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March 31, 2014

Board President David Chiu and Members of the Board of Supervisors
c/o Ms. Angela Calvillo
Clerk of the Board of Supervisors
City of San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4689

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BOARD OF SUPERVISORS
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Re: Response Letter to Mr. Thomas Lippe’s Appeal of Subdivision Map

Dear President Chiu and Supervisors:

We write on behalf of 706 Mission Street Co LLC (“Millennium Partners”) in response to the appeal letter submitted by Mr. Thomas Lippe on behalf of the 765 Market Street Residential Owner’s Association, Friends of Yerba Buena, Paul Sedway, Ron Wornick, Matthew Schoenberg, Joe Fang, and Margaret Collins (collectively, the “Appellants”) dated March 14, 2014, appealing the Department of Public Work’s approval of a Subdivision Map for Project 7970. For the reasons set forth below, we respectfully request that you reject the Appellants’ appeal.

I. EXECUTIVE SUMMARY

Appellants state that they appeal the approval of subdivision map for Project 7970 relating to Block 3706, Lots 275, 277, 093 and 706 Mission Street – Residential Tower and Mexican Museum Project. The subdivision map for Project 7970, however, has not yet been approved, conditionally approved, or disapproved by the Department of Public Works. Any appeal of the subdivision map for Project 7970 is therefore premature and should be rejected because the Department of Public Works has not yet taken final action on Project 7970. To the extent that Appellants intended to appeal the approval of the subdivision map for Project 7969, which is the subdivision map that the Department of Public Works approved on March 4, 2014, the ten day period in which to appeal that approval has passed. Any purported appeal of approval of the subdivision map for Project 7969 by Appellants should be rejected as untimely given that Appellants failed to appeal Project 7969 during the ten day appeal period, and it is now too late for Appellants to file a timely appeal.

Even if the Board of Supervisors were to allow the Appellants to proceed with an appeal of the subdivision map for Project 7969, their appeal is meritless. All of the arguments that

Appellants raise in their appeal relate to development of the Project, and none of their arguments relate to the subdivision map for Project 7969, which is the proper subject of an appeal of Project 7969. Appellants' arguments relating to the development of the Project are immaterial and irrelevant to this appeal given that the subdivision map for Project 7969 does not authorize any development of any kind. Furthermore, the Board of Supervisors and other City agencies and commissions have already considered and rejected all of arguments that Appellants now raise. Appellants' appeal simply rehashes the same broken arguments that the City previously rejected. The appeal should therefore be rejected and the approval of the subdivision map for Project 7969 affirmed.

II. FACTUAL BACKGROUND

On March 4, 2014, the Department of Public Works released its decision approving a proposed four lot subdivision of Block 3706, Lot 277 (the "Subdivison"). The street address of the proposed Subdivision is 738 Mission Street, and the Department of Public Works assigned a project identification number to the Subdivision of "Project 7969." Block 3706, Lot 277 is owned by the Successor Agency to the Redevelopment Agency of the City and County of San Francisco (the "Successor Agency"). The Successor Agency acquired Block 3706, Lot 277 after the Redevelopment Agency of the City and County of San Francisco ("Former Redevelopment Agency") dissolved and transferred all of its non-housing assets, including all real property, to the Successor Agency for the purpose of winding down the Former Redevelopment Agency's affairs, as required by the California Assembly Bill known as "AB 26" and the California Supreme Court's decision and order in *California Redevelopment Association v. Matosantos*.

The Successor Agency proposed the Subdivision in order to facilitate the disposal of the Former Redevelopment Agency's real property assets, by subdividing Block 3706, Lot 277 into four new legal lots that the Successor Agency could then convey to third parties. More specifically, the proposed Subdivision would divide Block 3706, Lot 277 into the following new lots:

- A lot that includes the Jessie Square Garage and the land that is contemplated as the future permanent home of The Mexican Museum (the "Garage/Museum Lot");
- A lot that includes Jessie Square Plaza (the "Jessie Square Plaza Lot"), which the Successor Agency intends to convey to an appropriate entity for the long term operation and maintenance of Jessie Square Plaza as public open space;
- An airspace lot above the Contemporary Jewish Museum, which the Successor Agency intends to convey to the Contemporary Jewish Museum ("CJM Lot 1"); and
- An airspace lot below the Contemporary Jewish Museum, which the Successor Agency intends to convey to the Contemporary Jewish Museum ("CJM Lot 2").

