

June 28, 2010

FILE NO. 100724

ORDINANCE NO. 213-10

[Update to Environmental Review Fees to Increase Fees for Cost Recovery, Establish a New Fee for Mitigation and Conditions of Approval Monitoring, and Make Other Clarifying Changes]

Ordinance amending the San Francisco Administrative Code by amending Sections 31.22, 31.23 and ~~31.24~~ 31.23.1 to increase all fees 2.61 percent which is the cost of living adjustment, and an additional 2.04 percent for cost recovery, further increase Categorical Exemption Class 32, Negative Declaration and EIR addendum fees for cost recovery, change the timing of EIR payments, add a new fee for mitigation and condition of approval monitoring, and for the MTA and PUC for Categorical Exemption Certificates, clarify phase collection payments and refund policy, and establish a processing fee for phased payments.

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

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

Section 1. Findings. (a) The Planning Department is able to recover the cost of long range planning through its building permit review, CEQA (California Environmental Quality Act, California Public Resources Code Sections 21000 et seq.) review, and land use entitlement fees.

(b) The current fee structure is set to recover a portion of long range planning cost through said fees, but the cost of long range planning, which includes historic preservation survey and designation work, in increasing beyond the annual cost of living adjustment.

(c) It is in the public interest for the private project sponsor to reimburse the City for the benefit he or she derives as a consequence of public supported planning.

Mayor Newsom  
BOARD OF SUPERVISORS

1 (d) Environmental Finding. The Planning Department has determined that the  
2 proposed fee adjustments are statutorily excluded from CEQA under the CEQA Guidelines  
3 Section 15273(a), which exempts rates, tolls, fares and charges such as those proposed here.  
4 Said determination is on file with the Clerk of the Board of Supervisors in File No.  
5 100724 and is incorporated herein by reference.

6 Section 2. The San Francisco Administrative Code is hereby amended by amending  
7 Sections 31.22 and 31.23 and adding 31.24, to read as follows:

8 SEC. 31.22 BASIC FEES.

9 (a) The Planning Department shall charge the following basic fees to applicants for  
10 projects located outside of recently adopted Plan Areas (adopted after July 1, 2005) that do  
11 not require one or more of the following, which will be initiated through the adoption of an Area  
12 Plan: Code amendments for the height or bulk district and General Plan amendments, as  
13 specified in Section 31.21 above:

14 (1) For an initial study of a project excluding use of special expertise or technical  
15 assistance, as described in Section 31.23 below, the initial fee shall be:

16 Where the total estimated construction cost as defined by the San Francisco  
17 Building Code is between \$0 and \$9,999: ~~\$1,003~~ 1,070;

18 Where said total estimated construction cost is \$10,000 or more, but less than  
19 \$200,000: ~~\$4,1633,903~~ PLUS ~~1.9342~~ 1.024% of the cost over \$10,000;

20 Where said total estimated construction cost is \$200,000 or more, but less than  
21 \$1,000,000: ~~\$8,0847,579~~ PLUS ~~1.4621~~ 1.530 % of the cost over \$200,000;

22 Where said total estimated construction cost is \$1,000,000 or more, but less  
23 than \$10,000,000: ~~\$20,56149,275~~ PLUS ~~1.2271~~ 1.284% of the cost over \$1,000,000;

24 Where said total estimated construction cost is \$10,000,000 or more, but less  
25 than \$30,000,000: ~~\$138,356429,705~~ PLUS ~~0.3780~~ 0.396% of the cost over \$10,000,000;

1           Where said total estimated construction cost is \$30,000,000 or more, but less  
2 than \$50,000,000: \$ 218,998,205,305 PLUS 0.1420.149% of the cost over \$30,000,000;

3           Where said total estimated construction cost is \$50,000,000 or more, but less  
4 than \$100,000,000: \$ 249,293,233,705 PLUS 0.0340.036% of the cost over \$50,000,000;

5           Where said total estimated construction cost is \$100,000,000 or more:  
6 \$ 267,426,250,705 PLUS 0.0150.016% of the cost over \$100,000,000.

7           An applicant proposing major revisions to a project application that has been inactive  
8 for more than six months and is assigned shall submit a new application. An applicant  
9 proposing significant revisions to a project which has not been assigned and for which an  
10 application is on file with the Planning Department shall be charged time and materials to  
11 cover the full costs in excess of the initial fee paid.

