

File No. 100883

Committee Item No. 4

Board Item No. 05

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date July 19, 2010

Board of Supervisors Meeting

Date 08/03/10

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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OTHER

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| * | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Conditional Land Disposition and Acquisition Agreement</u> |
| | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Department Determination Letter, dtd July 13, 2010</u> |
| | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
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Completed by: Alisa Somera Date July 16, 2010

Completed by: [Signature] Date July 21, 2010

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document can be found in the file.

22

1 [Agreement Regarding the Exchange of Fire Station No. 1 Located at 676 Howard Street and
2 Portions of Hunt Street for 935 Folsom Street and a Replacement Fire Station]

3
4 Ordinance authorizing the Director of Property to execute a conditional land
5 disposition and acquisition agreement with the San Francisco Museum of Modern Art
6 and its affiliate (collectively, Museum) for the proposed future conveyance by the City
7 and County of San Francisco (City) to Museum of real property located at 676 Howard
8 Street, San Francisco (Fire Station No. 1) and all of that portion of Hunt Street within
9 Block No. 3722, collectively, in exchange for conveyance by Museum to City of a parcel
10 of real property located at 935 Folsom Street, a new fire station to be constructed by or
11 on behalf of Museum on such parcel, and an easement for parking purposes adjacent
12 to such parcel; exempting from the competitive bidding and contract requirements of
13 Chapter 6 of City's Administrative Code all contracts to be entered into by Museum for
14 the design and construction of the new fire station and the improvement of such parcel
15 and parking easement; and making findings, including findings of consistency with the
16 General Plan and Planning Code Section 101.1(b).

17 NOTE: Additions are single-underline italics Times New Roman;
18 deletions are ~~strike-through-italics Times New Roman~~.
19 Board amendment additions are double-underlined;
20 Board amendment deletions are ~~strikethrough-normal~~.

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

22 Section 1. Findings. The Board of Supervisors of the City and County of San
23 Francisco hereby finds and declares as follows:

24 A. City owns (i) a fire station known as "Fire Station No. 1" located on City's real
25 property known as 676 Howard Street (Block 3722, Lot 028) and (ii) an adjoining section of
right-of-way known as Hunt Street also located within Block 3722, in San Francisco, California

1 (the "Hunt Street ROW"), which, together with all of City's interest in any rights, privileges, and
2 incidental or appurtenant easements, shall be referred to in this Ordinance as the "City
3 Property." The existing fire station is in need of enhancements to meet current rigorous
4 standards for essential public safety facilities, and the City's adopted FY 2010-2019 Capital
5 Plan, reflective of the budget constraints of the City, provides less funding than desired for
6 such facilities throughout the City to effect immediate physical improvements.

7 B. Museum proposes to design and develop a major expansion of its museum
8 facility located at 151 Third Street (Block 3722, Lot 78) in San Francisco (the "Museum
9 Project") onto the adjacent property known as 670 Howard Street (Block 3722, Lot 027, a
10 property already owned by a Museum affiliate) and the City Property. Museum's desire to
11 house and display the Doris and Donald Fisher Collection of contemporary art is a significant
12 motivation for the expansion contemplated by the proposed Museum Project.

13 C. By its Resolution No. 34-09 adopted on January 27, 2009, the Board of
14 Supervisors acknowledged the magnitude that the exhibition of the Fisher art collection would
15 have on the City's cultural landscape and the positive impact it would have on tourist revenue
16 and other key general fund revenue sources, found that the Fisher art collection would be a
17 valuable public addition to the City's civic well being, and urged the City to evaluate locations
18 within the City that might suitably house the Fisher art collection.

19 D. To facilitate the proposed Museum Project, Museum proposes to acquire the
20 City Property in exchange for (i) the 9,000-square-foot northern portion (the "Replacement
21 Property") of Museum's parcel of real property located at 935 Folsom Street (Block 3753, Lot
22 140) in San Francisco, (ii) a new fire station to be constructed by Museum, at Museum's sole
23 cost and expense (the "Replacement Fire Station"), on the Replacement Property, and (iii) a
24 parking easement over an approximately 1,800-square-foot adjacent portion of the remaining
25 5,400-square-feet of such parcel (the "Remainder Property").

