

REUBEN, JUNIUS & ROSE, LLP

Daniel Frattin
dfrattin@reubenlaw.com

December 21, 2018

Delivered Via Messenger and Email (Board.of.Supervisors@sfgov.org)

San Francisco Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

**Re: California College of the Arts
Request for Waiver of Child Care Impact Fee
Our File No.: 8940.02**

Dear President Cohen and Supervisors:

This office represents California College of the Arts (“CCA” or the “College”) in connection with its approved new student housing building at 188 Hooper (the “Student Housing Project”). (Planning Case No. 2016-001557.) We are submitting this appeal in opposition to the application of the Child Care Fee to the Student Housing Project.

On December 12, 2018, the Department of Building Inspection (“DBI”) issued a Preliminary Impact Fee Report (the “Fee Report”) in advance of the issuance of a first construction document for the Student Housing Project at 188 Hooper Street (the “Project”) (See DBI Permit App. No 2018-0216-1503, addenda 1 and 2 issued December 17, 2018). The Fee Report includes a Child Care Fee assessment of \$134,414.13.

Planning Code Section 406 states that:

The sponsor of any development project subject to a development fee or development impact requirement imposed by this Article may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of the requirement based upon the absence of any reasonable relationship or nexus between the impact of development and . . . the amount of the fee charged. . . . (Planning Code § 406(a)(1).)

Such a reasonable relationship is absent in the case of the Student Housing Project and the Residential Child Care Fee (the “Fee”) established by Planning Code Section 414A. The San Francisco Citywide Nexus Analysis explains that “Residential development assumes the cost of providing childcare that is required near the home, while commercial development assumes the cost of providing childcare that is required near the place of work.” (San Francisco Citywide Nexus

San Francisco Office
One Bush Street, Suite 600, San Francisco, CA 94104
tel: 415-567-9000 | fax: 415-399-9480

Oakland Office
456 8th Street, 2nd Floor, Oakland, CA 94607
tel: 510-257-5589

www.reubenlaw.com

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2018 DEC 21 PM 3:37
BY [Signature]

Analysis, at p. 20 (March 2014).) Accordingly, the Planning Code imposes a Child Care Impact Fee on office and hotel projects to account for the demand for childcare close to the workplace, and on residential projects to account for the demand for childcare close to the home. This logic is reinforced in Section 414A itself, which states as a purpose of the Fee the fact that “Residential developments in the City are benefitted by the availability of childcare for persons residing in such developments.” (Planning Code § 414A.1(a).)

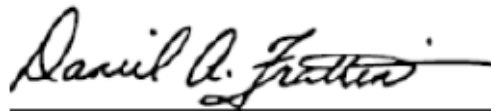
However, CCA’s Student Housing Project will not contribute to the need for childcare typically generated by residential projects. The Project will provide dorm-style housing for primarily undergraduate students—18-22-year-olds. Students will apply for a single bed in a unit shared with other students, and the units are not designed to accommodate families with children. Accordingly, residents of the Student Housing Project will not contribute to the demand for citywide child care services.

Given the lack of a reasonable relationship or nexus between the Residential Child Care Fee and CCA’s Student Housing Project, we respectfully request a waiver of the Fee as applied to the Project, pursuant to Planning Code Section 406(a)(1).

Thank you.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP

A handwritten signature in dark ink, reading "Daniel A. Frattin", written over a horizontal line.

Daniel A. Frattin

DBI Permit Addenda Details Report

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2018 DEC 21 PM 4:15

Permit Addenda Details Report

Report Date: 12/20/2018 6:15:02 PM

Application Number: 201802161503

Form Number: 1

Address(es):

3808	/004	/0	188	HOOPER	ST
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Description:

TO ERECT 5 STORIES, NO BASEMENT, TYPE III-B OVER I-A, 280 DWELLING UNIT BUILDING FOR RESIDENTIAL STUDENT HOUSING. (R-2,A-2,S-2) MAHER ORDINANCE COMPLY.