12           (2) For preparation of an environmental impact report excluding use of special  
13 expertise or technical assistance, as described in Section 31.23 below, the initial fee shall be:

14           Where the total estimated construction cost as defined in the San Francisco  
15 Building Code is between \$0 to \$199,999: \$ 23,763,222,277;

16           Where said total estimated construction cost is \$200,000 or more, but less than  
17 \$1,000,000: \$ 23,763,222,277 PLUS 0.5580.584% of the cost over \$200,000;

18           Where said total estimated construction cost is \$1,000,000 or more, but less  
19 than \$10,000,000: \$ 28,655,26,864 PLUS 0.3780.396% of the cost over \$1,000,000;

20           Where said total estimated construction cost is \$10,000,000 or more, but less  
21 than \$30,000,000: \$ 64,945,60,884 PLUS 0.1620.155% of the cost over \$10,000,000;

22           Where said total estimated construction cost is \$30,000,000 or more, but less  
23 than \$50,000,000: \$ 98,012,94,884 PLUS 0.0440.042% of the cost over \$30,000,000;

24           Where said total construction cost is \$50,000,000 or more, but less than  
25 \$100,000,000: \$ 107,025,400,333 PLUS 0.0440.042% of the cost over \$50,000,000;

1           Where said total estimated construction cost is \$100,000,000 or more:  
2     \$129,747,421,634 PLUS 0.0160-0.015% of the cost over \$100,000,000.

3           An applicant proposing major revisions to a project application that has been inactive  
4     for more than six months and is assigned shall submit a new application. An applicant  
5     proposing significant revisions to a project which has not been assigned and for which an  
6     application is on file with the Planning Department shall be charged time and materials to  
7     cover the full costs in excess of the initial fee paid.

8           (3) For an appeal to the Planning Commission: The fee shall be \$500.00 to the  
9     appellant; provided, however, that the fee shall be waived if the appeal is filed by a  
10    neighborhood organization that: (a) has been in existence for 24 months prior to the appeal  
11    filing date, (b) is on the Planning Department's neighborhood organization notification list, and  
12    (c) can demonstrate to the Planning Director or his/her designee that the organization is  
13    affected by the proposed project. An exemption from paying this appeal fee may be granted  
14    when the requestor's income is not enough to pay for the fee without affecting their abilities to  
15    pay for the necessities of life, provided that the person seeking the exemption demonstrates  
16    to the Planning Director or his/her designee that they are substantially affected by the  
17    proposed project.

18          (4) For an appeal to the Board of Supervisors of environmental determinations,  
19    including the certification of an EIR, a negative declaration, or determination of a categorical  
20    exemption, the fee shall be \$500.00 to the appellant; provided, however, that the fee shall be  
21    waived if the appeal is filed by a neighborhood organization that: (a) has been in existence for  
22    24 months prior to the appeal filing date, (b) is on the Planning Department's neighborhood  
23    organization notification list, and (c) can demonstrate to the Planning Director or his/her  
24    designee that the organization is affected by the proposed project. Fees shall be used to  
25    defray the cost of appeal for the Planning Department. Such fee shall be refunded to the

1 appellant in the event the Planning Department rescinds its determination or the Board of  
2 Supervisors remands or rejects the environmental impact report, negative declaration, or  
3 determination of a categorical exemption to the Planning Commission for revisions based on  
4 issues related to the adequacy and accuracy of the environmental determination. An  
5 exemption from paying this appeal fee may be granted when the requestor's income is not  
6 enough to pay for the fee without affecting their ability to pay for the necessities of life,  
7 provided that the person seeking the exemption demonstrates to the Clerk of the Board of  
8 Supervisors or his/her designee that they are substantially affected by the proposed project.

9 (5) For preparation of an addendum to an environmental impact report that has  
10 previously been certified, pursuant to Section 15164 of the State CEQA Guidelines: or  
11 reevaluation of a modified project for which a negative declaration has been prepared: \$22,281 ~~9,~~  
12 ~~5388,941~~ plus time and materials as set forth in Subsection (b)(2).