1 E. Museum and City have negotiated and prepared a proposed Conditional Land
2 Disposition and Acquisition Agreement (the "Agreement"), a copy of which is on file with the
3 Clerk of the Board of Supervisors in File No. 100883, which provides for the exchange of
4 the Replacement Fire Station, Replacement Property, and the Parking Easement (collectively,
5 the Museum Transfer Property) for the City Property, subject to the satisfaction of express
6 conditions, including completion of environmental review under the California Environmental
7 Quality Act ("CEQA") (California Public Resources Code Sections 21000 *et seq.*), the CEQA
8 Guidelines (California Code of Regulations, title 14, Sections 15000 *et seq.*), and Chapter 31
9 of the San Francisco Administrative Code (collectively, "Environmental Review") and the City
10 making certain environmental findings at the conclusion of and based on the analysis
11 provided by the Environmental Review. The terms and conditions of such proposed
12 exchange as contemplated by the Agreement shall be referred to in this Ordinance as the
13 "Exchange Transaction." The Agreement does not bind City to approving the Museum
14 Project, the Replacement Fire Station, the vacation of Hunt Street, or any proposed
15 development of the Remainder Property (the "Remainder Property Project"). Rather, the
16 Agreement sets forth the terms of the real estate transaction should the conditions imposed,
17 including such future City approvals following Environmental Review, come to pass.

18 F. On February 25, 2010, the San Francisco Fire Commission approved a Letter of
19 Intent for Exchange for Fire Department Station No. 1 (the "LOI") between the City, acting
20 through the Fire Department and the Department of Real Estate, and the Museum. The LOI
21 contained general terms and conditions substantially equivalent to those included in the
22 Agreement.

23 G. On or about March 5, 2010, Museum submitted an application to City's Planning
24 Department for Environmental Review of the Museum Project (Planning Department Case No.
25 2009.0291E) and the Replacement Fire Station and the Remainder Property Project (Planning

Mayor Newsom
Board of Supervisors

1 Department Case No. 2010.0275E). City has not yet completed Environmental Review of
2 these projects. The Board of Supervisors intends, and the Agreement specifically states, that
3 the Agreement is a conditional land acquisition agreement as described in CEQA Guidelines
4 Section 15004(b)(2)(A) to conditionally designate preferred sites for the Replacement Fire
5 Station, the Remainder Property Project, and Museum Project and to define the transactional
6 terms of the proposed exchange. By its terms, the Agreement is conditioned on City's
7 completion of Environmental Review in compliance with state and local law and City's
8 discretionary approval of the Replacement Fire Station Project, the Remainder Property
9 Project, the vacation of Hunt Street and the Museum Project following completion of
10 Environmental Review. As set forth in more detail in Section 4.1 of the Agreement, City will
11 review and consider the final Environmental Review documents relating to the Projects before
12 deciding whether to approve any of the Projects, including, without limitation, any associated
13 rezoning, Municipal Code or General Plan amendments, and design, demolition, and building
14 permits, and retains absolute discretion to: (i) require modifications in one or more of the
15 Projects to mitigate significant adverse environmental impacts, (ii) select feasible alternatives
16 that avoid significant adverse impacts of one or more of the Projects, (iii) require the
17 implementation of specific measures to mitigate the significant adverse environmental impacts
18 of one or more of the Projects, as identified through Environmental Review, (iv) reject all or
19 part of one or more of the Projects as proposed if the economic and social benefits of the
20 Project(s) rejected do not outweigh otherwise unavoidable significant adverse impacts of one
21 or more of the Projects, or (e) approve one or more of the Projects upon a finding that the
22 economic and social benefits of the Project(s) approved outweigh otherwise unavoidable
23 significant adverse environmental impacts.

24
25
Mayor Newsom
Board of Supervisors

1 H. Pursuant to a formal appraisal dated December 19, 2009 conducted by an
2 independent appraisal firm, the City Property has been determined to have a fair market value
3 of Two Million Forty Thousand Dollars (\$2,040,000).

4 I. Pursuant to a formal appraisal dated June 10, 2010 conducted by an
5 independent appraisal firm, the Replacement Property and the Parking Easement have been
6 determined to have a combined fair market value of Two Million Three Hundred Fifty
7 Thousand Dollars (\$2,350,000).