Following recordation of the map creating the Subdivision, the Successor Agency will convey the Garage/Museum Lot and Lot 275, which is a portion of the Stevenson Street ramp entrance to the Jessie Square Garage, (but none of the other newly created lots) to Millennium Partners

pursuant to the terms and conditions of a Purchase and Sale Agreement between the Successor Agency and Millennium Partners (“Purchase and Sale Agreement”). Millennium Partners would then develop the 706 Mission Street – The Mexican Museum and Residential Tower Project (the “Project”) on the Garage/Museum Lot, Lot 275 and on neighboring property (Block 3706, Lot 093, the “Aronson Building Lot”) that is owned by Millennium Partners.

The City and County of San Francisco, acting through its various commissions and boards – including the Board of Supervisors – approved the entitlements for the Project in 2013. The Successor Agency Commission and the Oversight Board to the Successor Agency (“Oversight Board”) approved the Purchase and Sale Agreement in 2013, as well as Part 1 of the Long Range Property Management Plan for the conveyance of the Garage/Museum Lot to Millennium Partners, adopted pursuant to Section 34191.5 of the California Health and Safety Code. The Success Agency Commission and Oversight Board more recently approved Part 2 of the Long Range Property Management Plan (“LRPMP Part 2”), which covers the Former Redevelopment Agency’s other non-housing assets, including the Jessie Square Plaza Lot, CJM Lot 1, and CJM Lot 2. LRPMP Part 2 is currently under review by the California Department of Finance.

The subdivision map for Project 7969 that the Department of Public Works approved on March 4, 2014 does not authorize any development on any of the four new lots that would be created by the Subdivision. Project 7969 merely subdivides Block 3706, Lot 277 into the Garage/Museum Lot, the Jessie Square Plaza Lot, CJM Lot 1, and CJM Lot 2. A separate subdivision map – assigned identification number “Project 7970” – would merge the newly created Garage/Museum Lot and Lot 275 with the Aronson Building Lot and re-subdivide those lots to facilitate the development of the Project. The proposed subdivision map for Project 7070 is still under review by the Department of Public Works, and no final action has yet been taken. When the Director of Public Works does take final action on the proposed subdivision map for Project 7070, that approval will be separately appealable by interested parties in accordance with the appeal procedures set forth in the City’s Subdivision Code.

III. ARGUMENT

Appellants’ appeal of the Department of Public Work’s approval of the subdivision map should be rejected for the following reasons.

A. Appellants Appeal of the Subdivision Map for Project 7970 is Premature Because the Department of Public Works Has Not Yet Taken Final Action on Project 7970.

In their appeal letter, Appellants state that they appeal the approval of a “Subdivision Map for Project 7970 relating to Block 3706, Lots 275, 277, 093 and 706 Mission Street – Residential Tower and Mexican Museum Project.” The subdivision map for Project 7970, however, has not yet been approved, conditionally approved, or disapproved by the Department of Public Works. Section 1314 of the City’s Subdivision Code states that appeals of subdivision maps may only be taken “from a final decision of the Director approving, conditionally approving, or disapproving” a subdivision. Because there is not yet a “final decision” on the subdivision map for Project 7970, the Appellants appeal of Project 7970 should be rejected as

premature and unripe. Appellants will have the opportunity to appeal the Department of Public Work's final action on the subdivision map for Project 7970 at such time as the Director of Public Works takes final action with respect that subdivision map application.

B. The Time for Appellants to Appeal Project 7969 Has Passed.

Section 1314 of the City's Subdivision Code provides that any appeal of the approval of a subdivision map must be filed with the Clerk of the Board "within 10 days of release of the decision appealed." The Department of Public Works released its decision on the subdivision map for Project 7969 on March 4, 2014. The last day to appeal the Department of Public Works' decision on Project 7969 was March 14, 2014. While Appellants filed an appeal of the subdivision map for Project 7970 on March 14, 2014, they failed to file an appeal of the subdivision map for Project 7969 by the March 14, 2014 deadline. Therefore, to the extent that Appellants intend to appeal the approval of the subdivision map for Project 7969, the period in which to appeal Project 7969 has passed. Any purported appeal of the subdivision map for Project 7969 by Appellants should be rejected as untimely given that Appellants failed to appeal Project 7969 during the appeal period, and it is now too late for Appellants to file a timely appeal.

