

November 5, 2008 Land Use Committee Amendments

**SEC. 175.6. EFFECTIVE DATE OF THE EASTERN NEIGHBORHOODS ZONING**

**CONTROLS.**

*(a) Intent. It is the intent of this Section to provide for an orderly transition from prior zoning and planning requirements to the requirements imposed in implementing the Eastern Neighborhoods Controls, without impairing the validity of prior actions by the City, or frustrating completion of actions authorized prior to the effective date of those Controls.*

*(b) Applicability. This Section applies only to the specific types of development projects identified herein and that are subject to changed regulations or procedures as a result of the Eastern Neighborhoods Controls and are located in an Eastern Neighborhoods Mixed Use District, an SLI District, or any PDR, R, or NC District located within the boundaries of the Eastern Neighborhoods Project Area pursuant to Section 327.2(1). This Section shall not apply to any other project.*

*(c) Definitions. The following definitions shall apply to this Section:*

*(1) 'Eastern Neighborhoods Controls' shall mean all Ordinances adopted in furtherance of the Eastern Neighborhoods Area Plan Process, including but not limited to Ordinance Numbers \_\_\_\_\_, and associated amendments to the Planning Code, Zoning Map, and Administrative Code.*

*(2) 'Development Application' shall mean any application for a building permit, site permit, environmental review, Conditional Use or Variance.*

*(3) 'Project Approval' shall mean any required approval or determination on a Development Application that the Planning Commission, Planning Department, or Zoning Administrator issues.*

*(4) 'Code Conforming Project Application' shall mean a development project for which all required Development Applications, excepting an environmental review application, for which a could have received Project Approvals could have been issued or authorized in*

*accordance with the provisions of the Planning Code in effect when the first such application was filed with the Planning Department. Under no circumstances may a Code Conforming Project make use of any community plan intake process or fee schedule as set forth in Chapter 31 of the Administrative Code.*

*(5) 'Entitled Project' shall mean any project for which a Project Approval was granted prior to the effective date of the Eastern Neighborhoods Controls and:*

*(A) that is not, and has not been, in violation of any time limits imposed pursuant to the Building Code or as a condition of approval of the project; and*

*(B) for which no certificate of occupancy or completion of any type has ever been issued.*

*(d) Effect of Amendments on Approved Projects. A Development Application that would modify an Entitled Project shall be governed by the more recent of:*

*(1) the Planning Code in effect prior to the effective date of the Eastern Neighborhoods Controls; and*

*(2) all current provisions of the Planning Code (including the Zoning Maps) exclusive of the Eastern Neighborhood Controls.*

*(e) Effect of Amendments on Projects for Which No Project Approval Has Occurred. A Code Conforming Project Application for a project which a Development Application first was filed with the Planning Department during any of the time periods identified in this Subsection and that did not obtain Project Approval prior to the effective date of the Eastern Neighborhoods Controls shall be governed by Subsection (d), above, except as specifically modified below:*

*(1) For Code Conforming Projects that filed a first Development Application with the Planning Department prior to January 19, 2007:*

*(A) Articles 1, 1.2, 1.5, and 2.5 of the Planning Code as amended by the Eastern Neighborhood Controls shall apply; and*

*(B) The Planning Director may grant an increase beyond the otherwise-superseded height limits of no more than 8 feet when an equal or greater increase would be allowed under the Eastern*

Neighborhoods Controls and when such increase is necessary to comply with Subsection (e)(1)(A), above.

(C) If compliance with Subsection (e)(1)(A) would require a substantial re-design of the project or a significant change to the type or size of uses originally proposed, the applicant may seek complete or partial relief from that requirement through the Conditional Use authorization process as set forth in Section 303.

(D) Additionally, for proposed residential uses in PDR Districts where such uses are not permitted under the Eastern Neighborhoods Controls, Subsection (e)(1)(A), above, shall apply as if the residential use were located in an Urban Mixed Use (UMU) District.

(2) For projects that filed a Development Application with the Planning Department between January 19, 2007 and August 29, 2007:

(A) Subsection (e)(1), above, shall apply;

(B) The impact fees set forth in Section 327 of the Eastern Neighborhoods Controls shall apply, except that the fees set forth in Table 327.3, regardless of fee tier, shall be reduced to \$4 per gross square foot of residential use and \$3 per gross square foot of non-residential use; and

(C) The housing requirements for residential projects as set forth in Section 319 of the Eastern Neighborhoods Controls shall apply.

(3) For projects that filed a Development Application with the Planning Department between August 30, 2007 and April 17, 2008:

(A) Subsection (e)(1), above, shall apply;

(B) The impact fees set forth in Section 327 of the Eastern Neighborhoods Controls shall apply; and

(C) The housing requirements for residential projects as set forth in Section 319 of the Eastern Neighborhoods Controls shall apply.

**SEC. 313.6. COMPLIANCE THROUGH PAYMENT OF IN-LIEU FEE.**

(a) Commencing on March 11, 1999, the amount of the fee which may be paid by the sponsor of a development project subject to this ordinance in lieu of developing and providing the housing required by Section 313.5 shall be determined by the following formulas for each type of space proposed as part of the development project and subject to this ordinance.

Net Addition Gross Sq. Ft. Entertainment Space	x	\$10.57 = Total Fee
Net Addition Gross Sq. Ft. Hotel Space	x	\$8.50 = Total Fee
Net Addition Gross Sq. Ft. Office Space	x	\$11.34 = Total Fee
Net Addition Gross Sq. Ft. Research and Development	x	\$7.55 = Total Fee
Net Addition Gross Sq. Ft. Retail Space	x	\$10.57 = Total Fee

(b) (1) Commencing on January 1, 2002, the amount of the fee which may be paid by the sponsor of a development project subject to this ordinance in lieu of developing and providing the housing required by Section 313.5 shall be determined by the following formulas for each type of space proposed as part of the development project and subject to this ordinance:

Net Addition Gross Sq. Ft. Entertainment Space	x	\$13.95 = Total Fee
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Net Addition Gross Sq. Ft. Hotel Space	×	\$11.21 = Total Fee
Net Addition Gross Sq. Ft. Office Space	×	\$14.96 = Total Fee
Net Addition Gross Sq. Ft. R & D Space	×	\$9.97 = Total Fee
Net Addition Gross Sq. Ft. Retail Space	×	\$13.95 = Total Fee

(2) Commencing on January 1, 2009, the amount of the fee which may be paid by the sponsor of a development project subject to this ordinance in lieu of developing and providing the housing required by Section 313.5 shall be determined by the following formulas for each type of space proposed as part of the development project and subject to this ordinance:

<u>Net Addition Gross Sq. Ft. IPDR or S.E.W. Space</u>	<u>×</u>	<u>\$15.69 = Total Fee</u>
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(1) Integrated PDR or IPDR, is defined in Section 890.49 of the Planning Code.  
(2) Small Enterprise Workspaces or S.E.W., is defined in Section 227(t) of the Planning Code.