8 J. Pursuant to the Agreement, Museum is solely responsible for every aspect of
9 the construction of the Replacement Fire Station and the associated other improvements to
10 be constructed on the Replacement Property and the Parking Easement and all related
11 activities. The construction cost of the Replacement Fire Station is expected to exceed \$6
12 million.

13 K. The Board understands, and the Agreement provides that, (i) no City funds will
14 be used to pay any amounts to be expended pursuant to any contract entered into by or on
15 behalf of Museum to build the Replacement Fire Station or improve the Replacement Property
16 for City's use (inclusive of contracts for any materials, equipment, supplies, or services
17 incorporated or utilized in the construction of the Replacement Fire Station and the associated
18 other improvements to be constructed on the Replacement Property and the Parking
19 Easement) and (ii) to the extent the fair market value of the Museum Transfer Property and
20 Museum's cost to construct the Replacement Fire Station exceed the fair market value of the
21 City Property, such additional amount shall be deemed a gift to City by Museum and no
22 additional consideration shall be due or payable from City to Museum as a result of such
23 difference in value.

24 L. After completion of Environmental Review and prior to consummation and
25 closing of the Exchange Transaction, the Agreement contemplates further action by the Board

Mayor Newsom
Board of Supervisors

1 of Supervisors, the Mayor, and other City decisionmakers, including the Planning
2 Commission, Planning Department, Arts Commission, Department of Public Works, and
3 Department of Building Inspection, at their respective sole and absolute discretion, to approve
4 the rezoning of the Replacement Property and the Parking Easement to a P (Public) zoning
5 designation, demolition of the existing 935 Folsom Street building and construction of the
6 Replacement Fire Station, rezoning of 676 Howard Street to a C-3-S zoning designation, the
7 vacation of Hunt Street, demolition of the existing Fire Station No. 1 and construction of the
8 Museum Project, and any other agreement, instrument, or matter relating to the proposed
9 transactions that is subject to any such approval as required by applicable law.

10 M. Entering into the Agreement with Museum is appropriate and in City's best
11 interests under the circumstances set forth in this Ordinance and the Agreement. Such
12 circumstances include, without limitation, all of the following: (i) the existing fire station was
13 expected to require renovations to achieve improved seismic performance and meet current
14 standards for fire station operations; (ii) the location of the proposed Replacement Fire Station
15 is expected to result in improved response times in the Mission Street corridor, the 6th Street
16 corridor, and Tenderloin community; (iii) the design and construction of the Replacement Fire
17 Station is expected to result in more efficient and comfortable fire station operations (including
18 three vehicle bays, compared to only two vehicle bays at the existing fire station); and
19 compliance with building standards applicable to critical facilities; and (iv) the expansion of the
20 Museum's facility and the Museum's display of the Fisher art collection will improve the City's
21 cultural landscape, enhance tourist revenues and other key general fund revenues, and
22 constitute a valuable public addition to the City's civic well being.

23 N. By letter to the Board of Supervisors dated July 13, 2010, the Planning
24 Department found that the proposed Agreement was consistent with the City's General Plan
25 and with Planning Code Section 101.1(b). A copy of said letter is on file with the Clerk of the

Mayor Newsom
Board of Supervisors

1 Board of Supervisors in File No. 100883 and is incorporated herein by reference.

2 The Board of Supervisors finds that the proposed Agreement is consistent with the City's
3 General Plan and with Planning Code Section 101.1(b) for the reasons set forth in said letter.

4 Section 2. Approval of Agreement. In accordance with the recommendation of the Fire
5 Chief and the Director of Property, the Board of Supervisors hereby approves the Agreement
6 and the proposed Exchange Transaction and authorizes and approves the execution by the
7 Director of Property of the Agreement in substantially the form presented to the Board in City's
8 name and on its behalf and any other such documents that are necessary or advisable to
9 effectuate the purpose and intent of this Ordinance, and hereby authorizes the Director of
10 Real Estate to complete the contemplated Exchange Transaction, the closing of which is
11 subject to satisfaction of each of the conditions stated in the Agreement, including, without
12 limitation, City's completion of Environmental Review in compliance with state and local law
13 and City's discretionary approval of the Replacement Fire Station, the Remainder Property
14 Project, and Museum Project .

