

RESOLUTION NO. 118 – 2020

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

ADOPTING AN AFFORDABLE HOUSING COMMERCIAL LINKAGE FEE

RECITALS:

WHEREAS, the current shortage of affordable housing has caused many lower-and middle-wage workers to commute longer distances from less expensive areas, resulting in increased traffic in the City of East Palo Alto (“City”), and has also caused local resident housing costs to increase due to high levels of demand for existing housing resulting in a severe housing cost burden for many residents; and

WHEREAS, to implement the affordable housing goals, objectives, policies, and programs of the City’s Housing Element, the City desires to mitigate the impact of new nonresidential development on the need for affordable housing within its boundaries by collecting housing mitigation fees pursuant to Chapter 18.40 of the East Palo Alto Municipal Code (Affordable Housing Impact Fee – Nonresidential Development); and

WHEREAS, to ensure that the Affordable Housing Impact Fees set by this resolution do not exceed the actual affordable housing impacts attributable to the development projects on which the fee is imposed, the City Council received and considered a report for the City of East Palo Alto from Strategic Economics and Vernazza Wolfe Associates in 2016, entitled “Commercial Linkage Fee Nexus Study;” and

WHEREAS, the multicity nexus study entitled “Commercial Linkage Fee Nexus Study” was prepared by Strategic Economics and Vernazza Wolfe Associates in 2016 for the cities in San Mateo County (“Nexus Study”), using widely-used, appropriate methodology to determine the maximum amount needed to fully mitigate the burdens created by nonresidential development on the need for affordable housing; and

WHEREAS, the Nexus Study established an affordable housing commercial linkage fee nexus by quantifying the increase in demand for affordable housing that will result from new nonresidential development; and

WHEREAS, the Nexus Study determined that for Office, R&D, and/or Medical Office developments, the maximum feasible affordable housing impact fee is Twenty Dollars (\$20) per square foot; and

WHEREAS, on June 8, 2016, the City Council held a public hearing to evaluate the Nexus Study and, by majority vote, adopted a motion and provided direction to City staff to set the affordable housing commercial linkage fee for Office, R&D, and/or Medical Office developments at Ten Dollars (\$10) per square foot, which was less than the maximum feasible fee established by the Nexus Study to ensure that development projects remain economically feasible; and

WHEREAS, on July 5, 2016, the City Council held a public hearing to introduce an ordinance for first reading which established an "Affordable Housing Impact Fee - Nonresidential Development" (Affordable Housing Impact Fee) in the City which allowed the City Council to set and amend the amount of the fee by resolution from time to time ("Ordinance No. 397");

WHEREAS, per the City Council's previous direction, the July 5, 2016 City staff report accompanying Ordinance No. 397 also included a draft resolution setting the Affordable Housing Impact Fee for Office, R&D, and/or Medical Office developments at Ten Dollars (\$10) per square foot with an annual adjustment in an amount equal to the Consumer Price Index for All Urban Consumers for San Francisco, California or the Engineering News Record Construction Cost Index for San Francisco, California ("CPI/CCI"), which resolution was to be adopted concurrently with second reading and formal adoption of Ordinance No. 397; and

WHEREAS, on July 19, 2016, the City Council formally adopted Ordinance 397 establishing the Affordable Housing Impact Fee by unanimous vote, but did not adopt the resolution setting the fee due to procedural oversight; and

WHEREAS, the administrative record including but not limited to the adoption of Ordinance No. 397, shows that it was the clear intent of the City Council to set the Affordable Housing Impact Fee at Ten Dollars (\$10) with annual CPI/CCI adjustments; and

WHEREAS, on August 4, 2020; pursuant to California Government Code Section 66017(b) authorizing the adoption of an urgency measure for a fee or charge, or increase in a fee or charge, to protect the public health, welfare and safety, the City Council adopted Urgency Resolution No. 110-2020, setting an Affordable Housing Impact Fee based on findings related to the housing crisis in the state; the dramatic increase in high-wage jobs in the region, which has placed upward pressure on housing costs, increasing the need for affordable housing in the City; and the ongoing economic crisis caused by the global pandemic that is impacting low and moderate income workers and impeding their ability to pay rent and mortgage payments; and

WHEREAS, on September 1, 2020, pursuant to California Government Code section 66017(b), the City Council adopted Urgency Resolution No. 117-2020, extending Urgency Resolution No. 110-2020 for 30 days; and