Cost:

\$32,400,000.00

Occupancy Code:

R-2,A-2,S-2

Building Use:

24 - APARTMENTS

Disposition / Stage:

Action Date	Stage	Comments
12/12/2018	Approved	
12/12/2018	Approved	
12/17/2018	Issued	
12/17/2018	Issued	

Contact Details:

Contractor Details:

License Number: 757362

Name: ROBERT NIBBI

Company Name: NIBBI BROS ASSOC INC

Address: 1000 BRANNAN STREET, STE 102 * SAN FRANCISCO CA 94103-0000

Phone:

Addenda Details:

Description: FOUNDATION								
Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	CPB	8/28/18	8/28/18			8/28/18	TORRES SHIRLEY	38 PGS
2	BLDG	8/28/18	9/20/18	10/3/18		12/7/18	YAU WILLY HOI-C	
3	DPW-BSM	11/14/18	11/19/18	11/19/18	12/11/18	12/11/18	ZHOU ANDY	Approved. 12/11/18: BSM sign off on Job Card required prior to DBI final. Subject to all conditions of BSM: #18IE-0245, 18MSE-0457, BUF, Sidewalk Legislation. -AZ 12/3/18 Release 18IE-0245, 18MSE-0457 RD On hold. 11/19/18: Sign off after BLDG approval. Waiting for BSM plan checker's and BUF's recommendation to sign off per 18IE-0245, 18MSE-0457, and BUF. (REF: Sidewalk Legislation) Please call (415) 554-5810 for more information. -CC
4	PPC	12/12/18	12/12/18			12/12/18	CHAN EDDIE MAN WAI	12/12/18: to CPB; EC. 12/10/18: To BSM; HP 12/5/18: To MEGA HOLD # 2 pending BLDG & BSM approval; HP 11/20/18: To MEGA HOLD 1A pending BLDG approval, then BSM; HP 11/14/18: to BSM per Willy Yau & applicant; am 10/19/18: In #2 Mega hold bin per Willy Yau; EC. 8/28/18: To BLDG; HP
5	CPB	12/12/18	12/12/18			12/17/18	TORRES SHIRLEY	12/17/2018: ISSUED. ST 12/12/2018: 38 PGS. APPROVED. ST
Description: SUPERSTRUCTURE								
Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	CPB	8/28/18	8/28/18			8/28/18	TORRES SHIRLEY	33 PGS
2	BLDG	8/28/18	9/27/18	10/18/18		12/10/18	YAU WILLY HOI-C	

3	DPW-BSM	11/14/18	11/19/18	11/19/18	12/11/18	12/11/18	ZHOU ANDY	Approved. 12/11/18: BSM sign off on Job Card required prior to DBI final. Subject to all conditions of BSM: #18IE-0245, 18MSE-0457, BUF, Sidewalk Legislation. -AZ 12/3/18 Release 18IE-0245, 18MSE-0457 RD 11/28/18 Buf Release RD On hold. 11/19/18: Sign off after BLDG approval. Waiting for BSM plan checker's and BUF's recommendation to sign off per 18IE-0245, 18MSE-0457, and BUF. Please call (415) 554-5810 for more information. (REF: Sidewalk Legislation) -CC
4	PPC	12/12/18	12/12/18			12/12/18	CHAN EDDIE MAN WAI	12/12/18: to CPB;EC. 12/10/18: To BSM; HP 11/20/18: To MEGA HOLD 1A pending BLDG & BSM approval; HP 11/14/18: to BSM per Willy Yau & applicant; am 10/19/18: In #2 Mega hold bin per Willy Yau;EC. 8/28/18: To BLDG; HP
5	CPB	12/12/18	12/12/18			12/17/18	TORRES SHIRLEY	12/17/2018: ISSUED. ST 12/12/2018: 34 PGS. APPROVED. ST
Description: ARCH/MEP/CIVIL/LANDSCAPE								
Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	CPB	8/29/18	8/29/18			8/29/18	TORRES SHIRLEY	VOL 1: 187 PGS. VOL 2: 145 PGS. ST
2	BLDG	8/29/18	9/18/18	11/6/18			MCELROY CAREY	
3	MECH	8/29/18	8/30/18	9/24/18			NAGATA TIMOTHY	Comments sent 9-24-18; Mech set (1 set) routed for electrical review
4	MECH-E	9/24/18	9/28/18	10/4/18			DE LA TORRE GODFREY	10/04/18: Electrical comments have been emailed to the Applicant. 2 sets of plans have been routed to PPC with Comments.
5	SFFD	8/29/18	10/1/18	10/28/18			CHIN JEFF	O/t requested 9/5 RP assigned 9/5 10/01/18 Plan Review of parallel set. JJC 10/28/18 Sent Initial Architectural Comments. JJC
6	PID-INSP	10/10/18	11/15/18			11/15/18	FARROW ROBERT	
7	DPW-BSM	11/28/18	12/4/18	12/4/18			ZHOU ANDY	On hold. 12/4/18: Waiting for BSM plan checker's and BUF's recommendation to sign off per 18IE-0245, 18MSE-0457, and BUF. Please call (415) 554-5810 for more information. (REF: Sidewalk Legislation) -AZ
8	SFPUC	12/7/18	12/12/18			12/12/18	TOM BILL	Not Applicable - Addendum. Already assessed. Signed off at PPC.
9	HEALTH							
10	CP-ZOC							
11	PPC						CHAN EDDIE MAN WAI	12/7/18: 2 BLDG sets and 1 MECH set(2 VOLS PER SET)to PUC;EC. 11/28/18: 2 BLDG sets and 1 MECH set(2 VOLS PER SET)to BSM;EC. 11/15/18: 2 BLDG sets (2vols) w/ref and 1 MECH set(2 vols per set) to MEGA HOLD in cart pending recheck; HP 11/7/18: 2 BLDG sets (2vols) w/ref and 1 MECH set(2 vols per set) route to PID to stamp and sign on the application form and plans(BLDG sets);EC. 10/25/18: MECH Set (2 vols) w/ ref to MEGA HOLD 1B, 2 sets w/ original application with BLDG station; HP 10/10/18: MECH Set (2 vols) w/ ref. to PID; 2 sets w/ original application with BLDG station;EC. 10/4/18: MECH set 2 vols w/refs and calc to MEGA