15 Section 3. Exemption from Administrative Code Chapter 6. The Board of Supervisors
16 hereby finds that the construction by Museum of the Replacement Fire Station and the
17 associated other improvements to be constructed on the Replacement Property and the
18 Parking Easement, as contemplated by the Agreement, does not constitute a public work
19 project and all contracts entered into by or on behalf of Museum in connection with
20 architectural, surveying, engineering, legal, project management, construction, contracting,
21 and other consulting services for the Replacement Fire Station shall be exempt from all of the
22 requirements of Chapter 6 of City's Administrative Code.

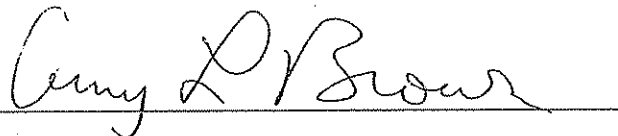
23 Section 4. Additions, Amendments, and Modifications. The Board of Supervisors
24 authorizes the Director of Property to enter into any additions, amendments, or other
25 modifications to the Agreement and any other documents or instruments in connection with

Mayor Newsom
Board of Supervisors

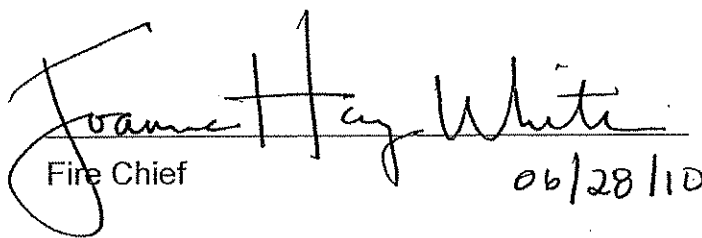
1 the Agreement that the Director of Property determines are in City's best interests, do not
2 materially decrease City's benefits with respect to the Exchange Transaction, do not
3 materially increase the consideration or expense to be paid by City pursuant to the Agreement
4 or City's obligations or liabilities in connection with the Agreement or the Exchange
5 Transaction, and are necessary and advisable to complete the Exchange Transaction and
6 effectuate the purpose and intent of this Ordinance, such determination to be conclusively
7 evidenced by the execution and delivery by the Director of Property of any such additions,
8 amendments, or other modifications.

9 Section 5. Approval and Ratification of Prior Actions. All actions prior to the adoption
10 of this Ordinance by City's officers with respect to the Agreement and the Exchange
11 Transaction are hereby approved, confirmed, and ratified.

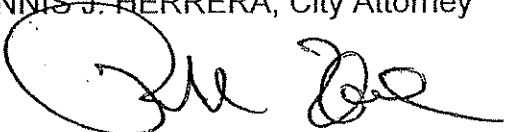
12
13 RECOMMENDED:

14 

15
16 Director of Property

17
18 
19 Fire Chief 06/28/10

20
21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 

24 By: Richard Handel
25 Deputy City Attorney

Mayor Newsom
Board of Supervisors

LEGISLATIVE DIGEST

[Agreement Regarding the Exchange of Fire Station No. 1 Located at 676 Howard Street and Portions of Hunt Street for 935 Folsom Street and a Replacement Fire Station]

Ordinance approving and authorizing the Director of Property to execute a Conditional Land Disposition and Acquisition Agreement with the San Francisco Museum of Modern Art and its affiliate (collectively, "Museum") for the proposed future conveyance by the City and County of San Francisco ("City") to Museum of real property located at 676 Howard Street, San Francisco (Fire Station No. 1) and all of that portion of Hunt Street within Block 3722, collectively, in exchange for conveyance by Museum to City of a parcel of real property located at 935 Folsom Street, a new fire station to be constructed by or on behalf of Museum on such parcel, and an easement for parking purposes adjacent to such parcel; exempting from the competitive bidding and contract requirements of Chapter 6 of City's Administrative Code all contracts to be entered into by Museum for the design and construction of the new fire station and the improvement of such parcel and parking easement; and making findings, including findings of consistency with the General Plan and Planning Code Section 101.1(b).

