



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment HEARING DATE: MAY 17, 2018

Project Name: **Increasing the Transportation Sustainability Fee for Large Non-Residential Projects**

Case Number: **2018-002230PCA** [Board File No. 180117]

Initiated by: Supervisor Peskin / Introduced January 30, 2018

Staff Contact: Diego R Sánchez, Legislative Affairs
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Reviewed by: Aaron Starr, Manager of Legislative Affairs
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Recommendation: **Approval with Modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to increase the Transportation Sustainability Fee by \$5 for Non-Residential Projects larger than 99,999 gross square feet.

The Way It Is Now:

The Transportation Sustainability Fee for Non-Residential projects, except Hospitals and Health Services, larger than 99,999 gross square feet is \$19.04.¹

The Way It Would Be:

The Transportation Sustainability Fee for Non-Residential Projects, except Hospitals and Health Services, larger than 99,999 gross square feet would be \$24.04.

BACKGROUND

San Francisco has imposed impact fees upon new development to help offset the burden it places upon the City's transit system for decades. For example, in 1981 the City enacted the Transit Impact Development Fee (TIDF) on new office development in the downtown area.² The TIDF was based on studies demonstrating that new office development burdens transit during peak periods. The City subsequently expanded this impact fee to all new non-residential development throughout the City.

¹ The Transportation Sustainability Fee is annually indexed based on the Annual Infrastructure Construction Cost Inflation Estimate published by the Office of the City Administrator's Capital Planning Group and approved by the City's Capital Planning Committee, in accordance with Planning Code Section 409(b). The current rate, in 2018 dollars, is \$21.14.

² Ordinance No. 224-81; the TIDF is found in Planning Code Section 411.

In 2009, the City and the San Francisco County Transportation Authority (SFCTA) began work to develop a comprehensive citywide transportation fee. This fee would offset the impacts of residential and non-residential development on the City's transit system, including the City's pedestrian and bicycle transportation infrastructure. To support this fee, and help inform its magnitude, the City and the SFCTA developed a nexus study (TSF Nexus Study).³ The TSF Nexus Study found that all new land uses create demand for transportation infrastructure and services. The TSF Nexus Study also calculated the cost for future planned transit infrastructure, maintenance and streetscape improvements needed to meet projected growth in the City by 2040. The TSF Nexus Study calculations are used to determine the maximum justified fee rate.

The City also prepared an economic feasibility study (TSF Economic Feasibility Study) to account for the effect of a new transportation impact fee upon development feasibility.⁴ The TSF Economic Feasibility Study examined the impact various fee rates would have upon typical new development in the City. It did this by analyzing the residual land value (RLV), the difference between the revenue a developer anticipates receiving for the project and all development costs, for fee rates. According to the TSF Economic Feasibility Study, a decrease of 10% in the RLV was designated as the maximum impact deemed economically feasible.

When the Transportation Sustainability Fee (TSF) was enacted in December 2015 large non-residential projects were required to pay \$19.04 per gross square foot above 99,999. As a result of annual indexing, the current rate is \$21.14 per gross square foot above 99,999. The TSF is due at the issuance of the first construction document, like many other development impact fees.

The following projects are exempted from the TSF:

- Projects on property owned and used by the City and County of San Francisco;
- Projects in Redevelopment Plan Areas or covered by a Development Agreement;
- Projects of the United States or the State of California;
- Affordable Housing Projects;
- Certain Small Businesses; and
- Certain Charitable Exemptions.

Board of Supervisor's May 7, 2018 Land Use and Transportation Committee Hearing

On May 7, 2018 the Land Use and Transportation Committee (Committee) heard the proposed Ordinance. At this hearing the Committee heard testimony from the Planning Department and the San Francisco Municipal Transportation Agency and also received public comment. The Committee then deliberated over the proposed Ordinance in light of the testimony and public comment. Supervisor Peskin moved to duplicate the Board File, with the Duplicate File proposing a \$2 increase to the TSF in the Central SOMA Plan Area and a \$5 increase elsewhere. This motion failed. The Committee successfully moved to continue the item until after the Planning Commission hearing on the proposed Ordinance.