									HOLD 1B; HP 8/29/18: 2 sets (2 vols per set) to BLDG for parallel review and 1 Set(2 vols per set) MECH, and SFFD for parallel review (ref. bundled with each set);EC.
12	CPB								
Description: FIRE SPRINKLER									
Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold	Description
Description: FIRE ALARM & 2-WAY COMMUNICATION SYSTEM									
Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold	Description
Description: ERRCS									
Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold	Description
Description: EBM									
Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold	Description
Description: HEALTH									
Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold	Description
Station Code Descriptions and Phone Numbers									

[Online Permit and Complaint Tracking](#) home page.

Technical Support for Online Services

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Development Impact Fee Report
(Preliminary as of 12/12/2018)



Department of Building Inspection

Development Fee Collection Unit

City & County of San Francisco
1660 Mission Street, San Francisco, CA 94103-2414



DEVELOPMENT IMPACT FEE REPORT

PRELIMINARY

AS OF 12/12/2018

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BOARD OF SUPERVISORS
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2018 DEC 21 PM 4:20

PERMIT APPLICATION: 201802161503

DATE REVIEW OF ESTIMATE COMPLETED BY DEVELOPMENT FEE COLLECTION UNIT: 12/12/2018

PROJECT DESCRIPTION: TO ERECT 5 STORIES, NO BASEMENT, TYPE III-B OVER I-A, 280 DWELLING UNIT BUILDING FOR RESIDENTIAL STUDENT HOUSING. (R-2,A-2,S-2)
MAHER ORDINANCE COMPLY.

PROJECT SPONSOR: CALIFORNIA COLLEGE OF THE ARTS, 1111 8TH ST, SAN FRANCISCO, CA 94107 (415) 703-9561

SITE PERMIT: Y

FIRST PAYMENT OF IMPACT FEES DUE AT 1ST CONSTRUCTION DOCUMENT ISSUANCE

JOB ADDRESS: BLOCK 3808 LOT 004 188 HOOPER ST

Controlling Entity	Applicable (Yes/No)	Impact Fee	Compliance Options (example = payment, in lieu, development)	Criteria Used in Calculation (example = # square fee X \$)	Estimated Amount	Reviewers Name	Reviewer's Phone Number
Planning Department		Eastern Neighborhoods Infrastructure Impact Fee (Planning Code Section 423)		Per PC 423: (8,000 gsf- Non-Residential to Non-Residential, Tier 1) 8,000 SF x \$0/SF=\$0.	\$0.00	ESMERALDA JARDINES	(415) 575-9144
Planning Department	YES	Eastern Neighborhoods Infrastructure Impact Fee (Planning Code Section 423)	Payment	Per 423: (21,437-8,000=13,437 gsf- Change in Use from Non-Residential to Residential, Tier 1); 13,437 SF x \$2.83/SF=\$38,026.71.	\$38,026.71	ESMERALDA JARDINES	(415) 575-9144
Planning Department	YES	Eastern Neighborhoods Infrastructure Impact Fee (Planning Code Section 423)	Payment	Per 423: (125,634-21,437=104,197) gsf- New Residential, Tier 1); 104,197 SF x \$11.32/SF=\$1,179,510.04.	\$1,179,510.04	ESMERALDA JARDINES	(415) 575-9144
Planning Department and Department of Children Youth and Their Families	YES	Child Care Fee (Planning Code Section 414)	Payment	Per 414A: (21,437 gsf - Change of Use from Non-Residential to Residential) x \$.11/SF=\$2,358.07	\$2,358.07	ESMERALDA JARDINES	(415) 575-9144
Planning Department and Department of Children Youth and Their Families	YES	Child Care Fee (Planning Code Section 414)	Payment	Per 414A: (104,197 gsf - 10 Units or More with EN Plan Credit) x \$1.29/SF=\$134,414.13	\$134,414.13	ESMERALDA JARDINES	(415) 575-9144
Planning Department	YES	Street Trees, in lieu fee (Planning Code Section 428)	Physical Improvement	Building requirement to plant 33 trees. Only room for 23 trees onsite.		BUF	(415) 554-6700
Planning Department	YES	Street Trees, in lieu fee (Planning Code Section 428)	Physical Improvement	Building requires planting 33 trees. Will install 750 sqft of landscaping in lieu of planting 10 required trees.		BUF	(415) 554-6700
SF Unified School District *	YES	School Impact Fee (State Ed. Code Section 17620)	Payment		\$218,248.56	SFUSD REAL ESTATE & ASSET MGMT OFFICE	(415) 241-6090



