Non-Residential Threshold	Exempted Building Permit Types	Controlling Entity	Fee Unit (NSF, GSF, Unit, Etc.)	Choices	Effective Date
Transit Center Transit Delay Mitigation Fee (TDMF)	Transit Center -- C-3-O (SD)	<a href="#">Planning Code Section 424.7</a>	All	<b>Includes only column A of table 424.7A:</b> * Residential: \$0.07. * Office: \$0.27. * Retail: \$2.65. * Hotel: \$0.14. * Institutional/Cultural/ Medical: \$0.40	<b>Residential:</b> (1) At least one net new residential unit; or (2) Addition of more than 800 gross square feet to an existing residential unit, or (3) At least one new group housing facility or residential care facility, or (4) Addition of more than 800 gross square feet to an existing group housing or residential care facility, or (5) Conversion of existing space to a different use where the project's total fee would exceed the total fee for the uses being replaced.; <b>Non-Residential:</b> (1) New construction, or (2) Addition of more than 800 gross square feet, or (3) Conversion of existing space to a different use where the project's total fee would exceed the total fee for the uses being replaced.	4,5,6,7,8	Planning Department	Gross Square Foot	Impact fee or in-kind improvement	September 7, 2012
Transit Impact Development Fee (TIDF)	Citywide: TIDF will be replaced by TSF (below), except for "Grandfathered" projects	<a href="#">Planning Code Section 411</a>	Cultural/ Institutional/ Educational, Management/ Information/ Professional Services (i.e., office), Medical and Health Services, Production/ Distribution/ Repair, Retail/ Entertainment, Visitor Services	* \$18.04 for Day Care/Community Center; * \$18.04 for Post-Secondary School; * \$14.98 for Museum; * \$18.04 for Other Institutional; * \$17.14 for Management/ Information/Prof. Svcs.; * \$18.04 for Medical and Health Services; * \$9.22 for Production/ Distribution/Repair; * \$18.04 for Retail/ Entertainment; * \$17.14 for Visitor Services. Credit may be given for existing uses on site.	<b>Residential:</b> N/A; <b>Non-Residential:</b> > or = 800 s.f. of applicable use	4,5,6,7	Municipal Transportation Agency	Gross Square Foot	Fee only	June 3, 1981
Transportation Sustainability Fee (TSF)	Citywide: TSF replaces the TIDF (above), except for "Grandfathered" projects	<a href="#">Planning Code Section 411A</a>	All	For Residential: 21-99 Units: \$9.11 per gross sq. ft. >99 Units: \$10.29 per gross sq. ft. For Non-Residential: 800-99,999 gsf: \$21.23 per gross s.f. >99,999 gsf: \$24.04 per gross s.f. For Hospitals: \$22.06 per gross s.f. - based on ratio of net new beds provided For Medical Services: >12,000 gross s.f.: \$12.94 per gross s.f. For PDR: 1,500 gross s.f.: \$8.96 per gross s.f. Credit may be given for existing uses on site.	<b>Residential:</b> >20 new dwelling units; <b>Non-Residential:</b> new construction or > 800 gross s.f. addition of applicable use <b>PDR:</b> new construction or addition >1,500 gross s.f.	4,5,6,7	Controller's Office and/or Municipal Transportation Agency	Gross Square Foot	Fee only	December 25, 2015
Van Ness Avenue Special Use District Housing In-Lieu Fee	Van Ness Special Use District	<a href="#">Planning Code Section 243(c)(8)(B)(i)</a>	Residential	\$17.83 X Loss (Loss = Residential Sq. Ft. requirement minus Residential Sq. Ft. developed)	No more than a 50% reduction of the required housing for a specific project can be fulfilled by paying an in-lieu fee.	4,5,6,7,8	Planning Department and Mayor's Office of Housing and Community Development	Gross Square Foot	Optional Program	September 1, 2011
Van Ness and Market Affordable Housing Fee	Market/Octavia	<a href="#">Planning Code Section 424</a>	Residential + Non-Residential	\$44.99 per net additional gsf for FAR between 6:1 and 9:1.	<b>Residential:</b> Construction with FAR (Floor Area Ratio) between 6:1 and 9:1.; <b>Non-Residential:</b> Construction with FAR (Floor Area Ratio) above between 6:1 and 9:1.	4,5,6,7,8	Planning Department	N/A	Impact fee or in-kind improvement	May 30, 2008
Van Ness and Market Neighborhood InfraStructure Fee	Market/Octavia	<a href="#">Planning Code Section 424</a>	Residential + Non-Residential	\$22.49 per net additional gsf for FAR above 9:1	<b>Residential:</b> Construction with FAR (Floor Area Ratio) above 9:1; <b>Non-Residential:</b> Construction with FAR above 9:1	4,5,6,7,8	Planning Department	N/A	Impact Fee or In-Kind Improvement	May 30, 2008