C. The Appeal Lacks Merit; All Issues Raised by Appellants in the Appeal Letter Have Previously Been Considered and Rejected by the Board of Supervisors and Other City Agencies and Commissions.

Even if the Board of Supervisors were to allow the Appellants to proceed with an appeal of the subdivision map for Project 7969, the appeal lacks merit. Appellants state that their appeal is based on the fact that the subdivision does not comply with the following provisions of the Planning Code:

- Article 11 §1111.6(c)(6) because the Project will increase the height of the Aronson Building by more than one story, and because the tower is not compatible in scale with the Aronson Building;
- Article 11, § 1113(a) because the Project tower is not compatible in scale with the new Montgomery-Mission-Second Conservation District; and
- Sections 295 (Prop K) and Section 309 (Downtown Project Authorization).

Appellants also argue that the subdivision map does not comply with California Environmental Quality Act ("CEQA") for all the reasons described in the Appellants previous appeal of the Environmental Impact Report for the Project, Board of Supervisors File No. 130308. Appellants fail to note, however, that the Board of Supervisors and other City agencies and commissions have previously considered and rejected all of these arguments.

1. Subdivision Map for Project 7969 Does Not Authorize Any Development.

As an initial matter, all of Appellants' arguments in support of the appeal relate to development of the Project. None of the arguments relate the subdivision of Block 3706, Lot 277 into the Garage/Museum Lot, the Jessie Square Plaza Lot, CJM Lot 1, and CJM Lot 2. As previously discussed, the subdivision map for Project 7969 does not authorize any development, including but not limited to the development of the Project. The purpose of the subdivision map for Project 7969 is to facilitate the disposal of the Former Redevelopment Agency real estate assets, as required by state law. Because the subdivision map for Project 7969 does not authorize any development, Appellants' rehashing of arguments that they previously made challenging development of the Project are misplaced and irrelevant.

2. The City Has Previously Considered and Rejected All of the Arguments That Appellants Raise in Their Appeal.

More importantly, the City has previously considered and rejected all of the arguments raised by Appellants in their appeal.

a. The City Has Rejected Appellants' Arguments Alleging That the Project Fails to Comply with Article 11 of the Planning Code.

Appellants previously raised arguments alleging the Project's non-compliance with Article 11 of the Planning Code as part of Appellants' appeal of the approval of a Major Permit to Alter for the Project. On July 23, 2013, the Board of Supervisors heard the Major Permit to Alter appeal, rejected all of Appellants arguments regarding the Project's alleged non-compliance with Article 11, and affirmed the Historic Preservation Commission's approval of the Major Permit to Alter for the Project pursuant to Motion No. M13-096. All of the documents, comments, and arguments that Millennium Partners submitted to the City in connection with the Major Permit to Alter are herein incorporated by reference.

b. The City Has Rejected Appellants' Arguments Alleging That the Project Fails to Comply with Section 309 and Other Planning Code Provisions.

Appellants also previously raised arguments alleging the Project's non-compliance with Section 309 and other Planning Code provisions as part of Appellants' appeal of the approval of a Section 309 Downtown Project Authorization for the Project ("Section 309 Authorization"). On July 31, 2013 the Board of Appeals heard Appellants' appeal of the Section 309 Authorization, and on August 13, 2013 the Board of Appeals rejected all of Appellants arguments regarding the Project's alleged non-compliance with Section 309 and other Planning Code provisions, and upheld the Planning Commission's approval of the Section 309 Authorization. All of the documents, comments, and arguments that Millennium Partners submitted to the City in connection with the Section 309 Authorization are herein incorporated by reference.

c. The City Has Rejected Appellants' Arguments Alleging Violations of Section 295 of the Planning Code.