(c) No later than July 1 of each year, the Mayor's Office of Housing shall adjust the in lieu fee payment option and provide a report on its adjustment to the Board of Supervisors. The Mayor's Office of Housing shall provide notice of any fee adjustment on its website at least 30 days prior to the adjustment taking effect. The Mayor's Office of Housing is authorized to develop an appropriate methodology for indexing the fee, based on adjustments in the costs of constructing housing and in the price of housing in San Francisco consistent with the indexing for the Residential Inclusionary Affordable Housing Program in lieu fee set out in Planning Code Section 315.6. The method of indexing shall be published in the Procedures Manual for the Residential Inclusionary Affordable Housing Program. In making a determination as to the amount of the fee to be paid, the Planning Department shall credit to the sponsor any excess Interim

Guideline credits or excess credits which the sponsor elects to apply against its housing requirement.

(c) Prior to the issuance by DBI of the first site or building permit for a development project subject to this ordinance, the sponsor must notify the Planning Department and MHO in writing that it has either (i) satisfied the conditions of Section 313.5(e), or (ii) paid in full the sum required by this Section to the Treasurer, or (iii) satisfied the conditions of Section 328. If the sponsor fails by the applicable date to demonstrate to the Planning Department that the sponsor has satisfied the conditions of Section 313.5(e) or paid the applicable sum in full to the Treasurer, DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Treasurer notifies DBI and MOH that such payment has been made, and the Treasurer shall immediately initiate lien proceedings against the sponsor's property pursuant to Section 313.9 to recover the fee.

(d) Upon payment of the fee in full to the Treasurer and upon request of the sponsor, the Treasurer shall issue a certification that the fee has been paid. The sponsor shall present such certification to the Planning Department, DBI and MOH prior to the issuance by DBI of the first site or building permit or certificate of occupancy for the development project. DBI shall not issue the site or building permit or certificate of occupancy without proof of payment of the fee from the Treasurer. Any failure of the Treasurer, DBI or the Planning Department to give any notice under this Section shall not relieve a sponsor from compliance with this Section. Where DBI inadvertently issues a site or building permit without payment of the fee, DBI shall not issue any certificate of occupancy for the project without notification from the Treasurer that the fee required by this Section has been paid. The procedure set forth in this Subsection is not intended to preclude enforcement of the provisions of this Section pursuant to any other section of this Code, or other authority under the laws of the State of California. An exception to this process exists for Integrated PDR projects that are subject to Section 328 of the

Planning Code, for which only 50% of the fees must be paid before the issuance of the final certificate of occupancy.

## **SEC. 315.1. DEFINITIONS.**

The following definitions shall govern interpretation of this ordinance:

- (1) "Affordable housing project" shall mean a housing project containing units constructed to satisfy the requirements of Sections 315.4 or 315.5.
- (2) "Affordable to a household" shall mean a purchase price that a household can afford to pay based on an annual payment for all housing costs, as defined in California Code of Regulations ("CCR") Title 25, Section 6920, as amended from time to time, of 33 percent of the combined household annual gross income, assuming a down payment recommended by the Mayor's Office of Housing in the Procedures Manual, and available financing, or a rent that does not exceed 30 percent of a household's combined annual gross income. Where applicable, the purchase price or rent may be adjusted to reflect the absence or existence of a parking space(s), subject to the Department's policy on unbundled parking for affordable housing units as specified in the Procedures Manual and amended from time to time.
- (3) "Affordable to qualifying households" shall mean:
  - (A) With respect to owned units, the average purchase price on the initial sale of all affordable owned units in an affordable housing project shall not exceed the allowable average purchase price and all units must be sold only to households with annual gross incomes up to and including 120 percent of median income for the City and County of San Francisco. In addition, each unit shall be sold:
    - (i) Only to households with an annual gross income equal to or less than the qualifying limits for a household of moderate income, adjusted for household size;
    - (ii) On the initial sale, at or below the maximum purchase price; and
    - (iii) On subsequent sales at or below the prices to be determined by the Director Mayor's Office of Housing in the Conditions of Approval or Notice of Special Restrictions according to the formula specified in the Procedures Manual, as amended from time to time, such that the units remain affordable to qualifying households. The formula in the

Procedures Manual may permit the seller to include certain allowable capital improvements in the sales price.

(B) With respect to rental units in an affordable housing project, the average annual rent, including the cost utilities paid by the tenant according to HUD utility allowance established by the San Francisco Housing Authority, shall not exceed the allowable average annual rent. Each unit shall be rented:

(i) Only to households with an annual gross income equal to or less than the qualifying limits for a household of low income as defined in this Section;

(ii) At or less than the maximum annual rent.

(4) "Allowable average purchase price" shall mean a price for all affordable owned units of the size indicated below that are affordable to a household of median income as defined in this Section, adjusted for the household size indicated below as of the date of the close of escrow, and, where applicable, adjusted to reflect the Department's policy on unbundled parking for affordable housing units as specified in the Procedures Manual and amended from time to time:

TABLE INSET:

Number of Bedrooms (or, for live/work units square foot equivalency)	Number of Persons in Household
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

(5) "Allowable average annual rent" shall mean annual rent for an affordable rental unit of the size indicated below that is 30 percent of the annual gross income of a household

of median income as defined in this Section, adjusted for the household size indicated below, and, where applicable, adjusted to reflect the Department's policy on unbundled parking for affordable housing units as specified in the Procedures Manual and amended from time to time:

TABLE INSET:

Number of Bedrooms (or, for live/work units square foot equivalency)	Number of Persons in Household
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

(6) "Annual gross income" shall mean gross income as defined in CCR Title 25, Section 6914, as amended from time to time, except that the Mayor's Office of Housing may, in order to promote consistency with the procedures of the San Francisco Redevelopment Agency, develop an asset test that differs from the State definition if it publishes that test in the Procedures Manual.

(7) "Average annual rent" shall mean the total annual rent for the calendar year charged by a housing project for all affordable rental units in the project of an equal number of bedrooms divided by the total number of affordable units in the project with that number of bedrooms.

