



*City of Foster City*

**ESTERO MUNICIPAL IMPROVEMENT DISTRICT**

610 FOSTER CITY BOULEVARD  
FOSTER CITY, CA 94404-2222

**Community Development Divisions**  
**SB 423 - Housing Streamlined Approval**  
**(Supplemental Application Form)**

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**Effective January 1, 2024**, recent modifications to CA Gov. Code § 65913.4 under SB 423 will require local jurisdictions to streamline the approval of certain housing projects with two or more units by providing a ministerial approval process. SB 423 applies in jurisdictions that failed to produce the number of units specified in their RHNA allocations or that did not adopt a housing element that HCD found to be substantially compliant by the statutory deadline. In projects with more than 10 units, at least 10% of units must be affordable (at 80% AMI if an ownership project or 50% AMI if a rental project). SB 423 also introduces a pre-submittal hearing requirement and modifies certain labor provisions.

**Site Requirements**

- a) **Zoning.** The development must be located on a legal parcel or parcels that allow for residential uses.
- b) **Location.** The development must be located on a property that is not located on prime farmland, wetlands, a high fire hazard severity zone, a delineated earthquake fault zone, a flood plain, a floodway, a community conservation plan area, a habitat for protected species, or under a conservation easement.
- c) **Hazardous Waste Site.** The development must not be located on a property that is classified as a hazardous waste site as defined under CA Gov. Code § 65912.111(e) (see 65913.4(a)(6)(e)), unless the project sponsor has secured a letter from the State Department of Public Health, State Water Resources Control Board, or the Department of Toxic Substance Control stating that the site is suitable for residential uses.
- d) **Coastal Zone.** Projects located in the Coastal Zone are prohibited until January 1, 2025. On or after January 1, 2025, the development may not be located on sites within the coastal zone that are not subject to a certified local coastal program or a certified land use plan; areas vulnerable to five feet of sea level rise; areas not zoned for multi-family housing; located within 100-feet of a wetland, or on prime agricultural land. For more information, please see the requirements in Government Code Section 65913.4(a)(6)(A).

If a project is located on a Coastal Zone site that is eligible for this program, the project sponsor shall submit a coastal zone permit, and the Division will review the project for compliance with any objective criteria of the Local Coastal Program.

- e) **Demolition of Residential Units.** SB 423 projects may not demolish any of the following types of housing:
  - Units that have been occupied by tenants in the last 10 years;
  - Units subject to any form of rent or price control, or units subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low incomes.
  - The project cannot be located on a site which was previously used for housing that was occupied by tenants that were demolished within 10 years before the development proponent applies for approval under SB 423.
- f) **Historic Buildings.** SB 423 projects may not demolish historic structures that are on a national, state, or local historic register.

#### Project Requirements

- a) **Residential Use.** The development must include the construction of at least two or more residential units. At least 2/3 of the floor area of the proposed building must be dedicated to residential use.
- b) **Consistent with Objective Standards.** The project must meet all objective standards of the Foster City Municipal Code at the time of SB 423 application submittal.
- c) **Labor Requirements.** If the development is not in its entirety a public work, as defined in Government Code section 65913.4 (a)(8)(A), all construction workers employed in the execution of the development must be paid at least the general prevailing rate of per diem wages for the type of work and geographic area. The project sponsor shall certify to the City that it has met the requirements set forth in Govt. Code Section 65913.4(a)(8)(A). Projects with 10 or fewer units are exempt from the prevailing wage requirement. Project with 50 or more units must also make healthcare expenditures. Projects over 85 feet in height above grade must utilize a skilled and trained workforce, as defined in Government Code section 65913.4 (a)(8)(F), except that 100% affordable housing projects (at 80% AMI or lower) are exempt from the skilled and trained workforce provisions. Please see 65913.4(a)(8) and (9) for complete details about the labor requirements for SB 423 projects.

Projects seeking approval under SB 423 will have different submission requirements than discretionary Planning Divisions submissions. Projects seeking approval under SB 423 must submit a complete application package to the Planning Divisions, which may include but is not limited to:

- a) SB 423 Supplemental Application;
- b) SB 330 Preliminary Application, as the Notice of Intent;
- c) Two (2) copies of an 11" by 17" plan set, two (2) copies of a 24" by 36" plan set, and one (1) electronic submittal on a USB or CD or Electronic submittals can be made via [eTRAKiT](#).