Appellants also previously raised arguments alleging violations of Section 295 of the Planning Code in connection with the Project, and both the Planning Commission and the Recreation and Park Commission, in acting on the Section 295 approvals for the Project, rejected Appellant's arguments. While Appellants attempted to appeal the Planning Commission and Recreation and Park Commission's approval of the Section 295 actions for the Project, the Board of Appeals determined that it did not have subject matter jurisdiction over the approval or an appeal. All of the documents, comments, and arguments that Millennium Partners submitted to the City in connection with the Section 295 actions for the Project are herein incorporated by reference.

d. The City Has Rejected Appellants' Arguments Alleging Violations of The California Environmental Quality Act.

Appellants also previously raised arguments alleging the Project's non-compliance with CEQA, and Appellants appealed the Planning Commission's March 21, 2013 certification the Final Environmental Impact Report for the Project (Case No. 2008.1084E) (the "FEIR"). The Board of Supervisors heard the FEIR appeal on May 7, 2013, rejected all of the arguments raised by Appellants, and affirmed certification of the FEIR for the Project on May 7, 2013 with Motion No. M13-062. While Appellants claim that the approval of the subdivision map does not comply with CEQA, they do not offer a single statement or fact in support of that claim. The Department of Public Works complied with CEQA in approving the subdivision map. Attached as Exhibit A to this letter is the Department of Public Works' CEQA findings for the approval of a subdivision map for Project 7969. All of the documents, comments, and arguments that Millennium Partners submitted to the City in connection with the CEQA review for the Project are herein incorporated by reference.

In summary, Appellants appeal is devoid of merit, and the Board of Supervisors and other City agencies and commissions have already considered all of Appellants' arguments and have rejected them and found them to be without merit in each case.

IV. CONCLUSION

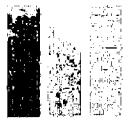
For the foregoing reasons, we respectfully request that the Board of Supervisors reject the Appellants' appeal.

Sincerely,



Margo N. Bradish

Exhibit A



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File No. 56238

February 26, 2014

VIA E-MAIL

Mr. Robert Hanley
Department of Public Works
Office of the City and County Surveyor
1155 Market Street, 3rd Floor
San Francisco, California 94103

Re: Project ID: 7969
Project Name: 3706/277 (4AS)

Dear Mr. Hanley:

Pursuant to your request, below please find draft CEQA compliance and findings language to be considered in connection with the Department of Public Work's action on the vesting tentative parcel map application for Project ID 7969:

"On March 21, 2013, the San Francisco Planning Commission certified that the Final Environmental Impact Report ("Final EIR") for the 706 Mission Street – The Mexican Museum and Residential Tower Project ("Project") was in compliance with the California Environmental Quality Act, (California Public Resources Code section 21000, et seq) ("CEQA"), the CEQA Guidelines, and Administrative Code Chapter 31 in Planning Commission Motion No. 18829. On May 7, 2013, the Board of Supervisors rejected three separate appeals of the Planning Commission's certification of the Final EIR and by Board Motion No. M13-062 affirmed the Planning Commission's certification of the Final EIR.

Since the Planning Commission approved the Project and made CEQA findings, the Department of Public Works finds that there have been no substantial changes to the Project that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR; no substantial changes in circumstances have occurred that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR; and no new information has become available that was not known and could not have been known at the time the Final EIR was certified as complete and that would result in new or substantially more severe significant environmental impacts not evaluated in the Final EIR; and no mitigation measures or alternatives previously found infeasible would be feasible or

Mr. Robert Hanley
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mitigation measures or alternatives considerably different than those analyzed in the Final EIR would substantially reduce significant environmental impacts, but the project proponent declines to adopt them.

The Department of Public Works has reviewed the Final EIR and adopts and incorporates by reference as though fully set forth herein the findings, including the mitigation monitoring and reporting program, adopted by the Planning Commission on May 23, 2013 in Motion No 18875. The Department of Public Works finds that there is no need for further environmental review or subsequent environmental impact report under CEQA Guidelines Section 15162 for the actions contemplated herein.”

Please let me know if you have any comments or questions about the proposed CEQA compliance and findings language for Project ID 7969.

Sincerely yours,



Margo N. Bradish

MNB/pml