(8) "Average purchase price" shall mean the purchase price for all affordable owned units in an affordable housing project of an equal number of bedrooms divided by the total number of affordable units in the project with that number of bedrooms.

(9) "Community apartment" shall be as defined in San Francisco Subdivision Code Section 1308(b).

(9a) "Conditional use" for purposes of this Ordinance means a conditional use authorization which, pursuant to the Planning Code, is required for the residential component of a project.

(10) "Conditions of approval" shall be a set of written conditions imposed by the Planning Commission or another permit-issuing City agency or appellate body to which a project applicant agrees to adhere and fulfill when it receives a conditional use or planned unit development permit for the construction of a principal project or other housing project subject to this Program.

(11) "Condominium" shall be as defined in California Civil Code Section 783.

(12) "Director" shall mean the Director of City Planning or his or her designee, including other City agencies or departments.

(13) "First certificate of occupancy" shall mean either a temporary certificate of occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco Building Code Section 109, whichever is issued first.

(14) Intentionally Left Blank.

(15) "Household" shall mean any person or persons who reside or intend to reside in the same housing unit.

(16) "Household of low income" shall mean a household whose combined annual gross income for all members does not exceed 60 percent of median income for the City and County of San Francisco, as calculated by the Mayor's Office of Housing using data from the United States Department of Housing and Urban Development (HUD) and adjusted for household size or, if data from HUD is unavailable, calculated by the Mayor's Office of Housing using other publicly available and credible data and adjusted for household size.

(17) "Household of median income" shall mean a household whose combined annual gross income for all members does not exceed 100 percent of the median income for the City and County of San Francisco, as calculated by the Mayor's Office of Housing using data from the United States Department of Housing and Urban Development (HUD) and adjusted for household size or, if data from HUD is unavailable, calculated by the Mayor's Office of Housing using other publicly available and credible data and adjusted for household size.

(17A) "Household of moderate income" shall mean a household whose combined annual gross income for all members does not exceed 120 percent of the median income for the City and County of San Francisco, as calculated by the Mayor's Office of Housing using data from the United States Department of Housing and Urban Development (HUD) and adjusted for household size or, if data from HUD is unavailable, calculated by the Mayor's Office of Housing using other publicly available and credible data and adjusted for household size.

(18) "Housing project" shall mean any development which has residential units as defined in the Planning Code, including but not limited to dwellings, group housing, independent living units, and other forms of development which are intended to provide long-term housing to individuals and households. "Housing project" shall not include that portion of a development that qualifies as an Institutional Use under the Planning Code. "Housing project" for purposes of this Program shall also include the development of live/work units as defined by Planning Code Section 102.13. Housing project for purposes of this Program shall mean all phases or elements of a multi-phase or multiple lot residential development.

(19) "Housing unit" or "unit" shall mean a dwelling unit as defined in San Francisco Housing Code Section 401.

(20) "Live/work unit" shall be as defined in San Francisco Planning Code Section 102.13.

(21) "Live/work project" shall mean a housing project containing more than one live/work unit.

(22) "Long term housing" shall mean housing intended for occupancy by a person or persons for 32 consecutive days or longer.

(23) "Market rate housing" shall mean housing constructed in the principal project that is not subject to sales or rental restrictions.

(24) "Maximum annual rent" shall mean the maximum rent that a housing developer may charge any tenant occupying an affordable unit for the calendar year. The maximum annual rent for an affordable housing unit of the size indicated below shall be no more than 30 percent of the annual gross income for a household of low income as defined in this Section, as adjusted for the household size indicated below as of the first date of the tenancy:

TABLE INSET:

Number of Bedrooms (or, for live/work units square foot equivalency)	Number of Persons in Household
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1100 square feet)	3
3 (1101 to 1300 square feet)	4
4 (More than 1300 square feet)	5

(25) "Maximum purchase price" shall mean the maximum purchase price for an affordable owned unit of the size indicated below that is affordable to a household of moderate income, adjusted for the household size indicated below, assuming an annual payment for all housing costs of 33 percent of the combined household annual gross

income, a down payment recommended by MOH and set forth in the Procedures Manual, and available financing:  
 TABLE INSET:

Number of Bedrooms (or, for live/work units square foot equivalency)	Number of Persons in Household
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1100 square feet)	3
3 (1101 to 1300 square feet)	4
4 (More than 1300 square feet)	5

(25A) "Mayor's Office of Housing" shall mean the Mayor's Office of Housing or its successor.

(26) "Notice of Special Restrictions" shall mean a document recorded with the San Francisco Recorder's Office for any unit subject to this Program detailing the sale and resale or rental restrictions and any restrictions on purchaser or tenant income levels included as a Condition of Approval of the principal project relating to the unit.

(27) "Off-site unit" shall mean a unit affordable to qualifying households constructed pursuant to this Ordinance on a site other than the site of the principal project.

(28) "On-site unit" shall mean a unit affordable to qualifying households constructed pursuant to this Ordinance on the site of the principal project.

(29) "Ordinance" shall mean Planning Code Sections 315.1 through 315.9.

(30) "Owned unit" shall mean a unit affordable to qualifying households which is a condominium, stock cooperative, community apartment, or detached single-family

home. The owner or owners of an owned unit must occupy the unit as their primary residence.

(31) "Owner" shall mean the record owner of the fee or a vendee in possession.

(32) "Principal project" shall mean a housing development on which a requirement to provide affordable housing units is imposed.

(33) "Procedures Manual" shall mean the City and County of San Francisco Affordable Housing Monitoring Procedures Manual issued by the San Francisco Department of City Planning, as amended.

(34) "Program" shall mean the Residential Inclusionary Affordable Housing Program.

(35) "Project applicant" shall mean an applicant for a building permit or a site permit or an applicant for a conditional use permit or planned unit development permit, seeking approval from the Planning Commission or Planning Department for construction of a housing project subject to this Section, such applicant's successors and assigns.

(36) "Rent" or "rental" shall mean the total charges for rent, utilities, and related housing services to each household occupying an affordable unit.

(37) "Rental unit" shall mean a unit affordable to qualifying households which is not a condominium, stock cooperative, or community apartment.

