

OFFICE OF THE MAYOR  
SAN FRANCISCO



LONDON N. BREED  
MAYOR

September 3, 2018

The Honorable Teri L. Jackson  
Presiding Judge, Superior Court of California, County of San Francisco  
400 McAllister Street, Room 008  
San Francisco, CA 94102

Dear Judge Jackson:

Pursuant to Penal Code sections 933 and 933.05, the following is in reply to the 2017-18 Civil Grand Jury report, *Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing*. We would like to thank the members of the Civil Grand Jury for their efforts to promote innovative methods to alleviate the City's housing crisis.

We strongly agree with premise of the report: that the City must build significantly more housing to meet the needs of a growing City. We agree that non-traditional types of building, like Accessory Dwelling Units (ADUs) and modular housing, have tremendous potential to add to the City's housing supply while requiring less public subsidy, less time to build, and fewer of the impacts to neighborhood character that often generate opposition to new housing. We agree that for both ADUs and modular housing, the City needs to take concrete action to facilitate the adoption of the technology through smart public policy and comprehensive community outreach.

With regards to ADUs, we acknowledge that the lengthy permitting process and strict building codes are one reason more ADUs have not been built. Through better coordination between City departments, permitting times have already fallen significantly. We will continue to strive for more improvement. The City has already taken significant action to make the planning, building, and fire codes less of an obstacle for property owners who wish to build ADUs in their building. That is why the Mayor issued an Executive Directive on Thursday, August 30th to both speed up the process of approving new ADU applications and clear the backlog of older applications. From this point forward, it should only takes four months for the City to review a completed application to construct an ADU and only six months to clear the 900 unit backlog of permits. There exists significant potential to make the building codes less restrictive and more flexible – allowing easier and more affordable construction of ADUs with no diminished safety for residents. However, elements of the building and fire code that are governed by the State code do not allow the City to make our local code less restrictive. This remains a significant challenge.

With regards to modular housing, we are supportive of the establishment of a union-staffed modular housing factory in the City limits. This will ensure a sufficient supply of housing units to serve the City's affordable housing pipeline for formerly homeless individuals while guaranteeing quality control and code compliance. Furthermore, it will leverage the skills and capacity of our local building trades, protecting local jobs while delivering housing in a shorter time at a lower cost.

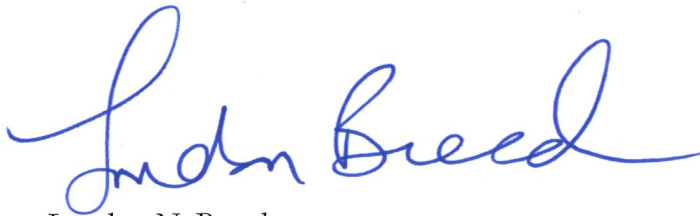
While we are not named as respondents to the report's Finding 1, we wanted to take this opportunity to respond to the Finding, which states that San Francisco "has produced more than the required market rate housing to satisfy demand, but not nearly enough below market rate housing." We agree that production of below market rate housing has not met minimum targets in the Regional Housing Needs Assessment

(RHNA) and has not met the needs of tens of thousands of low and moderate income households that are cost burdened or face other housing challenges. Regarding production of market rate housing, however, we believe that meeting minimum production targets in RHNA is not the same as meeting market demand and that there is ample evidence that demand from higher income households has exceeded production, placing greater pressures on the City's housing stock and residents with low to middle incomes. Therefore, the need to facilitate housing production highlighted in the report extends to housing for all income groups.

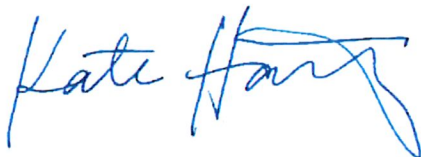
**A detailed response from the Mayor's Office, Mayor's Office of Housing and Community Development, Department of Building Inspection, Department of City Planning, Department of Homelessness and Supportive Housing, Department of Public Works, Fire Department, Office of Community Investment and Infrastructure, and Public Utilities Commission to the Civil Grand Jury's findings and recommendations are attached.**

Thank you again for the opportunity to comment on this Civil Grand Jury report.