³ Board File No. 150790 <https://sfgov.legistar.com/View.ashx?M=F&ID=4133896&GUID=ECF4DA54-C8A0-4D9F-97E9-8428CB95FF6B>

⁴ *Ibid.*

ISSUES AND CONSIDERATIONS

The City's Pipeline of Large Non-Residential Projects

The proposed increase to the TSF will only be imposed on the portion of Non-Residential projects over 99,999 gross square feet in size (Large Non-Residential projects). Projects of this size tend to be localized in the eastern half of the City. Staff analysis of the development pipeline indicates that projects affected by the proposed increase in the TSF would be in the Downtown/C-3 zoning district, the proposed Central SOMA Plan Area, the Eastern Neighborhoods Plan Area and the Transbay/Rincon Hill area. Staff estimates that the revenue generated from an increased TSF on Large Non-Residential projects will overwhelmingly come from the proposed Central SOMA Plan Area. This is because the Central SOMA Plan Area has more sites suitable for Large Non-Residential projects than other areas and most projects outside of the Central SOMA Plan Area have building permits issued and already paid development impact fees, are subject to separate Development Agreement-specific fees, or are State projects that are not subject to local impact fees. Staff estimates that more than 85% of projected fees from the proposed increased TSF would come from Central SOMA Plan Area projects.

Large Non-Residential Project Feasibility

In light of Central SOMA's outsized role in TSF revenue generation from the proposed fee increase, Staff reviewed the 2015 financial feasibility analyses establishing the TSF. A large part of the analyses was to update construction cost and real estate revenue assumptions for Central SOMA prototype projects. Staff used construction cost increases to reflect the fiscal year 15-16 and fiscal year 16-17 values projected by the 2017 Annual Infrastructure Construction Cost Inflation Estimate. It also relied on real estate revenue from Zillow, Axionometrics and Jones Lang La Salle. Updated feasibility analysis using these new values indicated a value capture exceeding rates considered conducive to new development. This is in part because the rate of increase in construction costs is outpacing the increase in real estate revenues. When the proposed increased TSF is included, the analysis indicates that Large Non-Residential project feasibility in Central SOMA is worsened, and in certain instances projects become infeasible.

The effect upon feasibility in East SOMA (Eastern Neighborhoods) and the Transit Center, two other areas with Large Non-Residential project capacity, was also modeled. This analysis studied the change in residual land value due to updated 2017 costs and revenues and the proposed increase in TSF. This analysis indicated that the construction cost and revenue escalations result in a return on cost below targeted rates. This circumstance is compounded when increased TSF rates are included.

Feasibility in other parts of the City is unknown; further analyses would be required to determine the effect of an increased TSF in these areas. This would include updating assumptions about construction costs, real estate revenues as well as other assumptions about typical development prototypes in these areas.

Planning Code Required Three Year Review of Economic Feasibility Study

When the TSF was enacted in December 2015, the Ordinance included a requirement to update the TSF Economic Feasibility Study every three years.⁵ This update is meant to analyze the impact of the TSF on

⁵ Planning Code Section 411A.8, Three Year Review of Economic Feasibility Study

the feasibility of development citywide, and would be a more robust analysis than what Staff has currently compiled. Adjusting TSF rates based on the updated TSF Economic Feasibility Study would ensure new development projects are assessed impact fees that do not endanger their feasibility. It would also ensure that we capture as much value as possible.

Alternatives or Complements to Increasing the TSF in the Central SOMA Plan Area

Should TSF rates increase, the City should explore measures to ensure Large Non-Residential project feasibility, in particular for Central SOMA Plan Area projects. One option would be to exempt the Central SOMA Plan Area from the higher TSF rate for Large Non-Residential projects. This would be a straightforward solution to the compounding feasibility concerns in the Central SOMA Plan Area. It is also a solution that could be accomplished with a simple and clean amendment to the Planning Code.

Another option is to adjust the other development impact fees proposed for the Central SOMA Plan Areas. In particular, the Central SOMA Plan Area is proposing a Mello-Roos Community Facilities District (CFD) to fund a number of infrastructure needs, including regional transportation. Adjusting the CFD downward could offset the effect of an increased TSF while still providing resources to the local transportation system.

General Plan Compliance

Transportation Element

Objective 1: Meet the needs of all residents and visitors for safe, convenient and inexpensive travel within San Francisco and between the City and other parts of the region while maintaining the high quality living environment of the Bay Area.

Policy 1.2: Ensure the safety and comfort of pedestrians throughout the City.

By increasing the TSF, the Ordinance will produce additional resources to improve pedestrian mobility throughout San Francisco.

Policy 1.4: Increase the capacity of transit during off-peak hours.

Augmenting the TSF will generate new revenue to expand transit service and improve its reliability during peak and off-peak hours.