*(38) "Student housing" shall mean a building where 100 percent of the residential uses are affiliated with and operated by an accredited post-secondary educational institution. This housing shall ~~providing~~provide lodging or both meals and lodging, by prearrangement for one week or more at a time. Typically, student housing is for rent, and not for sale. This definition only applies in the Eastern Neighborhoods Mixed Use Districts and the PDR-1-D District. Student housing projects may fulfill the requirements of the Residential Inclusionary Affordable Housing Program by paying 80% of the in-lieu fee established in Sec. 315.6.*

**SEC. 327.3. APPLICATION.**

(a) Project Area. The Eastern Neighborhoods Public Benefits Fund is hereby established. It shall be implemented in part through district-specific Eastern Neighborhoods Impact Fee which applies to the Project Area and includes properties identified as part of the Eastern Neighborhoods Plan Areas in Map 1 (Land Use Plan) of the San Francisco General Plan. Fees shall be charged on net additions of gross square feet which result in a net new residential unit, or contribute to a 20 percent increase of non-residential space in an existing structure. Fees shall be assessed on residential use, and on non-residential use within each use category of Cultural/ Institution/ Education; Management, Information & Professional Service; Medical & Health Service; Retail/ Entertainment; and Visitor Services; with no substitutions across uses. Fees shall not be required for uses contained in Sections 220, 222, 223, 224, 225, and 226 of the Planning Code. Fees shall be assessed on mixed use projects according to the gross square feet of each use in the project.

(b) Prior to the issuance by the Department of Building Inspection (DBI) of the first site or building permit for a residential development project, or residential component of a mixed use project within the Project Area, the sponsor of any project containing residential space subject to the Eastern Neighborhoods Impact Fee shall pay to the Treasurer according to the schedule in Table 327.3.

(c) Prior to the issuance by DBI of the first site or building permit for a non-residential development project, or non-residential component of a mixed use project within the Project Area, the sponsor of any project containing non-residential space subject to the Eastern Neighborhoods Impact Fee shall pay to the Treasurer according to the schedule in Table 327.3.

TABLE 327.3

FEE SCHEDULE FOR EASTERN NEIGHBORHOODS PLAN AREAS

<u>Tier</u>	<u>Residential</u>	<u>Non-</u>
	<u>1</u>	<u>residential</u>

		*
<u>1</u>	<u>\$8/gsf</u>	<u>\$<del>616</del>/gsf</u>
<u>2</u>	<u>\$12/gsf</u>	<u>\$<del>1020</del>/gsf</u>
<u>3</u>	<u>\$16/gsf</u>	<u>\$<del>1424</del>/gsf</u>

~~\*Please note that nonresidential uses are subject to the Transit Impact Development Fee, Administrative Code Chapter 38, and therefore eligible for a waiver or reduction. See Section 327.3(g)(2)(B) (i) below~~

*(d) Upon request of the sponsor and upon payment of the Eastern Neighborhoods Impact Fee in full to the Treasurer, the execution of a Waiver Agreement or In-Kind agreement approved as described herein, the Treasurer shall issue a certification that the obligations of this section of the Planning Code have been met. The sponsor shall present such certification to the Planning Department and DBI prior to the issuance by DBI of the first site or building permit for the development project. DBI shall not issue the site or building permit without the Treasurer's certification that the fees required by this Section have been paid or otherwise satisfied. Any failure of the Treasurer, DBI, or the Planning Department to give notice of requirements under this Section shall not relieve a sponsor from compliance with this Section. Where DBI inadvertently issues a site or building permit without payment of the fee, Planning and DBI shall not issue any further permits or a certificate of occupancy for the project without certification from the Treasurer. The procedure set forth in this Subsection is not intended to preclude enforcement of the provisions of this Section under any other section of this Code, or other authority under the laws of the City or State of California.*

*(e) Fee Adjustments. In conjunction with the five-year Monitoring Program required by the Administrative Code Section (note: section number to be determined) , the City may review the amount of the Eastern Neighborhoods Impact Fee, should such an increase in fees be warranted according to an increase in construction costs according to changes published in the Construction Cost Index published by the Engineering News Record, or according to another*

similar cost index should there be one more appropriate. The City may also adjust fees based on changes in estimated costs of the underlying improvements to be funded through the Eastern Neighborhoods Impact Fee as listed in the Eastern Neighborhoods Program. Revision of the fee should be done in coordination with revision to other like fees whenever possible. The Planning Department shall provide notice of any fee adjustment including the formula used to calculate the adjustment on its website and to any interested party who has requested such notice at least 30 days prior to the adjustment taking effect.

(f) Option for In-Kind Provision of Public Benefits. The Planning Commission may reduce the Eastern Neighborhoods Impact Fee described in (b) above for specific development proposals in cases where the Planning Director recommends such an In-kind provision, and the project sponsor has entered into an In-Kind Agreement with the City. In-kind improvements may only be recommended where said improvements have been prioritized in the plan, where they meet an identified community need as analyzed in the Eastern Neighborhoods Needs Assessment, and where they substitute for improvements to be provided by fee revenue such as public open spaces and recreational facilities, transportation and transit service, streetscapes or the public realm, and community facility space . No proposal for In-kind improvements shall be accepted if it is not recommended by the Planning Director according to the criteria above. Project sponsors that pursue an in-kind waiver are responsible for all additional administrative costs.

(1) The value of the improvements provided through the In-kind agreement shall be equivalent to the portion of the Eastern Neighborhoods Impact Fee that is waived. For the purposes of calculating the total value, the project sponsor shall provide the Planning Department with a cost estimate for the proposed in-kind Public Benefits from two independent sources or, if relevant, real estate appraisers. If the City has completed a detailed site-specific cost estimate for a planned improvement this may serve as one of the cost estimates provided it is indexed to current cost of construction. Based on these estimates, the Planning Director shall determine their appropriate value and the Planning Commission may reduce the Eastern Neighborhoods Impact Fee assessed to that project proportionally. Open space or streetscape

improvements proposed to satisfy the usable open space requirements of Section 135 are not eligible for credit toward the contribution as In-Kind improvements. No credit toward the contribution may be made for land value unless ownership of the land is transferred to the City or a permanent public easement is granted, the acceptance of which is at the sole discretion of the City.

(2) The agreement shall also mandate a covenant of the project sponsor to reimburse all city agencies for their administrative and staff costs in negotiating, drafting, and monitoring compliance with the In-Kind agreement. The City also shall require the project sponsor to provide a letter of credit or other instrument, acceptable in form and substance to the Planning Department and the City Attorney, to secure the City's right to receive improvements as described above.

(g) Waiver or Reduction.

(1) Waiver or Reduction Based on Hardship or Absence of Reasonable Relationship

(A) A project applicant of any project subject to the requirements in this Section may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of development and the amount of the fee charged or for the reasons set forth in subsection (2) below, a project applicant may request a waiver from the Board of Supervisors.