# Exhibit G

Impact Fee	City Area Subject to the Fee	Ordinance Reference	Use	Fees	Residential & Non-Residential Threshold	Exempted Building Permit Types	Controlling Entity	Fee Unit (NSF, GSF, Unit, Etc.)	Choices	Effective Date
Visitacion Valley Community Facilities & Infrastructure Impact Fee	Visitacion Valley	<a href="#">Planning Code Section 420</a>	Residential	* \$6.87 per square foot, change of use * Credit may be given for existing use on site. See Change of Use & Replacement table for reference.	<b>Residential:</b> All residential development projects of 20 or more units that result in a new unit or an addition > or = to 800 gross s.f.; <b>Non-Residential:</b> N/A	4,5,6,7,8	Planning Department and Board of Supervisors	Net Square Foot	Impact fee or in-kind improvement	November 18, 2005
Wastewater Capacity Charge	Citywide	<a href="#">SFPUC Resolution No. 07-0100</a>	Development and Change of Use - Citywide	Meter Size (eff. 7/1/18-6/30/19) Residential (SIC4) 5/8"--\$4,780 3/4"--\$7,170 1"--\$11,951 1-1/2"--\$23,901 2"--\$38,242 3"--\$76,484 4"--\$119,506 6"--\$239,012 8"--\$382,418 10"--\$597,529 12"--\$1,027,749 16"--\$1,792,586 Non Residential (SIC2-SIC3 and SIC5-SIC11) for detail rates, please refer to page 16 and 17 of SFPUC Rates Schedules on website address: <a href="https://sfwater.org/index.aspx?page=17">https://sfwater.org/index.aspx?page=17</a> 1	<b>Residential:</b> New construction, additional sq footage, development of existing sq footage, change of use; <b>Non-Residential:</b> New construction, additional sq footage, development of existing sq footage, change of use	4,5,6,7	San Francisco Public Utilities Commission	See Fees	Fee only	July 1, 2005
Water Capacity Charge	Citywide	<a href="#">PUC Resolution No. 07-0099</a>	Development and Change of Use - Citywide	Meter Size (eff. 7/1/18-6/30/19) Residential/Non-Residential 5/8"--\$1,821 3/4"--\$2,732 1"--\$4,553 1-1/2"--\$9,105 2"--\$14,569 3"--\$29,137 4"--\$45,527 6"--\$91,055 8"--\$145,687 10"--\$227,636 12"--\$391,534 16"--\$682,909	<b>Residential:</b> New construction, additional sq footage, development of existing sq footage, change of use; <b>Non-Residential:</b> New construction, additional sq footage, development of existing sq footage, change of use	4,5,6,7	San Francisco Public Utilities Commission	See Fees	Fee only	July 1, 2007



# Exhibit G

## SAN FRANCISCO CITYWIDE DEVELOPMENT IMPACT FEE REGISTER CHANGE OF USE AND REPLACEMENT TABLES

"**Replacement of Use**" is the total amount of gross floor area, as defined in Section 102.9 of the Planning Code, to be demolished and reconstructed by a development project.

"**Change of Use**" is the change of gross floor area from one category of land use to another category of land use within an existing structure.

