

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: ~~\$285,267~~ 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 1.9044.819% 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: \$121,999,144,374 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.

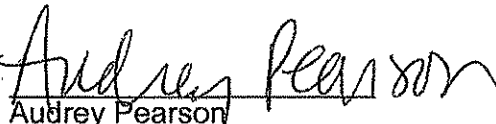
3 The fee shall be a proportional share of the cost of the Programmatic EIR, which is
4 equal to the Department's average time and material costs to prepare and defend a
5 Programmatic EIR divided by the buildable envelope times the square footage of the
6 proposed project.

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 By:

24 
Audrey Pearson
25 Deputy City Attorney

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

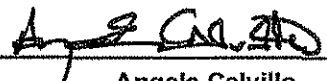
Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Duffy, Elsbernd, Mar, Maxwell and Mirkarimi

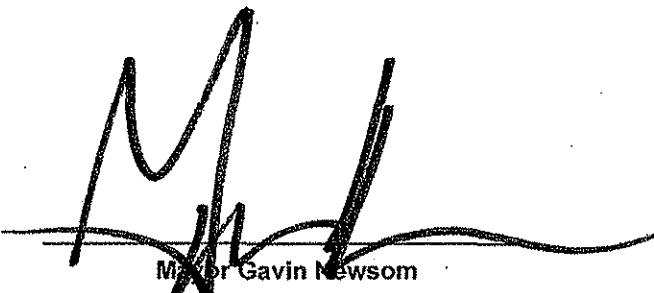
July 27, 2010 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Duffy, 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