(B) Any appeal of waiver requests under this clause shall be made in writing and filed with the Clerk of the Board no later than 15 days after the date the sponsor is required to pay and has paid to the Treasurer the fee as required in Section 327.3(b). The appeal shall set forth in detail the factual and legal basis for the claim of waiver, reduction, or adjustment. The Board of Supervisors shall consider the appeal at the hearing within 60 days after the filing of the appeal. The appellant shall bear the burden of presenting substantial evidence to support the appeal, including comparable technical information to support appellant's position. If a reduction, adjustment, or waiver is granted, any change of use or scope of the project shall invalidate the waiver, adjustment, or reduction of the fee. If the Board grants a reduction,

adjustment or waiver, the Clerk of the Board shall promptly transmit the nature and extent of the reduction, adjustment or waiver to the Treasurer and Planning Department.

(2) Waiver or Reduction Based on Duplication of Fees. This Section details waivers and reductions available by right for project sponsors that fulfill the requirements below.

(A) A project applicant subject to the requirements of this Section who has received an approved building permit, conditional use permit or similar discretionary approval and who submits a new or revised building permit, conditional use permit or similar discretionary approval for the same property shall be granted a reduction, adjustment or waiver of the requirements of Section 327 of the Planning Code with respect to the square footage of construction previously approved.

(B) The City shall not to assess duplicative fees on new development. In general project sponsors are only eligible for fee waivers under this clause if a contribution to another fee program would result in a duplication of charges for a particular type of community infrastructure. Therefore applicants may only receive a waiver for the portion of the Eastern Neighborhoods Public Benefits Fund that addresses that infrastructure type. Requirements under Section 135 do not qualify for waiver or reductions. Should future fees pose a duplicative charge, the same methodology shall apply and the Planning Department shall update the schedule of waivers or reductions accordingly.

(i) Applicants that are subject to the Transit Impact Development Fee (TIDF), Administrative Code Chapter 38, can reduce their contribution to the Eastern Neighborhoods Public Benefits Fund by one dollar for every dollar that they contribute to the TIDF. Reductions shall be made according to economic activity categories as defined in the Administrative Code Chapter 38, and based on the gross square footage (gsf) of new development for each economic activity category.

**SEC. 327.7 EASTERN NEIGHBORHOODS CITIZENS ADVISORY COMMITTEE**

**(a) Establishment and Purpose. An Eastern Neighborhoods Citizens Advisory Committee (CAC) is hereby established.** *Within 6 months of adoption of the Eastern Neighborhoods Area Plan and related planning code changes, the Mayor and the Board of Supervisors shall ~~establish~~ have appointed all members to an Eastern Neighborhoods Citizens Advisory Committee (CAC) the CAC. The CAC shall be the central community advisory body charged with providing input to City agencies and decision makers with regard to all activities related to implementation of the Eastern Neighborhoods Area Plans. The CAC is established for the purposes of providing input on the prioritization of Public Benefits, updating the Public Benefits program, relaying information to community members in each of the four neighborhoods regarding the status of development proposals in the Eastern Neighborhoods, and providing input to plan area monitoring efforts as appropriate. The CAC shall be advisory, as appropriate, to the Planning Department, the Interagency Planning & Implementation Committee (IPIC), the Planning Commission and the Board of Supervisors. The CAC may perform the following functions as needed:*

*(1) Collaborate with the Planning Department and the Interagency Plan Implementation Committee on prioritizing the community improvement projects and identifying implementation details as part of annual expenditure program that is adopted by the Board of Supervisors;*

*(2) Provide an advisory a role in a report-back process from the Planning Department on enforcement of individual projects' compliance with the Area Plans standards and on specific conditions of project approvals so that those agreements will be more effectively implemented;*

*(3) Collaborate with the Planning Department and relevant city agencies in the monitoring of the Plans' implementation program at approximately every fifth year, in coordination with the Monitoring Program required by the Administrative Code Section 10.E; and provide input to Plan area monitoring efforts for required time-series reporting.*

(b) Representation and Appointments.

(1) The CAC shall consist of 13 members representing the diversity of the Eastern Neighborhoods; key stakeholders, including resident renters, resident homeowners, low-income residents, local merchants, established neighborhood groups within the plan area; and other groups identified through refinement of the CAC process.

(2) All members shall live, work, own property or own a business in the Eastern Neighborhoods Plan Area they are appointed to represent.

(3) The Board of Supervisors shall appoint a total of eight members to the CAC, with two members representing each of the four Eastern Neighborhoods Plan Areas. Based on this representational requirement and the Supervisorial District boundaries, the District 10 Supervisor shall nominate 4 CAC members, the District 6 Supervisor shall nominate 2 CAC members, and the District 8 and District 9 Supervisors each shall nominate 1 CAC member. The appointment of each of the Board's CAC nominees shall be confirmed by the full Board of Supervisors.

(4) The Mayor shall appoint a total of five members, with one member representing each of the four neighborhoods, and one at-large member.

(5) Members shall serve for two-year terms, but those terms shall be staggered such that, of the initial membership, some members will be randomly selected to serve four year terms and some will serve two year terms.

(6) At the first official meeting of the CAC, which shall not occur until the entire 13 member CAC is appointed by the respective appointment process, a lottery shall be conducted in order to randomly select four Board of Supervisors appointees and two Mayoral appointees to serve four-year terms.

(7) The Board of Supervisors or Mayor may renew a member's term.

~~(b) Representation: The Board of Supervisors shall appoint 2/3 of the committee members and the Mayor shall appoint 1/3 of the committee members of the CAC, making appointments that represent the diversity of the plan area.. It shall include, at a minimum, two representatives from each of these four geographic areas of the Plan Area (the neighborhoods of Eastern SoMa, Central Waterfront, Mission and Showplace Square Potrero Hill); and other members shall represent citywide interests, including residential and business perspectives. The Citizens Advisory Committee shall be comprised of 9-12 community members from varying geographic, socio-economic, ethnic, racial, gender, and sexual orientations living or working within the plan area.. The CAC should adequately represent key stakeholders including resident renters, resident homeowners, low-income residents, local merchants, established neighborhood groups within the plan area, and other groups identified through refinement of the CAC process. Each member shall be appointed by the Board and will serve for two-year terms, but those terms shall be staggered such that, of the initial membership, some members will be randomly selected to serve four year terms and some will serve two year terms. The Board of Supervisors may renew a member's term.~~

(c) Committees or Working Groups of the CAC: According to procedures set forth in bylaws adopted by the CAC, the CAC may, at its discretion create subcommittees or working groups based around geographic areas or functional issues. Each of these subcommittees or working groups shall contain at least one CAC member, but may also be comprised of individuals who are not members of the CAC.