Sincerely,



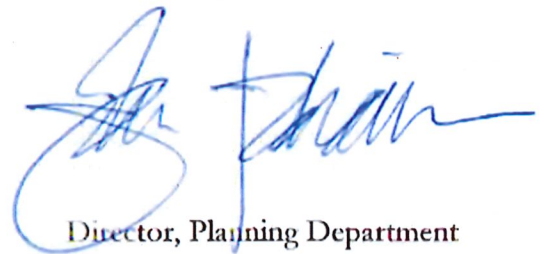
London N. Breed  
Mayor



Director, Mayor's Office of  
Housing and Community  
Development



Director, Department of  
Building Inspection



Director, Planning Department



Executive Director, Office of  
Community Investment and  
Infrastructure



Chief, Fire Department



Director, Department of  
Homelessness and Supportive  
Housing

*Harlan J Kelly Jr.*

General Manager, Public Utilities  
Commission

A handwritten signature in blue ink, appearing to be 'A. ...', written over a horizontal blue line.

Director, Public Works

RESPONSES TO 2017-2018 CIVIL GRAND JURY FINDINGS AND RECOMMENDATIONS

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Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F1	The City has produced more than the required market rate housing to satisfy market demand using traditional building practices, but not nearly enough below market rate housing. Taking better advantage of alternative construction methods can increase the City's ability to narrow the below-market housing gap.								
Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F2	Construction of ADUs can add a meaningful number of moderately priced rental housing units in San Francisco, with no significant burden on City finances. Therefore, encouraging ADU development is of value to San Francisco.	Planning Department [Response due: September 3, 2018]	Agree with the finding		R1 [F2, F8]	Recommends the Planning Department and the Department of Building Inspection jointly review their codes and submit joint recommendations to the Board of Supervisors no later than April 1, 2019 for code amendments designed to encourage homeowners to build more ADUs.	Planning Department [Response due: September 3, 2018]	Will be implemented	Over the last six months, DBI, Planning, Fire Department, PUC, Public Works-BSM and representatives from the Mayor's Office and Board of Supervisors have been meeting to review codes and develop recommendations to encourage ADU construction. Through this interagency working group, staff have developed preliminary checklists for each respective department's requirements to expedite and streamline ADU approval. Several rounds of amendments have increased flexibility for property owners to add units to their property.  Still, further analysis is warranted to analyze City codes for further recommendations. Planning and DBI will jointly review their codes and submit joint recommendations to the Board of Supervisors no later than April 1, 2019 for code amendments designed to encourage homeowners to build more ADU's.
Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F2	Construction of ADUs can add a meaningful number of moderately priced rental housing units in San Francisco, with no significant burden on City finances. Therefore, encouraging ADU development is of value to San Francisco.	Department of Building Inspection [Response due: September 3, 2018]	Agree with the finding		R1 [F2, F8]	Recommends the Planning Department and the Department of Building Inspection jointly review their codes and submit joint recommendations to the Board of Supervisors no later than April 1, 2019 for code amendments designed to encourage homeowners to build more ADUs.	Department of Building Inspection [Response due: September 3, 2018]	Will be implemented	Over the last six months, DBI, Planning, Fire Department, PUC, Public Works-BSM and representatives from the Mayor's Office and Board of Supervisors have been meeting to review codes and develop recommendations to encourage ADU construction. Through this interagency working group, staff have developed preliminary checklists for each respective department's requirements to expedite and streamline ADU approval. DBI is participating in a working group with Supervisor Tang to address improvements to the ordinance, which expands the OTC approval process to include other city agencies (PUC, Public Works-BSM, Fire Department and Planning).  Planning and DBI will jointly review their codes and submit joint recommendations to the Board of Supervisors no later than April 1, 2019 for code amendments designed to encourage homeowners to build more ADU's.