WHEREAS, the City Council now wishes to formally and permanently adopt the Affordable Housing Impact Fee.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO HEREBY:

Section 1. After careful consideration of the administrative record, including the review and consideration by the City Council over the course of several meetings in 2016 of the Nexus Study, facts, exhibits, staff reports, testimony, Urgency Resolution 110-2020, and other evidence submitted on this matter, in addition to Ordinance No. 397, the City Council finds as follows:

1. The foregoing recitals are true and correct and incorporated into this resolution by this reference;

2. The purpose of the Affordable Housing Impact Fee is to mitigate the burdens created by new residential and nonresidential development projects on the need for extremely-low, very-low, low, and moderate-income housing;
3. All Affordable Housing Impact Fees collected shall be deposited into the City's Affordable Housing Fund to be used to increase and preserve the supply of affordable housing for households of extremely-low, very-low, low, median, and moderate incomes, including necessary administrative costs;
4. The Nexus Study used widely-used, appropriate methodology to determine the maximum justified impact fee amount;
5. The findings of the Nexus Study have been considered and are hereby incorporated by this reference into this resolution, and the City Council finds that new residential and non-residential development will create a need for affordable housing by aggravating the existing shortage of affordable housing by reducing the supply of land for affordable housing and increasing the price of remaining land;
6. As shown in the Housing Element, there is a need in the City for affordable housing for households of extremely-low, very-low, low-income, and moderate-incomes;
7. The facts and substantial evidence in the record establish that there is a reasonable relationship between the need for affordable housing and the impacts of the development described in the Nexus Study for which the corresponding fee is charged, and that there is also a reasonable relationship between the fee's use and the type of development for which the fee is charged, as is described in more detail in the Nexus Study submitted to City Council;
8. The Nexus Study set forth cost estimates, in 2015 Dollars, that are reasonable for constructing affordable housing, and the fees expected to be generated by new development will not exceed these costs;
9. The Affordable Housing Impact Fee of Ten Dollars (\$10) considered in 2016 was intended to be adjusted on an annual basis by the City Manager (or City Manager's designee) by the percentage increase in the Consumer Price Index ("CPI") for All Urban Consumers for San Francisco, California or the Engineering News Record Construction Cost Index ("CCI") for San Francisco, California so the current fee set by this Resolution is \$11.41, reflecting four annual CPI increases since Ordinance No. 397 established the Affordable Housing Impact Fee in 2016; and
10. Adoption of this resolution is exempt from the California Environmental Quality Act because the proposed fee increase is not a project, in that it is a funding mechanism and government administrative activity which does not involve any commitment to any specific project (CEQA Guidelines Sections 15378(b)(4) and (b)(5)).

Section 2.

1. Adoption of Affordable Housing Impact Fees: The City Council hereby adopts the Affordable Housing Impact Fees shown on **Exhibit A**, incorporated by this reference;

2. Annual Adjustment to Affordable Housing Impact Fees: The City Council may review the Affordable Housing Impact Fee from time to time. The Affordable Housing Impact Fee will automatically adjust on April 1st of each year based on the percentage increase in the Engineering News Record Construction Cost Index for San Francisco, California;
3. Effective Date: This Resolution shall go into full force and effect on October 31, 2020.