(ed) Staffing for Eastern Neighborhoods Citizens Advisory Committee: The Planning Department or Interagency Plan Implementation Committee shall designate necessary staffing from relevant agencies to the CAC, as needed to complete the CAC's responsibilities and functions of the CAC described in this code. To the extent permitted by law, staffing and

*administrative costs for the CAC shall be funded through the Eastern Neighborhoods Public Benefits Fund. Staff shall participate in the Interagency Planning and Implementation Committee as set forth in Administrative Code Section 36.*

**(e) The Eastern Neighborhoods CAC will automatically terminate on December 31, 2020, unless the Board of Supervisors extends the CAC's term by Ordinance.**

Administrative Code Section 10E.7 Monitoring:

**SEC. 10E.7. INTEGRATED PDR REPORTING**

(a) The owner of any property subject to an Integrated PDR Notice of Special Restrictions (NSR) recorded pursuant to Planning Code Section 328 is required to ensure that any new tenants or new occupants of any space that is permitted as Integrated PDR contact the Integrated PDR Program of the Office of Economic and Workforce Development (OEWD), or its successor, to register their respective Integrated PDR business with OEWD's Integrated PDR Program Database and that these same businesses continually update OEWD's PDR Program Database on an annual basis.

(b) Upon successful registration of a new Integrated PDR business, OEWD will provide each individual Integrated PDR business registrant with a dated receipt acknowledging that the subject Integrated PDR business has newly registered or updated their existing registration with OEWD. This receipt shall be referred to as an "Integrated PDR Registration Record" for purposes of this Section and Planning Code Section 328. If an Integrated PDR business failed to register for an Integrated PDR Registration Record as of December 31<sup>st</sup> of the subject year, the OEWD is prohibited from issuing a receipt for that year.

© It is the responsibility of the owner of any property subject to an Integrated PDR NSR recorded pursuant to Planning Code Sections 328 to collect and retain copies of any Integrated PDR Registration Records obtained by any tenant or occupant in a property subject to this Section.

(d) Property owners who cannot provide sufficient evidence in the form of Integrated PDR Registration Records to demonstrate to the Planning Department that current and former occupants of any Integrated PDR space have satisfied the initial registration and annual reporting requirements outlined in this Section will not be eligible

for any waivers or reductions of Outstanding Discount-Program Fees as set forth in Planning Code Section 328.

(e) OEWD, or its successor, shall make available summary reports of any and all Integrated PDR business data collected pursuant to this program at the request of the Planning Department staff or the Planning Commission, as necessary for their enforcement of any provisions of the Planning Code or for general information.

(f) OEWD, or its successor, shall provide a 5-year summary report on the status of employment of disadvantaged workers, as defined in Planning Code Section 328(b)(2) and the profile of all businesses registered under this program within 6 months of the 5-year anniversary of the adoption of this Section. This summary report shall contain data on the total number and types of businesses occupying Integrated PDR space, as well the total percentage share of the total workforce employed by businesses occupying Integrated PDR space that qualify as disadvantaged workers as of the 5-year anniversary of the effective date of this Section.

## **Administrative Code Chapter 38 TIDF:**

### **SEC. 38.1. DEFINITIONS.**

For the purposes of this Chapter, the following definitions shall apply:

- A. Accessory Use. A related minor use which is either necessary to the operation or enjoyment of a lawful principal use or conditional use, or is appropriate, incidental and subordinate to any such use and is located on the same lot as the principal or conditional use.
- B. Base Service Standard. The relationship between revenue service hours offered by the Municipal Railway and the number of automobile and transit trips estimated to be generated by certain non-residential uses, expressed as a ratio where the numerator equals the average daily revenue service hours offered by MUNI, and the denominator equals the daily automobile and transit trips generated by non-residential land uses as estimated by the TIDF Study or updated under Section 38.7 of this Chapter.
- C. Base Service Standard Fee Rate. The transit impact development fee that would allow the City to recover the estimated costs incurred by the Municipal Railway to meet the demand for public transit resulting from new development in the economic activity categories for which the fee is charged, after deducting government grants, fare revenue, and costs for non-vehicle maintenance and general administration.
- D. Board. The Board of Supervisors of the City and County of San Francisco.
- E. Certificate of Final Completion and Occupancy. A certificate of final completion and occupancy issued by any authorized entity or official of the City, including the Director of the Department of Building Inspection, under the Building Code.
- F. City. The City and County of San Francisco.
- G. Covered Use. Any use subject to the TIDF.
- H. Cultural/Institution/Education (CIE). An economic activity category that includes, but is not limited to, schools, as defined in subsections (g), (h), and (i) of Section 209.3 of the Planning Code and subsections (f)--(i) of Section 217 of the Planning Code; child

care facilities, as defined in subsections (e) and (f) of Section 209.3 of the Planning Code and subsection (e) of Section 217 of the Planning Code; museums and zoos; and community facilities, as defined in Section 209.4 of the Planning Code and subsections (a)--(c) of Section 221 of the Planning Code.

I. Director. The Director of Transportation of the MTA, or his or her designee.

J. Economic Activity Category. One of the following six categories of nonresidential uses: Cultural/Institution/Education (CIE), Management, Information and Professional Services (MIPS), Medical and Health Services, Production/Distribution/Repair (PDR), Retail/Entertainment, and Visitor Services.

K. Gross Floor Area. The total area of each floor within the building's exterior walls, as defined in Section 102.9 of the San Francisco Planning Code, except that for purposes of determining the applicability of the TIDF, the exclusion from this definition set forth in Section 102.9(b)(12) of that Code shall not apply.

L. Gross Square Feet of Use. The total square feet of gross floor area in a building and/or space within or adjacent to a structure devoted to all covered uses, including any common areas exclusively serving such uses and not serving residential uses. Where a structure contains more than one use, areas common to two or more uses, such as lobbies, stairs, elevators, restrooms, and other ancillary space included in gross floor area that are not exclusively assigned to one use shall be apportioned among the two or more uses in accordance with the relative amounts of gross floor area, excluding such space, in the structure or on any floor thereof directly assignable to each use.

M. Management, Information and Professional Services (MIPS). An economic activity category that includes, but is not limited to, office use as defined in Section 313.1(35) of the Planning Code; medical offices and clinics, as defined in Section 890.114 of the Planning Code; ~~and~~ business services, as defined in Section 890.111 of the Planning Code, Integrated PDR, as defined in Section 890.49 of the Planning Code, and Small Enterprise Workspaces, as defined in Section 227(t) of the Planning Code.