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Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F3	The City has provided a program to encourage ADU construction, and as a result, the number of ADU permit applications has been growing dramatically. Further improvements to this program will help ADU construction to continue on a successful trajectory.	Department of Building Inspection [Response due: September 3, 2018]	Agree with the finding		R6 [F3, F4]	Recommends the Department of Building Inspection work with the Department of the Controller to develop meaningful, outcome-based performance metrics on ADU permit approval duration, to be reported on OpenData starting January 2019.	Department of Building Inspection [Response due: September 3, 2018]	Will be implemented	The Department of Building Inspection will work with the Department of the Controller to develop meaningful, outcome-based performance metrics on ADU permit approval duration, to be reported on OpenData starting January 2019.
Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F4	The length of the permitting process for ADUs is a major factor in limiting the speed of bringing ADUs to market to help meet the housing shortage. Shortening the ADU permitting process both expedites and encourages ADU construction.	Planning Department [Response due: September 3, 2018]	Agree with the finding		R4 [F2, F4, F5]	Recommends the five agencies involved with ADU permitting establish a shared meeting space by January 1, 2019, and not wait for the completion of the new shared agency building. This space would be used by point persons from each of the five permitting agencies to expedite the ADU permit approval process.	Planning Department [Response due: September 3, 2018]	Has been implemented	DBI, Planning, SFFD, DPW, and PUC currently have staff members located together at a shared meeting space on the fifth floor at 1660 Mission Street to expedite the ADU permit approval process.
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Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F5	The Planning Department expects to establish a one-stop permit center in its new building, which would bring together all agencies involved in the permit process, and thereby expedite approvals, but the new building won't be ready until 2020; therefore, interim measures to expedite ADU approvals are needed.	Planning Department [Response due: September 3, 2018]	Disagree, partially	The Department is in agreement that interim measures to expedite ADU approvals are needed ahead of the opening of the one stop permit center in 2020. The Department disagrees with the characterization that the Planning Department will be the entity establishing the one stop permit center and the characterization that the new building will belong to the planning department. Rather, the one stop permit center will be established and run by the City Administrator. The building at 49 South Van Ness will belong to the City and will be managed by the Department of Real Estate.	R4 [F2, F4, F5]	Recommends the five agencies involved with ADU permitting establish a shared meeting space by January 1, 2019, and not wait for the completion of the new shared agency building. This space would be used by point persons from each of the five permitting agencies to expedite the ADU permit approval process.	Planning Department [Response due: September 3, 2018]	Has been implemented	DBI, Planning, SFFD, DPW, and PUC currently have staff members located together at a shared meeting space on the fifth floor at 1660 Mission Street to expedite the ADU permit approval process.
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Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F6	The City's ADU program acknowledges the value to the City of increasing ADU construction. Homeowners who construct ADUs do so voluntarily and at their own expense. The additional burden of heavy permit fees is counterproductive to the City's goal of increasing the rate of ADU construction, in that it represents an additional barrier to building ADUs for single family homeowners, and therefore likely reduces the number of applications.	Department of Building Inspection [Response due: September 3, 2018]	Disagree, partially	More research is required on the reasons more single-family homeowners are not applying for ADUs in San Francisco, which may mirror larger state and national trends. In our experience, fees have not been noted as a key barrier. The cost of building materials and construction labor drive the cost of the ADU project, as these hard costs plus the soft costs such as designer fees and permit fees (which are often a percentage of the hard costs) form a bulk of project costs; other project fees may include water and power connection charges, development impact fees, school district fees, which are dependent on scope of project. Anecdotal reasons that are discussed frequently as barriers include: the lack of financing through existing mechanisms, the burden of construction loan payments, limited public outreach, and the duration of permit review.					
Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F6	The City's ADU program acknowledges the value to the City of increasing ADU construction. Homeowners who construct ADUs do so voluntarily and at their own expense. The additional burden of heavy permit fees is counterproductive to the City's goal of increasing the rate of ADU construction, in that it represents an additional barrier to building ADUs for single family homeowners, and therefore likely reduces the number of applications.	Planning Department [Response due: September 3, 2018]	Disagree, partially	More research is required on the reasons more single-family homeowners are not applying for ADUs in San Francisco, which may mirror larger state and national trends. In our experience, fees have not been noted as a key barrier. The cost of building materials and construction labor drive the cost of the ADU project, as these hard costs plus the soft costs such as designer fees and permit fees (which are often a percentage of the hard costs) form a bulk of project costs; other project fees may include water and power connection charges, development impact fees, school district fees, which are dependent on scope of project. Anecdotal reasons that are discussed frequently as barriers include: the lack of financing through existing mechanisms, the burden of construction loan payments, limited public outreach, and the duration of permit review.					
Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F7	Cities that lower permitting fees for ADUs, as Portland, Seattle and Vancouver, BC have done, see an increase in the number of permit applications by single family homeowners; if San Francisco reduces permitting fees for that type of ADU permit applications, they are likely to increase.	Department of Building Inspection [Response due: September 3, 2018]	Agree with the finding						
Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F7	Cities that lower permitting fees for ADUs, as Portland, Seattle and Vancouver, BC have done, see an increase in the number of permit applications by single family homeowners; if San Francisco reduces permitting fees for that type of ADU permit applications, they are likely to increase.	Planning Department [Response due: September 3, 2018]	Agree with the finding						

