

June 23, 2016

Supervisor Jane Kim  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room #244  
San Francisco, CA 94102-4689

Director Olson Lee  
Chandra Egan  
Mayor's Office of Housing and Community Development  
1 South Van Ness, 5th Fl.  
San Francisco, CA 94103

Re: 75 Howard Street Project Affordable Housing Fee Determination – Case No. 2011.1122XVCUA

Dear Supervisor Kim, Director Lee and Ms. Egan:

This firm represents RDF 75 Howard LP, the Project Sponsor of the 75 Howard Street project (the “Project”) which was approved by the San Francisco Planning Commission on September 3, 2015.<sup>1</sup> Please find enclosed the completed Affordable Housing Fee Request Form for the Project, which we are hereby submitting for review by the Mayor’s Office of Housing and Community Development (“MOHCD”).

In addition, the purpose of this letter is to describe the affordable housing impact in-lieu fee (the “Affordable Housing Fee”) applicable to the Project and to respectfully request that the City make provision to accept certain additional sums of money offered by the Project Sponsor for use in producing affordable housing. As discussed below, the Project is subject

---

<sup>1</sup> The Project was approved by the San Francisco Planning Commission on September 3, 2015 pursuant to Motions No. 19448, 19449, 19450 and 19451 which in addition the certification of the Environmental Impact Report (EIR) and adoption of CEQA findings, included a Conditional Use Authorization, a Section 309 Authorization, and a Variance Decision Letter granting two variances (collectively, the “75 Howard Project Approvals”). The statute of limitations to file any further actions challenging the 75 Howard Project Approvals has expired, and a Notice of Special Restrictions under the Planning Code for Motion No. 19450 was filed on May 11, 2016 in the San Francisco Assessor-Recorder’s office as Document Number 2016-K242910-00 (the “NSRs”), a copy of which is enclosed herein.

June 23, 2016

Page 2

to a twenty percent (20%) Affordable Housing Fee requirement under the recently enacted “trailing legislation” that became effective upon the passage of Proposition C on June 7, 2016. The “trailing legislation”, approved by the San Francisco Board of Supervisors (“BOS”) on May 3, 2016 (the “Trailing Legislation”), “grandfathered” certain categories of projects from its application. Because the Project falls under two separate categories of grandfathered projects<sup>2</sup>, the 20% in-lieu Affordable Housing Fee requirement that was applicable at the time the Project was approved and is set forth in its approval motions still applies.

As you may know, in connection with an appeal to the BOS of the EIR for the Project, the Project Sponsor submitted to the City a letter wherein it offered to pay an additional sum of monies in the amount of \$6,010,047 over and above the 20% Affordable Housing Fee applicable to the Project to be used for affordable housing (the “Offer Letter”). At the BOS hearing on the EIR appeal on November 17, 2015, the Project Sponsor explained that the purpose of the voluntary offer was to provide an amount over and above the maximum 20% in-lieu Affordable Housing Fee required by law and set forth in the Project approval motions. A copy of the Offer Letter and a transcript of the Project Sponsor’s counsel’s remarks regarding the offer at the BOS appeal hearing (collectively, the “Offer”) are enclosed.

The Project Sponsor wishes to honor this Offer and pay the additional \$6,010,047 to MOHCD for use for affordable housing. As you can see from the attached materials, the Project Sponsor proposed to pay the additional money at the same time as the Affordable Housing Fee was paid, and we therefore write to make provision for paying the \$6,010,047 at the same time that the 20% in-lieu Affordable Housing Fee is paid. We understand from conversations with the City Attorney that acceptance of the additional monies will most likely require that the BOS pass a resolution accepting the funds.

---

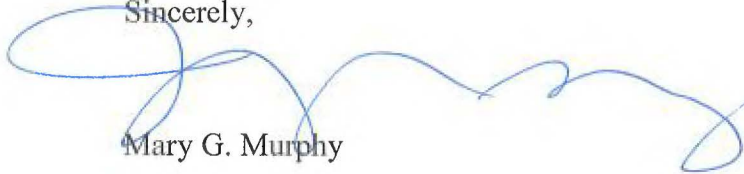
<sup>2</sup> The Trailing Legislation grandfathers any project that received its “final first discretionary development entitlement approval, which shall mean approval following any administrative appeal to the relevant City board on or before January 12, 2016”. The Project’s Conditional Use Authorization was not appealed and therefore became final on October 4, 2015. As such, the Project received its final first discretionary development entitlement approval before January 12, 2016, thereby grandfathering it under the Trailing Legislation. Further, the Trailing Legislation grandfathers projects for which a complete Environmental Evaluation Application (“EEA”) was submitted prior to January 1, 2013. The EEA for the Project was initially filed on January 13, 2012 and the City published a Notice of Preparation and Initial Study for the Project on December 12, 2012 (“NOP/IS”), thereby grandfathering the Project.

# GIBSON DUNN

June 23, 2016  
Page 3

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mary G. Murphy', with a large, stylized flourish extending to the right.

Mary G. Murphy

MGM/sg

cc:

Kate Stacy  
Office of the City Attorney  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room #234  
San Francisco, CA 94102-4689

April Veneracion Ang  
c/o Supervisor Kim  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room #244  
San Francisco, CA 94102-4689