- N. Medical and Health Services. An economic activity category that includes, but is, not limited to, those non-residential uses defined in Sections 209.3(a) and 217(a) of the Planning Code; animal services, as defined in subsections (a) and (b) of Section 224 of the Planning Code; and social and charitable services, as defined in subsection (d) of Section 209.3 of the Planning Code and subsection (d) of Section 217 of the Planning Code.
- O. Municipal Railway; MUNI. The public transit system owned by City and under the jurisdiction of the Municipal Transportation Agency.
- P. Municipal Transportation Agency; MTA. The agency of City created under Article 8A of the San Francisco Charter.
- Q. Municipal Transportation Agency Board of Directors; MTA Board. The governing board of the MTA.
- R. New Development. Any new construction, or addition to or conversion of an existing structure under a building or site permit issued on or after September 4, 2004, that results in 3,000 gross square feet or more of a covered use. In the case of mixed use development that includes residential development, the term "new development" shall refer to only the non-residential portion of such development. "Existing structure" shall include a structure for which a sponsor already paid a fee under the prior TIDF ordinance, as well as a structure for which no TIDF was paid.
- S. Office Space Development Fee; OSDF. A fee imposed under Section 38.3-1 of this Chapter.
- T. Planning Code. The Planning Code of the City and County of San Francisco, as it may be amended from time to time.
- U. Production/Distribution/Repair (PDR). An economic activity category that includes, but is not limited to, manufacturing and processing, as defined in Section 226 of the Planning Code; those uses listed in Section 222 of the Planning Code; automotive services, as defined in Section 223(a)--(k) of the Planning Code; arts activities and

spaces, as defined in Section 102.2 of the Planning Code; and research and development, as defined in Section 313.1(42) of the Planning Code.

V. Residential. Any type of use containing dwellings as defined in Section 209.1 of the Planning Code or containing group housing as defined in Section 209.2(a)--(c) of the Planning Code.

W. Retail/Entertainment. An economic activity category that includes, but is not limited to, retail use, as defined in Section 218 of the Planning Code; entertainment use, as defined in Section 313.1(15) of the Planning Code; massage establishments, as defined in Section 218.1 of the Planning Code; laundering, and cleaning and pressing, as defined in Section 220 of the Planning Code.

X. Revenue Service Hours. The number of hours that the Municipal Railway provides service to the public with its entire fleet of buses, light rail (including streetcars), and cable cars.

Y. Sponsor. An applicant seeking approval for construction of new development subject to this chapter, such applicant's successors and assigns, and/or any person or entity that controls or is under common control with such applicant.

Z. TIDF Study. The study commissioned by the San Francisco Planning Department and performed by Nelson/Nygaard Associates entitled "Transit Impact Development Fee Analysis--Final Report," dated May 2001, including all the Technical Memoranda supporting the Final Report and the Nelson/Nygaard update materials contained in Board of Supervisors File No. 040141.

AA. Transit Impact Development Fee; TIDF. The development fee that is the subject of this Chapter.

BB. Treasurer. Treasurer of the City and County of San Francisco.

CC. Trip Generation Rate. The total number of automobile and Municipal Railway trips generated for each 1,000 square feet of development in a particular economic activity

category as established in the TIDF Study, or pursuant to the five-year review process established in Section 38.7 of this Chapter.

DD. Use. The purpose for which land or a structure, or both, are legally designed, constructed, arranged or intended, or for which they are legally occupied or maintained, let or leased.

EE. Visitor Services. An economic activity category that includes, but is not limited to, hotel use, as defined in Section 313.1(18) of the Planning Code; motel use, as defined in subsections (c) and (d) of Section 216 of the Planning Code; and time-share projects, as defined in Section 11003.5(a) of the California Business and Professions Code.

### **SEC. 38.3. IMPOSITION OF TRANSIT IMPACT DEVELOPMENT FEE.**

A. Subject to the exceptions set forth in subsections D and E below, each sponsor of a new development in the City shall pay to the City and deliver to the Treasurer upon issuance of any temporary certificate of occupancy, and as a condition precedent to issuance for such new development of any certificate of final completion and occupancy, whichever occurs first, a TIDF. The TIDF shall be calculated on the basis of the number of gross square feet of new development, multiplied by the square foot rate in effect at the time of payment for each of the applicable economic activity categories within the new development, as provided in Section 38.4 of this Chapter. An accessory use shall be charged at the same rate as the underlying use to which it is accessory. Whenever any new development or series of new developments cumulatively creates more than 3,000 gross square feet of covered use within a structure, the TIDF shall be imposed on every square foot of such covered use (including any portion that was part of prior new development below the 3,000 square foot threshold).

B. No City official or agency, including the Department of Building Inspection ("DBI") and the Port of San Francisco, may issue a certificate of final completion and occupancy for any new development subject to the TIDF until it has received notification

from the Treasurer that the TIDF in accordance with Section 38.4 of this Chapter has been paid.

C. Except as provided in Sections 38.3(D) and (E) below, the TIDF shall be payable with respect to any new development in the City for which a building or site permit is issued on or after September 4, 2004.

D. The TIDF shall not be payable on new development, or any portion thereof, for which a transit impact development fee has been paid, in full or in part, under the prior Transit Impact Development Fee Ordinance adopted in 1981 (Ordinance No. 224-81; former Chapter 38 of this Administrative Code), except where (1) gross square feet of use is being added to the building; or (2) the TIDF rate for the new development is in an economic activity category with a higher fee rate than the rate set for MIPS, as set forth in Section 38.4.

E. No TIDF shall be payable on the following types of new development.

(1) New development on property owned (including beneficially owned) by the City, except for that portion of the new development that may be developed by a private sponsor and not intended to be occupied by the City or other agency or entity exempted under this Chapter, in which case the TIDF shall apply only to such non-exempted portion. New development on property owned by a private person or entity and leased to the City shall be subject to the fee, unless the City is the beneficial owner of such new development or unless such new development is otherwise exempted under this Section.

(2) Any new development in Mission Bay North or South to the extent application of this Chapter would be inconsistent with the Mission Bay North Redevelopment Plan and Interagency Cooperation Agreement or the Mission Bay South Redevelopment Plan and Interagency Cooperation Agreement, as applicable.

(3) New development located on property owned by the United States or any of its agencies to be used exclusively for governmental purposes.

(4) New development located on property owned by the State of California or any of its agencies to be used exclusively for governmental purposes.

(5) New development for which an application for environmental evaluation or an application for a categorical exemption has been filed prior to April 1, 2004, and for which a building permit or site permit is issued on or before September 4, 2008; provided however, that such new development may be subject to the OSDF under Section 38.3-1 of this Chapter.