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Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F8	The City's Building and related construction codes place limitations on what can be built, inhibiting some homeowners from building ADUs. Allowing exceptions from these requirements, when it can be done without compromising safety, helps homeowners add ADUs to their homes.	Planning Department [Response due: September 3, 2018]	Disagree, partially	The ADU program already includes much flexibility from the Planning Code requirements, which regulates quality of life in the unit. Basic health and safety requirements are regulated by the Building Code which is also constrained by the State Code. The City is exploring ways to ease Building and Fire Code standards within the limitations of the State Law. This is difficult, however, because the City's discretion to change these codes is limited to making those codes more-- not less-- restrictive. Local jurisdictions cannot waive or be less restrictive than State mandate. A homeowner/ADU applicant may request an alternative means of protection equal to or greater than prescribed requirements.	R1 [F2, F8]	Recommends the Planning Department and the Department of Building Inspection jointly review their codes and submit joint recommendations to the Board of Supervisors no later than April 1, 2019 for code amendments designed to encourage homeowners to build more ADUs.	Planning Department [Response due: September 3, 2018]	Will be implemented	Over the last six months, DBI, Planning, Fire Department, PUC, Public Works-BSM and representatives from the Mayor's Office and Board of Supervisors have been meeting to review codes and develop recommendations to encourage ADU construction. Through this interagency working group, staff have developed preliminary checklists for each respective department's requirements to expedite and streamline ADU approval. Several rounds of amendments have increased flexibility for property owners to add units to their property.  Still, further analysis is warranted to analyze City codes for further recommendations. Planning and DBI will jointly review their codes and submit joint recommendations to the Board of Supervisors no later than April 1, 2019 for code amendments designed to encourage homeowners to build more ADU's.
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Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F9	The Planning Department's current public outreach program is a good start, but the material needs to be updated, and it is not reaching enough people. Better outreach directed to more homeowners will likely lead to an increase in applications for construction of ADUs in single family homes.	Planning Department [Response due: September 3, 2018]	Agree with the finding		R10 [F2, F9]	Recommends the Planning Department expand its public outreach on ADUs to increase homeowner awareness of ADU opportunities.	Planning Department [Response due: September 3, 2018]	Will be implemented	<p>To date, the Planning Department has conducted the following to market and publicize the ADU program: Developed an ADU handbook that include six ADU prototypes, developed an ADU video, created user friendly Fact Sheets, hosted, co-hosted, and attended public events to present the program and answer common public questions. Moving forward, the ADU Planning team received a grant for community outreach from Friends of City Planning (FOCP) for \$29,000 to update and create materials, and facilitate community outreach. Part of the grant is for contracting a consultant to update the ADU Handbook for updated prototypes to reflect Code changes and conduct an updated financial analysis. Anticipated timeline for finalization is late Fall of 2018*. This ADU Handbook is a free online resource, and is used by design professionals and homeowners to learn about how an ADU could fit on their property, as well as used as a resource at outreach events.