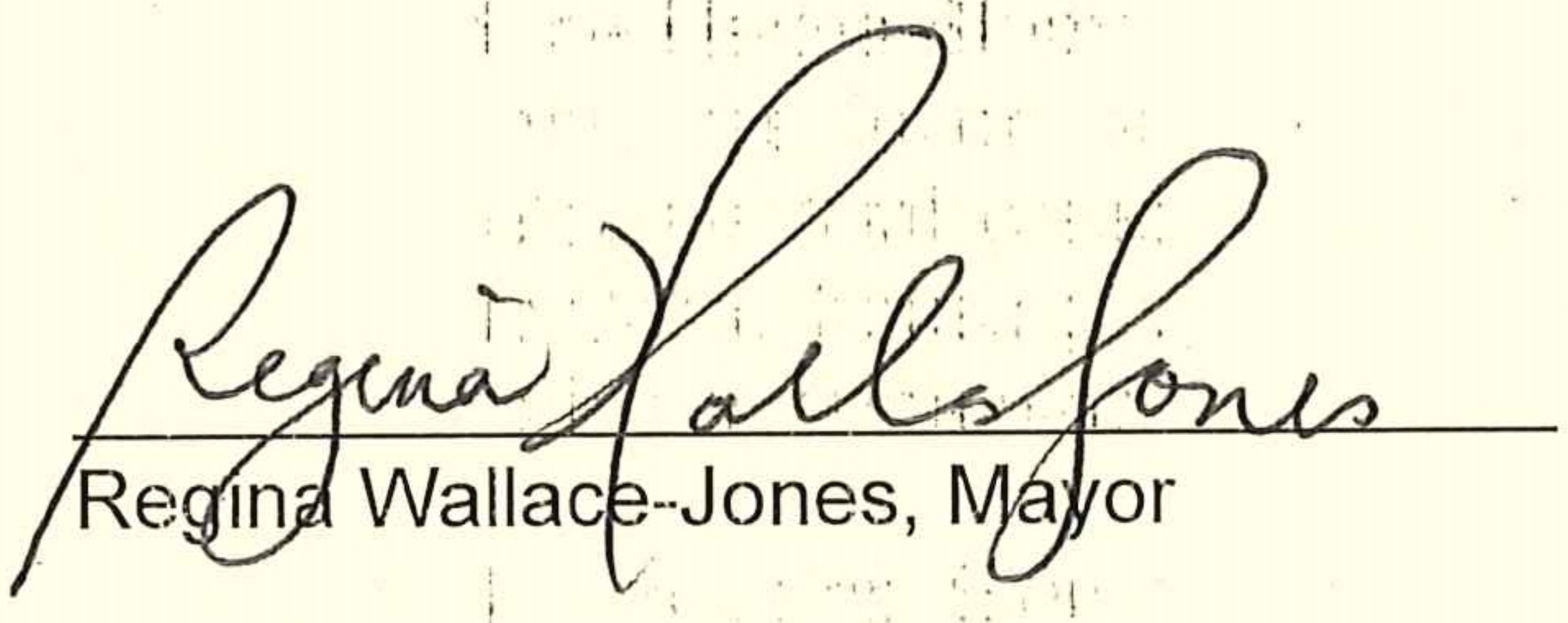
PASSED AND ADOPTED on this 1st day of September, by the following vote:

AYES: Abrica, Gauthier, Moody, Romero, Wallace-Jones

NOES:

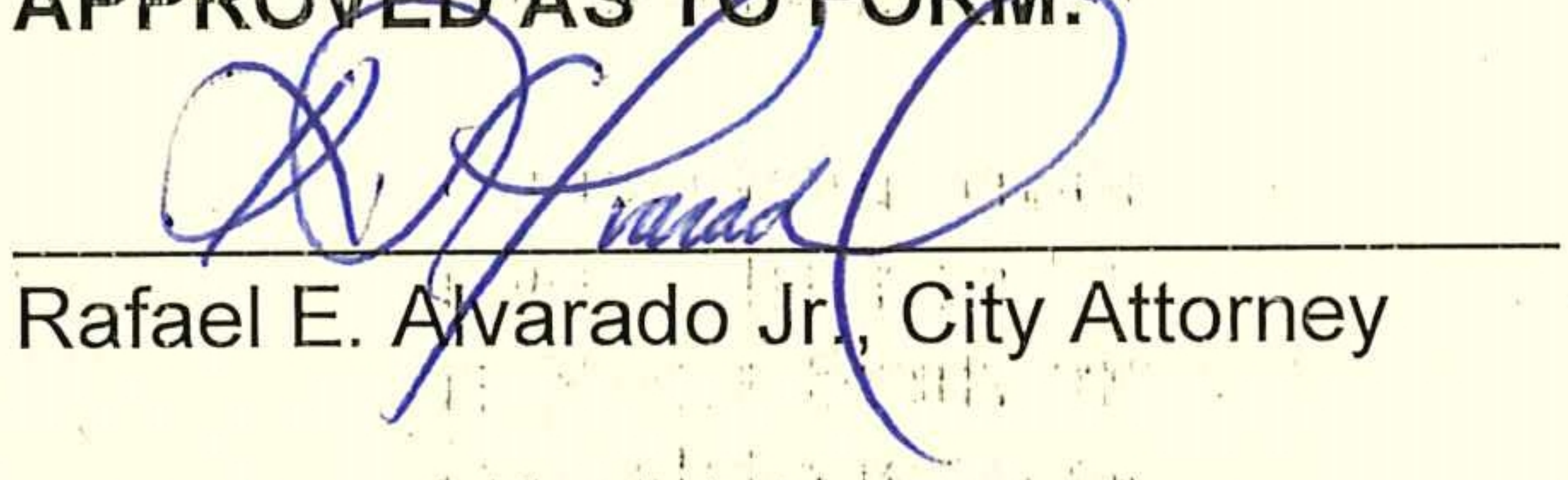
ABSENT:

ABSTAIN:

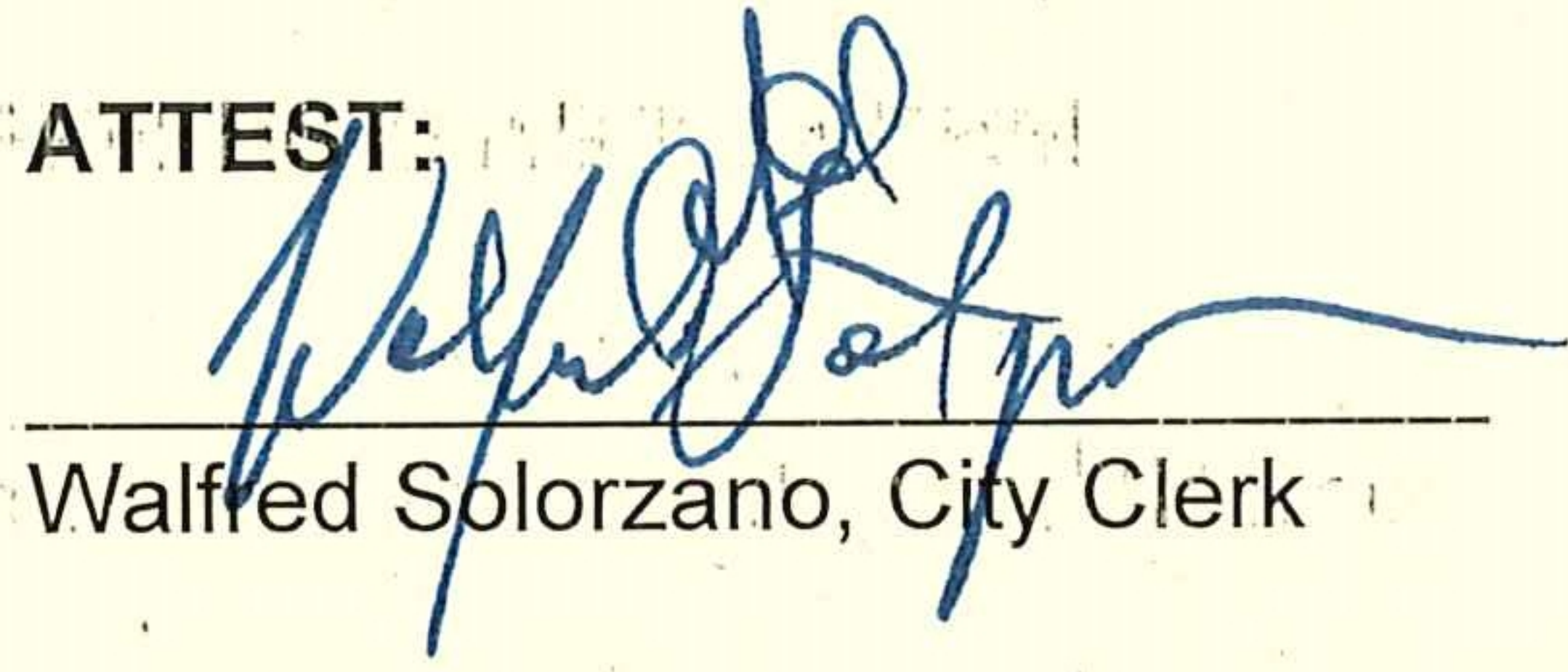


Regina Wallace-Jones, Mayor

APPROVED AS TO FORM.



Rafael E. Alvarado Jr., City Attorney

ATTEST:


Walfrid Solorzano, City Clerk

Exhibit A

Housing Mitigation Fee Schedule

<u>Development Type</u>	<u>Fee per Square Foot</u>
Office/R&D/Medical Office	\$11.41
Retail/Restaurants/Services	\$0
Hotel	\$0

Fee amounts shall automatically adjust April 1 of each year based on the percentage increase published in the Engineering News Record Construction Cost Index (CCI) for San Francisco, California.