Existing Law

Chapter 6 of the City's Administrative Code sets forth the contracting policies and procedures for contracts for public works or improvements, including the procurement of professional design, consulting and construction management services for public work projects. Pursuant to the proposed ordinance, the Board would approve the execution by the City of an Conditional Land Disposition and Acquisition Agreement ("Agreement") for the proposed future exchange of City's land and Fire Station located at 676 Howard Street, San Francisco and a portion of Hunt Street for Museum's parcel of real property located at 935 Folsom Street (the "Replacement Property"), a new fire station to be constructed by or on behalf of Museum on such parcel (the "Replacement Fire Station"), and an easement for parking purposes adjacent to such parcel (the "Parking Easement"). The Board would also exempt from the requirements of Chapter 6 of the City's Administrative Code all contracts to be entered into by Museum for the design and construction of the Replacement Fire Station and the improvement of such parcel and Parking Easement. The Board will also adopt findings pursuant to the City Planning Code Section 101.1 and ratify previous actions taken in connection with the development of the new forensic science center project.

Amendments to Current Law

Pursuant to the proposed Ordinance, the Board would find that the construction by Museum of the Replacement Fire Station and the associated other improvements to be constructed on the Replacement Property and the Parking Easement, as contemplated by the Agreement, does not constitute a public work project and all contracts entered into by or on behalf of

Museum in connection with architectural, surveying, engineering, legal, project management, construction, contracting, and other consulting services for the Replacement Fire Station shall be exempt from all of the requirements of Chapter 6 of City's Administrative Code

Background Information

The consummation of the transactions described in the proposed Ordinance are subject to several express conditions stated in the Agreement, including City's completion of environmental review in compliance with state and local law and City's discretionary approval of the Replacement Fire Station Project, the vacation of Hunt Street, and the development of a new Museum facility proposed for construction on the City's property to be exchanged pursuant to the Agreement following completion of such environmental review. As set forth in more detail in Section 4.1 of the Agreement, City will review and consider the final environmental review documents relating to the Projects before deciding whether to approve any of the Projects, including, without limitation, any associated rezoning, Municipal Code or General Plan amendments, and design, demolition, and building permits, and retains absolute discretion to: (i) require modifications in one or more of the Projects to mitigate significant adverse environmental impacts, (ii) select feasible alternatives that avoid significant adverse impacts of one or more of the Projects, (iii) require the implementation of specific measures to mitigate the significant adverse environmental impacts of one or more of the Projects, as identified through environmental review, (iv) reject all or part of one or more of the Projects as proposed if the economic and social benefits of the Project(s) rejected do not outweigh otherwise unavoidable significant adverse impacts of one or more of the Projects, or (e) approve one or more of the Projects upon a finding that the economic and social benefits of the Project(s) approved outweigh otherwise unavoidable significant adverse environmental impacts.

FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, San Francisco Board of Supervisors	City elective office(s) held: Members, San Francisco Board of Supervisors
Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: SAN FRANCISCO MUSEUM OF MODERN ART (SFMOMA)	
1. SEE ATTACHED LIST OF SFMOMA BOARD OF TRUSTEES 2. NEAL BENEZRA, DIRECTOR 3. N/A 4. N/A 5. N/A	
Contractor address: 151 3 RD STREET; SAN FRANCISCO, CA 94103	
Date that contract was approved:	Amount of contract: \$2,040,000.00
Describe the nature of the contract that was approved: Land Exchange	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves San Francisco Board of Supervisors
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Clerk of the San Francisco Board of Supervisors	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 DR. Carlton B. Goodlet Pl., San Francisco, CA 94102	E-mail: bos.legislation@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed

**SAN FRANCISCO MUSEUM OF MODERN ART
BOARD OF TRUSTEES FY 2011**

OFFICERS

Charles R. Schwab, Chair
Robert J. Fisher, President
Richard L. Greene, Vice Chair
Robin M. Wright, Vice Chair
Dennis J. Wong, Secretary/Treasurer