</p> <p>Furthermore, Planning will create a one-stop online ADU resource portal anticipated by end of Q3 2018. These tools will be aimed to single family homeowner audience and to multi-unit homeowner audience.</p> <p>The community outreach (Planning and DBI) anticipated timeline is as follows:</p> <ul style="list-style-type: none"> <li>o To design professionals fall 2018*.</li> <li>o To single-family homeowners Q4 2018 - Q1 2019*.</li> </ul> <p>*Predicated on DBI &amp; Fire mutually agreeing on equivalencies.</p>
Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F10	Spaces at the 1068 Mission and possibly the Mission Bay Block 9 homeless housing projects may be suitable for construction trade "soft skills" training—preparatory training for construction work. This could be facilitated by DSHS as part of the CityBuild program. The end result could be a strengthened labor force.	Mayor's Office of Housing and Community Development [Response due: September 3, 2018]	Disagree, wholly	<p>While the idea to use the 1068 site for construction trades training for residents is a good one, the space has already been programmed to be used for the CHEF's program. The CHEF's program is currently in operation at other locations, replicable by ECS at the 1068 site, and has a proven track record regarding employment for formerly homeless persons. Additionally, restrictions bestowed on the site when transferred from the federal government mandate that the site be used only to serve formerly homeless individuals, which would limit participation in a construction training program.</p> <p>Mission Bay Block 9 is similarly not available for a construction training program because the demand for robust supportive services at Mission Bay South Block 9 requires the entirety of the project's ground floor space not otherwise used for mechanical and utility uses. The non-mechanical/utility ground floor uses include suites to accommodate supportive services, property management functions, exam rooms, community room and kitchen, and a lounge.</p>	R5 [F10]	Recommends that MOHCD and OCII require the managers of 1068 Mission Street and possibly Mission Bay Block 9 to reserve ground floor space for use in training construction workers, including training in ADU construction methods and modular unit construction work.	Mayor's Office of Housing and Community Development [Response due: September 3, 2018]	Will not be implemented because it is not warranted or reasonable	<p>While the idea to use the 1068 site for construction trades training for residents is a good one, the space has already been programmed to be used for the CHEF's program. The CHEF's program is currently in operation at other locations, replicable by ECS at the 1068 site, and has a proven track record regarding employment for formerly homeless persons. Additionally, restrictions bestowed on the site when transferred from the federal government mandate that the site be used only to serve formerly homeless individuals, which would limit participation in a construction training program.</p> <p>Mission Bay Block 9 is similarly not available for a construction training program because the demand for robust supportive services at Mission Bay South Block 9 requires the entirety of the project's ground floor space not otherwise used for mechanical and utility uses. The non-mechanical/utility ground floor uses include suites to accommodate supportive services, property management functions, exam rooms, community room and kitchen, and a lounge.</p>