Department of Building Inspection

Development Fee Collection Unit

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DEVELOPMENT IMPACT FEE REPORT

PRELIMINARY

AS OF 12/12/2018

PERMIT APPLICATION: 201802161503

JOB ADDRESS: 188 HOOPER ST

Controlling Entity	Applicable (Yes/No)	Impact Fee	Compliance Options (example = payment, in lieu, development)	Criteria Used in Calculation (example = # square fee X \$)	Estimated Amount	Reviewers Name	Reviewer's Phone Number
SF Public Utilities Commission *	YES	Wastewater Capacity Charge (PUC Resolution No. 07-0100)	Payment	Contact SFPUC	\$103,577.00	TOM BILL or MONICA SZU-WHITNEY	(415) 575-6941
SF Public Utilities Commission *	YES	Water Capacity Charge (PUC Resolution No. 07-0099)	Payment	Contact SFPUC	\$31,653.00	TOM BILL or MONICA SZU-WHITNEY	(415) 575-6941
Planning Department		Transportation Sustainability Fee - General (Planning Code Section 411)		Per 411A: (TSF)[EE filed after 07/22/15 = Use TSF Rules - 100% Disc.] (13,437 gsf - Change in Use from Non-Residential to Residential) x \$0/SF=\$0. 411A (@ \$20.03-\$9.71=\$10.32) (previous use is higher than proposed use; thus, \$0/SF). TSF Charitable Exemption Application is currently under review.	\$0.00	ESMERALDA JARDINES	(415) 575-9144
Planning Department		Transportation Sustainability Fee - General (Planning Code Section 411)		Per 411A: (TSF) [EE filed after 07/22/15 = Use TSF Rules - 100% Disc.] (125,634-21,437 gsf - New Residential) x \$8.60/SF=\$896,094.20 TSF Charitable Exemption Application is currently under review.	\$0.00	ESMERALDA JARDINES	(415) 759-144

* Fees collected at site permit issuance.

Note: Per San Francisco Admin Code Section 83.4, a First Source Hiring Agreement (FSHA) is required on a permit for 25,000 square feet of commercial space or ten (10) or more new residential units. The proposed development is to erect 5 stories, no basement, type iii-b over i-a, 280 dwelling unit building for residential student housing. (r-2,a-2,s-2) maher ordinance comply. and is subject to First Source Hiring Agreement (FSHA). Notify the CityBuild at www.oewd.org/CityBuild for questions.



Department of Building Inspection

Development Fee Collection Unit

City & County of San Francisco

1660 Mission Street, San Francisco, CA 94103-2414



DEVELOPMENT IMPACT FEE REPORT

PRELIMINARY

AS OF 12/12/2018

PERMIT APPLICATION: 201802161503

JOB ADDRESS: 188 HOOPER ST

TOTAL Development Impact Fees: **\$1,354,308.95**

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 imposed as a condition of approval in accordance with Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, this Development Impact Fee Report issued under Section 107A.13.7 of the San Francisco Building Code and Planning Code Section serves as NOTICE of the imposition of fees or exactions and 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 report does not re-commence the 90-day approval period.

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 (AICIE) 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 December 1st each year and effective on January 1st. To obtain a list of the fees and their adjusted rates, go to the Planning website (www.sfplanning.org). 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.