13 (6) For preparation of a supplement to a draft or certified final environmental impact  
14 report: One-half of the fee that would be required for a full environmental impact report on the  
15 same project, as set forth in Paragraph (2) above, plus time and materials as set forth in  
16 Subsection (b)(2).

17 ~~(7) For reevaluation of a modified project for which a negative declaration has been~~  
18 ~~prepared: \$8,941 plus time and materials as set forth in Subsection (b)(2).~~

19 (7)(a) For preparation of a Certificate of Exemption from Environmental Review  
20 determining that a project is categorically exempt, statutorily exempt, ministerial/nonphysical,  
21 an emergency, or a planning and feasibility study: ~~\$285267~~ for applications that require only a  
22 stamp, ~~\$5,581~~5,232 as an initial fee for applications that require an Exemption Certificate, plus  
23 time and materials as set forth in Subsection (b)(2).

24 (7)(b) For preparation of a Class 32 Certificate of Exemption from Environmental Review  
25 determining that a project is categorically exempt, the initial fee shall be:

1           Where the total estimated construction cost as defined by the San Francisco Building  
2 Code is between \$0 and \$9,999: \$10,264;

3           Where said total estimated construction cost is \$10,000 or more, but less than \$200,000:  
4 \$10,264 PLUS 0.178% of the cost over \$10,000;

5           Where said total estimated construction cost is \$200,000 or more, but less than  
6 \$1,000,000: \$10,602 PLUS 0.169% of the cost over \$200,000;

7           Where said total estimated construction cost is \$1,000,000 or more, but less than  
8 \$10,000,000: \$11,954 PLUS 0.052% of the cost over \$1,000,000;

9           Where said total estimated construction cost is \$10,000,000 or more: \$16,634 PLUS  
10 0.378% of the cost over \$10,000,000.

11           (8) For preparation of an exemption that requires review of historical resource  
12 issues only, the following fees apply. For a determination of whether a property is an  
13 historical resource under CEQA, the fee is \$2,3392,193. For a determination of whether a  
14 project would result in a substantial adverse change in the significance of an historical  
15 resource, the fee is \$3,2433,040.

16           (9) For preparation of a letter of exemption from environmental review: \$285267,  
17 plus time and materials as set forth in Subsection (b)(2).

18           (10) For review of a categorical exemption prepared by another City Agency, such as the  
19 Municipal Transportation Agency or the Public Utilities Commission: \$240, plus time and materials as  
20 set forth in Subsection (b)(2).

21           (11) For reactivating an application that the Environmental Review Officer has deemed  
22 withdrawn due to inactivity and the passage of time, subject to the approval of the  
23 Environmental Review Officer and within six months of the date the application was deemed  
24 withdrawn: \$232248 plus time and materials to cover any additional staff costs.

1           (12) Monitoring Conditions of Approval and Mitigation Monitoring: Upon adoption of  
2           conditions of approval and/or mitigation measures which the Environmental Review Officer determines  
3           require active monitoring, the fee shall be \$1,130, as an initial fee, plus time and materials as set forth  
4           in Section 31.22(b)2.

5           (b)     Payment.

6           (1)     The fee specified in Subsection (a)(1) shall be paid to the Planning Department  
7           at the time of the filing of the environmental evaluation application, and where an  
8           environmental impact report is determined to be required, the fee specified in Subsection  
9           (a)(2) shall be paid at the time ~~the preliminary draft environmental impact report 1 (PDEIR 1)~~  
10          the Notice of Preparation is prepared, except as specified below. However, the Director of  
11          Planning or his/her designee may authorize phased collection of the fee for a project whose  
12          work is projected to span more than one fiscal year. A nonrefundable processing fee of \$52 is  
13          required to set-up any installment payment plan for all application fees. The balance of phased  
14          payments must be paid in full one week in advance of the first scheduled public hearing before the  
15          Planning Commission in consider the project or before any Environmental Impact Report is published.

16          (2)     The Planning Department shall charge the applicant for any time and material  
17          costs incurred in excess of the initial fee charged if required to recover the Department's costs  
18          for providing services. Provided, however, that where a different limitation on time and  
19          materials is set forth elsewhere in this section, then that limitation shall prevail.