**Impact Fee:** Inclusionary Affordable Housing - Jobs-Housing Linkage Program Fee  
**City Area Subject to the Fee:** Inclusionary Affordable Housing: Citywide - Commercial  
**Planning Code:** [Table 413.6B](#)  
**Description:** Fee Schedule for Replacement of Use or Change of Use

Previous Use	New Use	Fee per Gross Square Foot (GSF)
PDR that received its First Certificate of Occupancy on or <b>before</b> April 1, 2010	Entertainment	\$7.03
PDR that received its First Certificate of Occupancy on or <b>before</b> April 1, 2010	Hotel	\$1.33
PDR that received its First Certificate of Occupancy on or <b>before</b> April 1, 2010	Integrated PDR	\$2.49
PDR that received its First Certificate of Occupancy on or <b>before</b> April 1, 2010	Office	\$9.12
PDR that received its First Certificate of Occupancy on or <b>before</b> April 1, 2010	Research & Development	\$0
PDR that received its First Certificate of Occupancy on or <b>before</b> April 1, 2010	Retail	\$7.03
PDR that received its First Certificate of Occupancy on or <b>before</b> April 1, 2010	Small Enterprise Workspace	\$2.49
Entertainment, Hotel, Integrated PDR, Office, Research & Development, Retail, or Small Enterprise Workspace	Entertainment, Hotel, Integrated PDR, Office, Retail, or Small Enterprise Workspace	\$0
Institutional which received its First Certificate of Occupancy <b>on or before</b> April 1, 2010	Entertainment, Hotel, Integrated PDR, Office, Research & Development, Retail, or Small Enterprise Workspace	\$0
Institutional or PDR which received its First Certificate of Occupancy <b>on or before</b> April 1, 2010	Institutional, PDR, Research & Development, Residential	\$0
Institutional or PDR that received its First Certificate of Occupancy <b>after</b> April 1, 2010	Any	Full Rate for New Use Applies
Residential	Entertainment, Hotel, Integrated PDR, Office, PDR, Research & Development, Retail, or Small Enterprise Workspace	Full Rate for New Use Applies

**Impact Fee:** Balboa Park Community Infrastructure Impact Fee  
**City Area Subject to the Fee:** Balboa Park - Residential + Non-Residential  
**Planning Code:** [Table 422.3B](#)  
**Description:** Fee Schedule for Replacement of Use or Change of Use in the Balboa Park Program Area

Residential to Residential or Non-residential; or Non-residential to Non-residential	Non-Residential to Residential (GSF)	PDR to Residential (GSF)	PDR to Non-Residential (GSF)
\$0	\$9.75	\$10.87	\$1.12

**Impact Fee:** Eastern Neighborhoods Infrastructure Impact Fee (Mission District, Central Waterfront, SOMA, Showplace)

# Exhibit G

**City Area Subject to the Fee:** Eastern Neighborhoods - Residential + Non-Residential  
**Planning Code:** [Table 423.3B](#)  
**Description:** Fee Schedule for Replacement of Use or Change of Use in the EasternNeighborhoods Program Area

Tier (per Sec. 423.3(a))	Residential to Residential or Non-residential; or Non-residential to Non-residential (GSF)	Non-Residential to Residential (GSF)	PDR to Residential (GSF)	PDR to Non-residential (GSF)
1	\$0	\$3.00	\$7.50	\$4.49
2	\$0	\$3.00	\$13.49	\$10.50
3	\$0	\$3.00	\$19.49	\$16.50

"Replacement of Use" is the total amount of gross floor area, as defined in Section 102.9 of the Planning Code, to be demolished and reconstructed by a development project. "Change of Use" is the change of gross floor area from one category of land use to another category of land use within an existing structure. Changes of use are subject to Tier 1 rates only, regardless of the Tier classification of the subject property.

**Impact Fee:** Market & Octavia Community Infrastructure Impact Fee  
**City Area Subject to the Fee:** Market/Octavia - Residential + Commercial  
**Planning Code:** [Table 421.3B](#)  
**Description:** Fee Schedule for Replacement of Use or Change of Use in the Market and Octavia Program Area

Residential to Residential or Non-residential; or Non-residential to Non-residential (GSF)	Non-Residential to Residential (GSF)	PDR to Residential (GSF)	PDR to Non-Residential (GSF)
\$0	\$8.40	\$10.95	\$2.54

**Impact Fee:** Market & Octavia Inclusionary Affordable Housing Fee  
**City Area Subject to the Fee:** Market/Octavia - Residential (Not RTO)  
**Planning Code:** [Table 416.3A](#)  
**Description:** Inclusionary Affordable Housing Fee Schedule in the Market and Octavia Program Area