Objective 2: Use the transportation system as a means for guiding development and improving the environment.

Policy 2.2: Reduce pollution, noise and energy consumption.

The share of trips made by bicycle and walking, the cleanest and most energy-efficient forms of transportation, may increase with increased resources dedicated from the TSF to infrastructure serving those modes.

Objective 14: Develop and implement a plan for operation changes and land use policies that will maintain mobility and safety despite a rise in travel demand that could otherwise result in system capacity deficiencies.

Policy 14.4: Reduce congestion by encouraging alternative to the single occupant auto through the reservation of right-of-way and enhancement of other facilities dedicated to multiple modes of transportation.

The Ordinance will facilitate the creation of facilities for transit, bicycles, carpools, pedestrians, and other modes of travel by raising new resources through an increased TSF.

Objective 15: Encourage alternatives to the automobile and reduced traffic levels on residential streets that suffer from excessive traffic through the management of transportation systems and facilities.

Policy 15.1: Discourage excessive automobile traffic on residential streets by incorporating traffic-calming treatments.

An augmented TSF can provide the resources necessary for traffic calming treatments throughout the City.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

RECOMMENDATION

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. If the TSF for Large Non-Residential projects increases, explore measures to avoid aggravating project feasibility, including exempting the Central SOMA Plan Area from the increased TSF or adjusting the CFD fees in the Central SOMA Plan Area.

BASIS FOR RECOMMENDATION

The Department supports the intent to impose a TSF on Large Non-Residential projects that meets the demand for transportation infrastructure and service generated by those projects. An appropriately levied TSF can help maintain existing levels of transportation service; however, the Department is concerned about existing levels of project feasibility in the Central SOMA Plan Area. This concern is heightened in the context of an increased TSF for Large Non-Residential projects larger than 99,999 gross square feet.

Recommendation 1: Explore measures to avoid aggravating project feasibility, including exempting the Central SOMA Plan Area from the increased TSF or adjusting the CFD fees in the Central SOMA Plan Area.

Should an increased TSF for large non-residential projects be imposed, measures to offset the effects upon feasibility should be considered. Exempting the Central SOMA Plan Area from an increased TSF for Large Non-Residential projects would accomplish multiple goals. It would avoid aggravating worsening feasibility, maintain current Central SOMA impact fees, and still generate new TSF revenues. Adjusting the Central SOMA Plan Area CFD downward could also offset effects upon worsening feasibility. These would be adjusted during the Board of Supervisors legislative process and would effectively reallocate resources from regional transportation infrastructure and services to local infrastructure and services.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

Attachments:

Exhibit A: Draft Planning Commission Resolution

Exhibit B: Board of Supervisors File No. 180117



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE MAY 17, 2018

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RESOLUTION APPROVING WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO INCREASE THE TRANSPORTATION SUSTAINABILITY FEE BY \$5 FOR NON-RESIDENTIAL PROJECTS LARGER THAN 99,999 GROSS SQUARE FEET; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on January 30, 2018 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180117, which would amend the Planning Code to increase the Transportation Sustainability Fee by \$5 for Non-Residential Projects larger than 99,999 gross square feet;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on May 17, 2018; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance.

Those modifications include:

1. Explore measures to avoid aggravating project feasibility as a result of an increase in the TSF, including exempting the Central SOMA Plan Area from the increased TSF or adjusting the CFD fees in the Central SOMA Plan Area.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission supports the intent to impose a TSF on Large Non-Residential projects that meets the demand for transportation infrastructure and service generated by those projects. An appropriately levied TSF can help maintain existing levels of transportation service.
2. However, the Commission is concerned about existing levels of project feasibility in the Central SOMA Plan Area. This concern is heightened in the context of an increased TSF for Large Non-Residential projects larger than 99,999 gross square feet.
3. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modification are consistent with the following Objectives and Policies of the General Plan:

TRANSPORTATION ELEMENT

OBJECTIVE 1

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

The proposed Ordinance will facilitate the establishment of a retail use that provides net benefits in the form recreational and community gathering spaces. Any potential undesirable consequences may be addressed through existing regulatory controls.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 1.2: Ensure the safety and comfort of pedestrians throughout the City.

By increasing the TSF, the Ordinance will produce additional resources to improve pedestrian mobility throughout San Francisco.

Policy 1.4: Increase the capacity of transit during off-peak hours.

Augmenting the TSF will generate new revenue to expand transit service and improve its reliability during peak and off-peak hours.