20          (3)     The Controller will annually adjust the fee amounts specified in Section  
21          31.22(a)(1), (2), (5), (7), (8), (9), (10) , and (11), Section 31.22 (c), Section 31.23(d) and  
22          Section 31.23.1(a) and (b) by the two-year average consumer price index (CPI) change for  
23          the San Francisco/San Jose Primary Metropolitan Statistical Area (PMSA).

24          (4)     Any fraternal, charitable, benevolent or any other nonprofit organization, that is  
25          exempt from taxation under the Internal Revenue laws of the United States and the Revenue

1 and Taxation Code of the State of California as a bona fide fraternal, charitable, benevolent or  
2 other nonprofit organization, or public entity that submits an application for the development of  
3 residential units or dwellings all of which are affordable to low and moderate income  
4 households, as defined by the United State Housing and Urban Development Department, for  
5 a time period that is consistent with the policy of the Mayor's Office of Housing and the San  
6 Francisco Redevelopment Agency may defer payment of the fees specified herein, with the  
7 exception of the fees payable pursuant to Section 31.22(a)(3) and (4) and Section  
8 31.22(a)(11) herein, until the time of issuance of the building permit, before the building permit  
9 is released to the applicant; or (2) within one year of the date of completion of the  
10 environmental review document, whichever is sooner. This exemption shall apply  
11 notwithstanding the inclusion in the development of other nonprofit ancillary or accessory  
12 uses.

13 (5) An exemption from paying the full fees set forth in Section 31.22(a) (3) and (4)  
14 herein may be granted when the requestor's income is not enough to pay the fee without  
15 affecting his or her ability to pay for the necessities of life, provided that the person seeking  
16 the exemption demonstrates to the Director of Planning or his/her designee that he or she is  
17 substantially affected by the proposed project.

18 (6) Exceptions to the payment provisions noted above may be made when the  
19 Director of Planning or his/her designee has authorized phased collection of the fee for a  
20 project whose work is projected to span more than one fiscal year. A nonrefundable processing  
21 fee of \$52 is required to set-up any installment payment plan for all application fees. The balance of  
22 phased payments must be paid in full one week in advance of the first scheduled public hearing before  
23 the Planning Commission to consider the project or before any Environmental Impact Report is  
24 published.

1 (c) Refunds. When a request for an initial evaluation or for preparation of an  
2 environmental impact report is (1) either withdrawn by the applicant prior to publication of an  
3 environmental document or (2) deemed canceled by the Planning Department due to inactivity  
4 on the part of the applicant, then the applicant shall be entitled to a refund of the fees paid to  
5 the Department less the time and materials expended minus a ~~\$427400~~ processing fee.

6 Refund requests must be submitted within six months of the project closure date.

7 (d) Late Charges and Collection of Overdue Accounts. The Director or his/her  
8 designee shall call upon the Bureau of Delinquent Revenues or duly licensed collection  
9 agencies for assistance in collecting delinquent accounts more than 60 days in arrears, in  
10 which case any additional costs of collection may be added to the fee amount outstanding. If  
11 the Department seeks the assistance of a duly licensed collection agency, the approval  
12 procedures of Administrative Code Article 5, Section 10.39-1 et seq. will be applicable.

13 (e) These amendments to fees related to the Planning Department are intended to  
14 provide revenues for the staffing and other support necessary to provide more timely  
15 processing of applications within that Department.

16 SEC. 31.23 OTHER FEES.

17 (a) Where an initial evaluation or preparation of an environmental impact report and  
18 related environmental studies require the use of special expertise or technical assistance not  
19 provided by the board, commission, department or other person who is to carry out the  
20 project, such expertise or assistance shall be paid for by such board, commission, department  
21 or other person. This payment shall be made either to the Planning Department or, if the  
22 Planning Department so requests, directly to the party that will provide such expertise or  
23 technical assistance.

1 (b) Where outside consultants are used for such purposes, and the project is to be  
2 directly carried out by a person other than a board, commission or department of the City,  
3 such consultants shall report their findings directly to the Planning Department.

4 (c) Where employees of the City are used for such purposes, the costs of such  
5 employees shall be paid to the board, commission or department providing such employees.

6 (d) In addition to any filing fees required by statute, the County Clerk shall collect a  
7 documentary handling fee in the amount of ~~\$3230~~ for each filing made pursuant to California  
8 Fish and Game Code Section 711.4, Subdivision (d).