(6) The following types of new developments:

(a) Public facilities/utilities, as defined in Section 209.6 of the Planning Code;

(b) Open recreation/horticulture, as defined in Section 209.5 of the Planning Code, including private noncommercial recreation open use, as referred to in Section 221(g) of the Planning Code;

(c) Vehicle storage and access, as defined in Section 209.7 of the Planning Code;

(d) Automotive services, as defined in Section 223(l)--(v) of the Planning Code;

(e) Wholesaling, storage, distribution, and open-air handling of materials and equipment, as defined in Section 225 of the Planning Code;

(f) Other Uses, as defined in Section 227(a)--(q) and (s)--(t) of the Planning Code;

In reviewing whether a development is subject to the fee, the Director shall consider the project in its entirety. A sponsor may not seek multiple building permits to evade paying the TIDF.

F. The sponsor shall pay, or cause to be paid, the TIDF to the Treasurer on the earliest of the following dates (except for those Integrated PDR projects subject to Section 328 of the Planning Code):

(1) The date when 50 percent of the net rentable area of the project has been occupied;

(2) The date of issuance of the first temporary permit of occupancy in the new development;

G. Upon payment of the fee in full to the Treasurer, and upon request of the sponsor, the Treasurer shall issue a certificate that the fee has been paid. The sponsor shall present such certification to DBI before the issuance of the final certificate of occupancy for the new development. DBI shall provide notice in writing to the Treasurer, the Planning Department, and MUNI at least five business days before issuing the final certificate of occupancy for any new development project. DBI may not issue a final certificate of occupancy for any new development until DBI has received notice from the Treasurer that the TIDF has been paid. An exception to this process exists for Integrated PDR projects that are subject to Section 328 of the Planning Code, for which only 50% of the fees must be paid before the issuance of the final certificate of occupancy.

**SEC. 38.10. NONPAYMENT, RECORDATION OF NOTICE OF FEE AND NOTICE OF DELINQUENCY, ADDITIONAL REQUEST; NOTICE OF ASSESSMENT OF INTEREST, AND INSTITUTION OF LIEN PROCEEDINGS.**

A. Upon the Director's determination that a development is subject to this ordinance, he or she may cause the County Recorder to record a notice that such development is subject to the TIDF. The County Recorder shall serve or mail a copy of such notice to the persons liable for payment of the fee and the owners of the real property described in the notice. The notice shall include (1) a description of the real property subject to the fee; (2) a statement that the development is subject to the imposition of the fee; and (3) a statement that the amount of the fee to which the building is subject is determined under Sections 38.4, 38.5 and related provisions of this ordinance.

B. When the Director determines that the fee is due, the Director shall notify the Treasurer, who shall send a request for payment to the sponsor.

C. Payment of the TIDF imposed by this ordinance is delinquent if (1) in the case of a fee not payable in installments, the fee is not paid within 30 days of request for payment; (2) in the case of a fee payable in installments (for a fee determined prior to the effective date of this ordinance or for a fee for Integrated PDR subject to Sec. 328 of the Planning Code), the fee installment is not paid within 30 days of the date fixed for payment.

D. Where the TIDF is not paid within 30 days of request for payment, and where the TIDF is payable in installments (for a fee determined prior to the effective date of this ordinance or for a fee for Integrated PDR subject to Sec. 328 of the Planning Code) and any installment is not paid within 30 days of the date fixed for payment:

(1) The Treasurer or his or her designee may cause the County Recorder to record a notice of delinquent TIDF which shall include: (a) the amount of the delinquent fee; (b) the amount of the entire fee as reflected on the final determination and a statement of whether the fee is payable in installments; (c) the fee interest and penalty then due; (d) the interest and penalties that shall accrue on the delinquent fee if not promptly paid; (e) a description of the real property subject to the fee; (f) notification that if the fee is not promptly paid proceedings will be instituted before the Board of Supervisors to impose a lien for the unpaid fee together with any penalties and interest against the real property described in the delinquency notice; (g) notification of the fee payer's right to appeal the delinquency determination to the MTA Board within 15 days of the notice to the fee payer.

(2) Where the Treasurer determines to record a notice of delinquency, he or she shall also serve or mail the notice of delinquent TIDF to the persons liable for the fee and to the owners of the real property described on the notice.

(3) Where a notice of TIDF delinquency has been recorded and the delinquent fee is paid or the Treasurer's determination of delinquency is reversed by appeal to the MTA Board or the delinquency is otherwise cured, the Treasurer shall promptly cause

the County Recorder to record a notice that the TIDF delinquency has been cured. Said notice shall include: (a) description of the real property affected; (b) the book and page number of the county record wherein the notice of delinquency was recorded; (c) the date the notice of delinquency was recorded; (d) notification that the delinquency reflected on the notice of delinquency was cured and the date of cure; (e) the amount of the entire fee as reflected on the final determination; (f) if applicable, the amount of the fee paid to effect the cure; and (g) if applicable, a statement that the fee was payable in installments and specification of the delinquency installments cured; (h) if applicable, the amount of the fee paid to effect the cure.

(4) The Treasurer shall serve or mail the notice that the TIDF delinquency has been cured, referred to in Section 38.10.D(3) of this ordinance, to the persons liable for the fee and to the owners of the real property described in such notice.

E. Where the TIDF, not payable in installments, is not paid within 30 days of request for payment, and where the TIDF is payable in installments (for a fee determined prior to the effective date of this ordinance) and the installment is not paid within 30 days of the date fixed for payment, the Treasurer or his or her designee shall mail an additional request for payment and notice to the owner stating the following:

(1) If the amount due is not paid within 30 days of the date of mailing the additional request and notice, interest at the rate of one and one-half percent per month or portion thereof shall be assessed upon the fee or installment due.

(2) With respect to both non-installment and installment fees, if the account is not current within 60 days of the date of mailing the additional request and notice, the Treasurer shall institute proceedings to record a lien in accordance with Section 38.11 for the entire balance and any accrued interest against the property upon which the fee is owed.

F. Thirty days after mailing the additional request for payment, the Treasurer may assess interest as specified in Paragraph 38.10.E(1) above. Sixty days after mailing the

additional request for payment and notice, the Treasurer may institute lien proceedings as specified in Section 38.11.

G. The Treasurer shall submit a report to the Director on a quarterly basis of all fees collected for the previous quarter, which report shall include the property address, name of sponsor or owner of the property, and the amount of the fee, including interest, if any, collected.