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Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F11	When the City is building housing using factory-constructed modules from outside the City, the factory construction of those modules is subject to state building codes but not local building codes. If local building codes are not taken into account at the factory, there can be code compliance problems at the project site.	Mayor's Office of Housing and Community Development [Response due: September 3, 2018]	Disagree, partially	Factory-built housing is required to be certified and receive a State insignia of approval to show compliance with State building code requirements. The City's goal is to have fully code-compliant modular housing that is high quality and long lasting. To accomplish this, during production of housing modules bound for San Francisco, City codes will be adhered to at the factory to ensure there is no code compliance issue at the project site.	R8 [F11]	Recommends the Department of Building Inspection regularly inspect modular factories outside the City, if those factories are building housing for the City, to ensure construction is built to comply with City codes.	Mayor's Office of Housing and Community Development [Response due: September 3, 2018]	Will not be implemented because it is not warranted or reasonable	It is critical that housing units built in factories outside of San Francisco comply with our local code and are built to a standard that ensures safety and quality. However, it will be far more efficient to have DBI participate in reviewing and approving the plans and inspection procedures at the factory before manufacturing begins.
Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F11	When the City is building housing using factory-constructed modules from outside the City, the factory construction of those modules is subject to state building codes but not local building codes. If local building codes are not taken into account at the factory, there can be code compliance problems at the project site.	Department of Building Inspection [Response due: September 3, 2018]	Disagree, partially	Factory-built housing is required to be certified and receive a State insignia of approval to show compliance with State building code requirements. The City's goal is to have fully code-compliant modular housing that is high quality and long lasting. To accomplish this, during production of housing modules bound for San Francisco, City codes will be adhered to at the factory to ensure there is no code compliance issue at the project site.	R8 [F11]	Recommends the Department of Building Inspection regularly inspect modular factories outside the City, if those factories are building housing for the City, to ensure construction is built to comply with City codes.	Department of Building Inspection [Response due: September 3, 2018]	Will not be implemented because it is not warranted or reasonable	It is critical that housing units built in factories outside of San Francisco comply with our local code and are built to a standard that ensures safety and quality. However, it will be far more efficient to have DBI participate in reviewing and approving the plans and inspection procedures at the factory before manufacturing begins.
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Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F12	Some current trade union contracts prevent the City from using modular construction for City-sponsored below market housing projects, and further slow progress on below market housing.	Mayor's Office of Housing and Community Development [Response due: September 3, 2018]	Disagree, partially	While opposition from some building trades has slowed adoption of modular housing technologies, no specific trade contracts exist that prevent the City's use of modular housing.					
Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F12	Some current trade union contracts prevent the City from using modular construction for City-sponsored below market housing projects, and further slow progress on below market housing.	Mayor [Response due: September 3, 2018]	Disagree, partially	While opposition from some building trades has slowed adoption of modular housing technologies, no specific trade contracts exist that prevent the City's use of modular housing.	R11 [F12, F14]	Recommends the Mayor support the establishment of a union-staffed modular housing factory in San Francisco.	Mayor [Response due: September 3, 2018]	Has been implemented	In January 2018, Mayor Breed announced her support of the development of a plan to establish a modular housing factory within the City limits staffed by union labor. The City has hired a consultant to review whether a modular factory staffed by union workers is feasible. The city expects the consultants to work to conclude by the end of this year.
Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F13	It may take as many as five residential modular construction projects for the City to accurately assess this alternate construction method, including an assessment of cost and time benefits. In addition to the 1068 Mission project, it will be helpful to this assessment if the pending homeless housing project at Mission Bay Block 9 is built using modular construction methods.	Mayor's Office of Housing and Community Development [Response due: September 3, 2018]	Agree with the finding						

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Mitigating the Housing Crisis: Accessory Dwelling Units and Modular Housing [Published: July 5, 2018]	F14	The building trade unions are open to talks with the City to establish a factory for modular unit construction in San Francisco, staffed by union workers, and committed to best practices, and this is a promising start to trade union acceptance of modular construction technology.	Mayor's Office of Housing and Community Development [Response due: September 3, 2018]	Agree with the finding						
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