9 **SEC. 31.23.1 Community Plan Fees.**

10 (a) The Planning Department shall charge the following Community Plan Fees for  
11 environmental applications filed in adopted Plan Areas effective after July 1, 2005:

12 (1) For Class 1 and 3 Exemptions: same as basic fees outlined in Section  
13 31.22(a)(8) and (10).

14 (2) For determination of the appropriate environmental document: ~~\$12,462,411,683~~  
15 and any fee pursuant to Section 31.23.1(c) below. In addition, the applicant shall pay the  
16 following fees as appropriate:

17 (i) If the determination is that the project qualifies for a Community exemption or  
18 exclusion, the applicant shall pay a fee of ~~\$6,8096,383~~.

19 (ii) If the determination is that the project does not qualify for a Community exemption  
20 or exclusion, the applicant shall pay fees as set forth in Section 31.23.1(b) below.

21 (b) The fees for projects determined not to qualify for a Community exemption or  
22 exclusion are as follows:

23 (1) For an initial study excluding use of special expertise or technical assistance, as  
24 described in Section 31.22 above, the initial fee shall be:  
25

1 Where the total estimated construction cost as defined by the San Francisco  
2 Building Code is between \$0 and \$9,999: \$1,3324,249;

3 Where said total estimated construction cost is \$10,000 or more, but less than  
4 \$200,000: \$5,5365,190 PLUS 2.5192.407% of the cost over \$10,000;

5 Where said total estimated construction cost is \$200,000 or more, but less than  
6 \$1,000,000: \$10,4159,764 PLUS 1.9041.819% of the cost over \$200,000;

7 Where said total estimated construction cost is \$1,000,000 or more, but less  
8 than \$10,000,000: \$25,94124,319 PLUS 1.5974.526% of the cost over \$1,000,000;

9 Where said total estimated construction cost is \$10,000,000 or more, but less  
10 than \$30,000,000: \$172,491461,706 PLUS 0.4920.470% of the cost over \$10,000,000;

11 Where said total estimated construction cost is \$30,000,000 or more, but less  
12 than \$50,000,000: \$272,846255,785 PLUS 0.1850.177% of the cost over \$30,000,000;

13 Where said total estimated construction cost is \$50,000,000 or more, but less  
14 than \$100,000,000: \$310,647291,223 PLUS 0.0440.042% of the cost over \$50,000,000;

15 Where said total estimated construction cost is \$100,000,000 or more:  
16 \$333,148312,317 PLUS 0.0190.018% of the cost over \$100,000,000.

17 An applicant proposing major revisions to a project application that has been inactive  
18 for more than six months and is assigned shall submit a new application. An applicant  
19 proposing significant revisions to a project which has not been assigned and for which an  
20 application is on file with the Planning Department shall be charged time and materials to  
21 cover the full costs in excess of the initial fee paid.

22 (2) For preparation of an environmental impact report excluding use of special  
23 expertise or technical assistance, as described in Section 31.23 above, the initial fee shall be:

24 Where the total estimated construction cost as defined in the San Francisco  
25 Building Code is between \$0 to \$199,999: \$29,57327,724;

1           Where said total estimated construction cost is \$200,000 or more, but less than  
2 \$1,000,000: \$29,573,277,724 PLUS 0.7260-694% of the cost over \$200,000;

3           Where said total estimated construction cost is \$1,000,000 or more, but less  
4 than \$10,000,000: \$35,663,333,433 PLUS 0.4920-470% of the cost over \$1,000,000;

5           Where said total estimated construction cost is \$10,000,000 or more, but less  
6 than \$30,000,000: \$80,822,757,769 PLUS 0.2020-193% of the cost over \$10,000,000;

7           Where said total estimated construction cost is \$30,000,000 or more, but less  
8 than \$50,000,000: \$121,999,444,374 PLUS 0.0550-053% of the cost over \$30,000,000;

9           Where said total construction cost is \$50,000,000 or more, but less than  
10 \$100,000,000: \$133,306,124,974 PLUS 0.0550-053% of the cost over \$50,000,000;

11           Where said total estimated construction cost is \$100,000,000 or more:  
12 \$161,573,151,474 PLUS 0.0190-018% of the cost over \$100,000,000.