The planning division must determine if an application is eligible for ministerial approval within 60 days of submittal for projects with 150 units or fewer, and within 90 days for projects with more than 150 units. After the

planning division has determined that the project is eligible for streamlining, the planning division will issue a Plan Check Letter identifying the development standards the development conflicts within and an explanation for the reason within 60 days of submittal for projects with 150 units or less and within 90 days for projects with more than 150 units. It must also approve the application within 90 days of submittal for projects with 150 units or fewer, or 180 days for projects with more than 150 units.

### **Pre-Application Requirements**

SB 423 requires an applicant to complete tribal notification and hold an informational hearing at the Planning Commission prior to applying for ministerial approval. Applicants are required to submit a Notice of Intent to initiate these required pre-application requirements. The planning division will determine that an application for ministerial approval is incomplete if it is submitted prior to completion of these pre-application requirements.

### **Tribal Notification**

The planning division is required to engage in a scoping consultation regarding the proposed development with any California Native American tribe that is traditionally and culturally affiliated with the geographic area. Planning division staff have 30 days from submittal of the Notice of Intent to notify these tribal groups. Within 30 days of receipt of the notification, a representative of the tribal group may request a scoping consultation with the planning division. The consultation may include discussion concerning the identification, presence, and significance of Tribal Cultural Resources (TCRs), the significance of the project's impacts on TCRs, and, as warranted, measures and alternatives to protect or reduce impacts on tribal cultural resources. If a scoping consultation is requested, planning division staff will coordinate with the requestor to develop mitigation measures, which will be attached to the approval as conditions of approval. If the project sponsor does not agree to impose these measures, or the sponsor and requestor cannot agree on a set of measures, then the project is not eligible for SB 423.

### **Informational Hearing**

SB 423 requires a public hearing for projects located in census tracts that are designated either as a moderate resource area, a low resource area, or an area of high segregation and poverty on the most recent "[CTCAC/ HCD Opportunity Map](#)" published by the California Tax Credit Allocation Committee and the Divisions of Housing and Community Development Projects. Projects located in these census tracts must present the project at a Planning Commission hearing (coordinated by Planning Staff) within 45 days of submittal of the Notice of Intent (Please note that as of 12/31/2023, all of Census Tracts in Foster City are Highest Resource and High Resource).

## SB 423 Supplemental Application

### LOCATION OF PROPERTY:

Address(es): \_\_\_\_\_

Assessor's Parcel Number(s): \_\_\_\_\_

#### PROPERTY OWNERSHIP

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

#### APPLICANT

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

### A. PROJECT INFORMATION – Please provide the information below.

- |    |                                                                          |            |           |
|----|--------------------------------------------------------------------------|------------|-----------|
| 1. | Is this a 100% Affordable Housing Project?                               | <b>Yes</b> | <b>No</b> |
| 2. | Will the Project use SB 423 in conjunction with the State Density Bonus? | <b>Yes</b> | <b>No</b> |

If yes, please submit a completed Individually Requested State Density Bonus Program Supplemental Application with your submittal.

- |    |                                                                                                                                                         |            |           |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|
| 3. | Is the project located in a census tract that is designated as a moderate resource area, low resource area, or an area of high segregation and poverty? | <b>Yes</b> | <b>No</b> |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------|

If yes, please complete the Hearing Attendance Section of the Applicant's Affidavit on this Supplemental Application.

### Project Description

Please provide a narrative project description that summarizes the project and its purpose. Please include the AMI levels of the populations to be served in the development and describe the project's intended program and supportive services.

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**SIGNATURES** – I, the undersigned owner (or authorized agent) of the property herein described, hereby make application for approval of the plans submitted and made a part of this application in accordance with the provisions of the City Ordinances, and I hereby certify that the information given is true and correct to the best of my knowledge and belief. I hereby certify that this application and supporting submittals is an application for a development permit and therefore subject to time limits for processing as established by State law. I have read all applicable sections of this application and other relevant information and understand what is required of me during this project review process.

**Applicant:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Owner:\*** \_\_\_\_\_ **Date:** \_\_\_\_\_

\*If different than applicant, owner must either sign this application or attach a signed letter authorizing this application.

**Hearing Attendance**

Please complete one of the following:

Under the penalty of perjury, I attest that I attended a Planning Commission hearing about this project on \_\_\_\_\_ (Date) and I have reviewed the oral and written testimony prior to the submittal of this application. \_\_\_\_\_(Initials)

\_\_\_\_\_The project is not located in a census tract that is designated as a moderate resource area, low resource area, or an area of high segregation and poverty, and a Planning Commission hearing was not required.