OBJECTIVE 14

DEVELOPMENT AND IMPLEMENT A PLAN FOR OPERATION CHANGES AND LAND USE POLICIES THAT WILL MAINTAIN MOBILITY AND SAFETY DESPITE A RISE IN TRAVEL DEMAND THAT COULD OTHERWISE RESULT IN SYSTEM CAPACITY DEFICIENCIES

Policy 14.4: Reduce congestion by encouraging alternative to the single occupant auto through the reservation of right-of-way and enhancement of other facilities dedicated to multiple modes of transportation.

The Ordinance will facilitate the creation of facilities for transit, bicycles, carpools, pedestrians, and other modes of travel by raising new resources through an increased TSF.

OBJECTIVE 15

ENCOURAGE ALTERNATIVES TO THE AUTOMOBILE AND REDUCED TRAFFIC LEVELS ON RESIDENTIAL STREETS THAT SUFFER FROM EXCESSIVE TRAFFIC THROUGH THE MANAGEMENT OF TRANSPORTATION SYSTEMS AND FACILITIES

Policy 15.1: Discourage excessive automobile traffic on residential streets by incorporating traffic-calming treatments.

An augmented TSF can provide the resources necessary for traffic calming treatments throughout the City.

4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail because it concerns raising an impact fee upon large non-residential projects.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character because it deals with raising an impact fee upon large non-residential projects.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing because the Ordinance proposes to raise a development impact fee on large non-residential projects.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking but rather help improve transit service because it proposes to raise an impact fee that would generate resources for transit service.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The Ordinance proposes to raise the rate of an impact fee on large non-residential projects. This in and of itself would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake because it proposes to raise the rate of a development impact fee on large non-residential projects.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings because it proposes to raise the rate of a development impact fee on large non-residential projects.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas because the Ordinance proposes to change the rate of a development impact fee.

5. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 17, 2018.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: May 17, 2018

1 [Planning Code - Increasing the Transportation Sustainability Fee for Large Non-Residential
2 Projects]

3 **Ordinance amending the Planning Code to increase the Transportation Sustainability**
4 **Fee by \$5 for Non-Residential Projects larger than 99,999 gross square feet; affirming**
5 **the Planning Department’s determination under the California Environmental Quality**
6 **Act; and making findings of public necessity, convenience and welfare, and findings of**
7 **consistency with the General Plan, and the eight priority policies of Planning Code,**
8 **Section 101.1.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

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

17 Section 1. Findings. The Board of Supervisors of the City and County of San
18 Francisco hereby finds and determines that:

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. 180117 and is incorporated herein by reference. The Board affirms
23 this determination.

24 (b) On _____, the Planning Commission, in Resolution No. _____,
25 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
with the City’s General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) On _____, the Planning Commission, in Resolution No. _____,
4 approved this legislation, recommended it for adoption by the Board of Supervisors, and
5 adopted findings that it will serve the public necessity, convenience and welfare. Pursuant to
6 Planning Code Section 302, the Board adopts these findings as its own. A copy of said
7 Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is
8 incorporated by reference herein.

9
10 Section 2. The Planning Code is hereby amended by revising Section 411A.5, to read
11 as follows:

12 SEC. 411A.5. TSF SCHEDULE.

13 Development Projects subject to the TSF shall pay the following fees, as adjusted
14 annually in accordance with Planning Code Section 409(b).

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Table 411A.5. TSF Schedule	
<i>Land Use Categories</i>	<i>TSF</i>
Residential, 21-99 units	\$7.74 for all gsf of Residential use in the first 99 dwelling units (see Section 411A.4(c) above).
Residential, all units above 99 units	\$8.74 for all gsf of Residential use in all dwelling units at and above the 100th unit (see Section 411A.4(c) above).
Non-Residential, except Hospitals and Health Services, 800-99,999 gsf	\$18.04 for all gsf of Non-Residential uses less than 100,000 gsf.
Non-Residential, except Hospitals and Health Services, all gsf above 99,999 gsf	\$19.04 <u>\$24.04</u> for all gsf of Non-Residential use greater than 99,999 gsf.

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Hospitals	\$18.74 per calculation method set forth in Section 411A.4(d).
Health Services, all gsf above 12,000 gsf	\$11.00 for all gsf above 12,000 gsf
Production, Distribution and Repair	\$7.61

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: _____
ANDREA RUIZ-ESQUIDE
Deputy City Attorney

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