13           An applicant proposing major revisions to a project application that has been inactive  
14 for more than six months and is assigned shall submit a new application. An applicant  
15 proposing significant revisions to a project which has not been assigned and for which an  
16 application is on file with the Planning Department shall be charged time and materials to  
17 cover the full costs in excess of the initial fee paid.

18           (3) For the preparation of a focused Environmental Impact Report: one-half the fee  
19 that would be required for a full environmental impact report, as set forth in Paragraph (b)(2)  
20 above, plus time and materials.

21           (4) The fees above listed in Section 31.24(b) will sunset 20 years after the effective  
22 date of Plan Adoption.

23           (c) The Planning Department shall recover the cost of preparing and defending  
24 programmatic EIRs, including consultant and City Attorney costs, from project sponsors that  
25

1 file or have filed projects in recently adopted Plan Areas (after July 1, 2005) and filed projects  
2 within 10 years of the Programmatic EIR certification.

3 The fee shall be a proportional share of the cost of the Programmatic EIR, which is  
4 equal to the Department's average time and material costs to prepare and defend a  
5 Programmatic EIR divided by the buildable envelope times the square footage of the  
6 proposed project.

7 (d) Except as provided below for projects in the Transit Center District area, if at the  
8 time of Community Plan adoption, a project application undergoing review required  
9 amendments for height or bulk districts or General Plan amendments and now complies with  
10 the Community Plan Zoning, the applicant may choose to pay either the fees specified in  
11 Section 31.22 or Section 31.23.1. For projects that paid fees under Section 31.22 and opt to  
12 pay fees under Section 31.23.1, the applicant shall withdraw the application filed under  
13 Section 31.22 and file a new application. Applicants that file a new application and pay the  
14 Section 31.23.1 fees shall be entitled to a refund under Section 31.22(c).

15 (i) Transit Center District Plan. Projects in the Transit Center District area that  
16 require amendments for height or bulk district or General Plan amendments at the time of  
17 project application shall pay the fees specified in Administrative Code Section 31.23.1(b) and  
18 31.23.1(c). For projects that paid fees under Section 31.22, the applicant shall pay the  
19 difference between Section 31.22 fees and Section 31.23.1(b) and 31.23.1(c) fees.

20  
21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA, City Attorney

23  
24 By:

  
Audrey Pearson  
Deputy City Attorney

25  
Mayor Newsom  
BOARD OF SUPERVISORS



City and County of San Francisco  
Tails  
Ordinance

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

File Number: 100724

Date Passed: July 27, 2010

Ordinance amending the San Francisco Administrative Code, Chapter 31, Articles IV and V, by amending Sections 31.22, 31.23, and 31.24, to increase all fees 2.61% which is the cost of living adjustment, and an additional 2.04% for cost recovery, further increase Categorical Exemption Class 32, Negative Declaration and Environmental Impact Report addendum fees for cost recovery, change the timing of Environmental Impact Report payments, add a new fee for mitigation and condition of approval monitoring, and for the Municipal Transportation Agency and Public Utilities Commission for Categorical Exemption Certificates, clarify phase collection payments and refund policy, and establish a processing fee for phased payments.

July 20, 2010 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

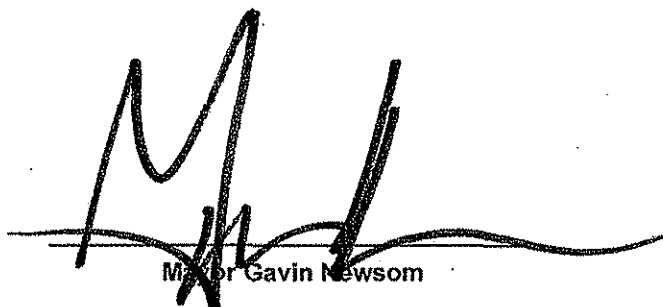
July 27, 2010 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

File No. 100724

I hereby certify that the foregoing  
Ordinance was FINALLY PASSED on  
7/27/2010 by the Board of Supervisors of the  
City and County of San Francisco.

  
Angela Calvillo  
Clerk of the Board

  
Mayor Gavin Newsom

08/04/10  
Date Approved