	Van Ness and Market Special Use District (GSF)	NCT (GSF)	RTO (GSF)
Net addition of residential use or change of use to residential use	\$10.79	\$5.40	\$0
Replacement of, or change of use from, non-residential to residential use	\$5.69	\$0.30	\$0
Replacement of, or change of use from, PDR to residential use	\$8.25	\$2.85	\$0

**Impact Fee:** Rincon Hill Community Infrastructure Impact Fee  
**City Area Subject to the Fee:** Rincon Hill - Residential  
**Planning Code:** [Table 418.3B](#)  
**Description:** Rincon Hill Community Infrastructure Impact Fee Schedule for Replacement of Use or Change of Use in the Rincon Hill Program Area

Residential to Residential or Non-residential; Non-residential to Non-residential; or PDR to Non-Residential (GSF)	Non-Residential to Residential (GSF)	PDR to Residential (GSF)
\$0	\$7.50	\$10.20

**Impact Fee:** Visitacion Valley Community Facilities & Infrastructure Impact Fee  
**City Area Subject to the Fee:** Visitacion Valley - Residential  
**Planning Code:** [420.3B](#)  
**Description:** n/a

Residential to Residential or Non-residential; Non-residential to Non-residential; or PDR to Non-Residential (GSF)	Non-Residential to Residential (GSF)	PDR to Residential (GSF)
\$0	\$5.40	\$3.48

# Exhibit G

## SAN FRANCISCO CITYWIDE DEVELOPMENT IMPACT FEE REGISTER CHILD CARE-RESIDENTIAL CHANGE/REPLACEMENT OF USE AND PLAN AREA FEE CREDITS TABLE

Plan Area Impact Fees	Plan Area Rate per GSF	Portion of Plan Area Fee to Child Care	Amount of Plan Area Fee per GSF to Child Care	Full Child Care-Residential Rate per GSF (10+ DUs)	Effective Child Care Rate per GSF (10+ DUs) with Plan Area Credit	Full Child Care-Residential Rate per GSF (1-9 DUs)	Effective Child Care Rate per GSF (1-9 DUs) with Plan Area Credit
<b>Rincon Hill (Sec. 418)</b>							
New Residential	\$12.90	0%	\$0.00	\$2.15	<b>\$2.15</b>	\$1.08	<b>\$1.08</b>
<b>Changes and Replacement of Use</b>							
Non-Residential to Residential	\$7.50	0%	\$0.00	\$0.31	<b>\$0.31</b>	\$0.16	<b>\$0.16</b>
PDR to Residential	\$10.20	0%	\$0.00	\$0.31	<b>\$0.31</b>	\$0.16	<b>\$0.16</b>
<b>Visitacion Valley (Sec. 420)</b>							
New Residential	\$6.87	20%	\$1.37	\$2.15	<b>\$0.78</b>	\$1.08	<b>\$0.00</b>
<b>Changes and Replacement of Use</b>							
Non-Residential to Residential	\$5.40	20%	\$1.08	\$0.31	<b>\$0.00</b>	\$0.16	<b>\$0.00</b>
PDR to Residential	\$3.48	20%	\$0.70	\$0.31	<b>\$0.00</b>	\$0.16	<b>\$0.00</b>
<b>Market and Octavia (Sec. 421)</b>							
New Residential	\$13.49	8%	\$1.08	\$2.15	<b>\$1.07</b>	\$1.08	<b>\$0.00</b>
<b>Changes and Replacement of Use</b>							
Non-Residential to Residential	\$8.40	8%	\$0.67	\$0.31	<b>\$0.00</b>	\$0.16	<b>\$0.00</b>
PDR to Residential	\$10.95	8%	\$0.88	\$0.31	<b>\$0.00</b>	\$0.16	<b>\$0.00</b>
<b>Balboa Park (Sec. 422)</b>							
New Residential	\$12.00	15%	\$1.80	\$2.15	<b>\$0.35</b>	\$1.08	<b>\$0.00</b>
<b>Change and Replacemnt of Use</b>							
Non-Residential to Residential	\$9.75	15%	\$1.46	\$0.31	<b>\$0.00</b>	\$0.16	<b>\$0.00</b>
PDR to Residential	\$10.87	15%	\$1.63	\$0.31	<b>\$0.00</b>	\$0.16	<b>\$0.00</b>
<b>Eastern Neighborhoods (Sec. 423)</b>							
New Residential - Tier 1	\$12.00	6.5%	\$0.78	\$2.15	<b>\$1.37</b>	\$1.08	<b>\$0.30</b>
New Residential - Tier 2	\$17.99	6.5%	\$1.17	\$2.15	<b>\$0.98</b>	\$1.08	<b>\$0.00</b>
New Residential - Tier 3	\$24.00	6.5%	\$1.56	\$2.15	<b>\$0.59</b>	\$1.08	<b>\$0.00</b>
EN Designated Affordable Housing Zones (Mission NCT and MUR Use Districts within the boundaries of either the East SoMa or Western SoMa Area Plans)	N/A	0%	\$0.00	\$2.15	<b>\$2.15</b>	\$1.08	<b>\$1.08</b>
<b>Changes and Replacement of Use</b>							
Non-Residential to Residential - Tier 1	\$3.00	6.5%	\$0.20	\$0.31	<b>\$0.12</b>	\$0.16	<b>\$0.00</b>
Non-Residential to Residential - Tier 2	\$3.00	6.5%	\$0.20	\$0.31	<b>\$0.12</b>	\$0.16	<b>\$0.00</b>
Non-Residential to Residential - Tier 3	\$3.00	6.5%	\$0.20	\$0.31	<b>\$0.12</b>	\$0.16	<b>\$0.00</b>
PDR to Residential - Tier 1	\$7.50	6.5%	\$0.49	\$0.31	<b>\$0.00</b>	\$0.16	<b>\$0.00</b>
PDR to Residential - Tier 2	\$13.49	6.5%	\$0.88	\$0.31	<b>\$0.00</b>	\$0.16	<b>\$0.00</b>
PDR to Residential - Tier 3	\$19.49	6.5%	\$1.27	\$0.31	<b>\$0.00</b>	\$0.16	<b>\$0.00</b>
<b>Van Ness &amp; Market Affordable Housing and Infrastructure (Sec. 424)</b>							
New Residential (6:1 FAR to 9:1 FAR)	\$44.99	0%	\$0.00	\$2.15	<b>\$2.15</b>	\$1.08	<b>\$1.08</b>
New Residential (Above 9:1 FAR)	\$22.49	8%	\$1.80	\$2.15	<b>\$0.35</b>	\$1.08	<b>\$0.00</b>
<b>Changes and Replacement of Use</b>							
Non-Residential to Residential	N/A	N/A	N/A	\$0.31	<b>\$0.31</b>	\$0.16	<b>\$0.16</b>
PDR to Residential	N/A	N/A	N/A	\$0.31	<b>\$0.31</b>	\$0.16	<b>\$0.16</b>

# PUBLIC COMMENT

FILE

AD 6/12/19

**Mejia, Xiomara (BOA)**

**From:** Julien DeFrance <julien.defrance@gmail.com>  
**Sent:** Friday, May 24, 2019 3:46 PM  
**To:** BoardofAppeals (PAB)  
**Subject:** Letter of support for Appeal No. 19-032 @ 1145 Polk Street

**BOARD OF APPEALS**

**MAY 24 2019**

**APPEAL # 19-032**

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Sir or Madam,

I gladly support any demolishing of older, unsafe, unused, unsanitary buildings in this area.

I therefore also support any new residential or commercial building.

Make sure it is fancy, high-end, qualitative, so we can over time attract a different kind of demographic over here.

More than time we get this neighborhood through the process of gentrification.

Touching on this last/particular point of gentrification, are there any plans to shut down the shelters?  
The concentration of homeless people, and all the subjacent (safety, cleanliness, sanitary) issues that result of it, is an issue and something that slows down economic/residential development of this area.  
The city's gotta do something. We deserve safer/cleaner streets, also.

**Julien DEFRANCE**  
1238 Sutter St Apt 703  
San Francisco, CA 94109 (USA)

+1 (415) 480-9562  
Julien.DeFrance@Gmail.com