ELECTED TRUSTEES

Bruce Atwater
Gerson Bakar
Yves Behar
Gay-Lynn Blanding
James W. Breyer
Carolyn Butcher
Charles M. Collins
Lionel Conacher
Jean Douglas
Rebecca S. Draper
Carla Emil
Irwin Federman
Doris Fisher
Linda W. Gruber
Mimi L. Haas
Kamala D. Harris
Adriane Iann
Bradley James
Richard M. Kovacevich
Pamela Kramlich
Janet W. Lamkin
Gretchen C. Leach
David Mahoney
Marissa Mayer
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Elaine McKeon
Kenneth P. McNeely
Eileen M. Michael
Lisa S. Miller
Nicola Miner
Christine Murray
Diana Nelson
Stuart L. Peterson
Andrew P. Pilara
Becca Prowda

Courtney Roberts
Paul Sack
Chara Schreyer
Lydia Shorenstein
Charlotte Mailliard Shultz
Norah Sharpe Stone
Norman C. Stone
John G. Stumpf
Roselyne Chroman Swig
Susan Swig
John Walecka
Brooks Walker Jr.
Thomas W. Weisel
Carlie Wilmans
Michael W. Wilsey
Pat Wilson
Kay Harrigan Woods

CHAIRMEN EMERITI

Elaine McKeon
Brooks Walker Jr.

EX-OFFICIO TRUSTEES

Linda Begler (Docent Council)
Jill G. Barnett (Modern Art Council)
Marjory Graue (SECA)
Joseph B. Hershenson (Foto Forum)
Britta Campbell and Freda Scott (Artist's Circle)
Douglas Burnham (Architecture+Design Forum)
Gretchen C. Leach (Director's Circle)
Ann Fisher (Collectors Forum)

As of July 15, 2010

**FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)**

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, San Francisco Board of Supervisors	City elective office(s) held: Members, San Francisco Board of Supervisors

Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: New Florian, LLC	
1. N/A 2. IKUKO SATODA, SFMOMA Deputy Director Administration & Finance 3. SFMOMA 4. N/A 5. N/A	
Contractor address: 151 3 RD STREET; SAN FRANCISCO, CA 94103	
Date that contract was approved:	Amount of contract: \$2,040,000.00
Describe the nature of the contract that was approved: Land Exchange	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves San Francisco Board of Supervisors
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Clerk of the San Francisco Board of Supervisors	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 DR. Carlton B. Goodlet Pl., San Francisco, CA 94102	E-mail: bos.legislation@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed

CONDITIONAL LAND DISPOSITION
AND ACQUISITION AGREEMENT

by and between the

CITY AND COUNTY OF SAN FRANCISCO

and

THE SAN FRANCISCO MUSEUM OF MODERN ART
and
NEW FLORIAN LLC

For the conveyance and exchange of

Property currently owned by the City of San Francisco consisting of
676 Howard Street, San Francisco (Block 3722, Lot 028)
and the remainder portion of Hunt Street located within Block 3722

and

The approximately 9,000 square foot northern portion of the property located at 935 Folsom
Street (Block 3753, Lot 140), currently owned by New Florian LLC,
together with a newly constructed fire station to be erected thereon
and a parking easement over an approximately 1,800 square foot portion of the remaining 5,400
square foot southern portion of 935 Folsom Street

_____, 2010



SAN FRANCISCO PLANNING DEPARTMENT

July 13, 2010

Ms. Amy Brown
Director of Real Estate
San Francisco Real Estate Department
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

BY OR

2010 JUL 14 PM 2:45
1650 Mission St.
Suite 400
San Francisco,
CA 94108-2479
RECEIVED
PLANNING DEPARTMENT
415.558.6378
415.558.6409
Planning
Information:
415.558.6377

Re: Case Number 2009.0291R
Ordinance approving a Conditional Land Disposition and Acquisition Agreement with the San Francisco Museum of Modern Art for conveyance by the City to the Museum of real property located at 676 Howard Street, San Francisco (Fire Station No. 1) and all of that portion of Hunt Street within Block 3722, collectively, in exchange for conveyance by the Museum to City of a parcel of real property located at 935 Folsom Street and a new fire station to be constructed by or on behalf of Museum on such parcel

Dear Ms. Brown:

The Department received your request on July 12, 2010 for a General Plan Referral as required by Section 4.105 of the San Francisco Charter, and Section 2A.53 of the San Francisco Administrative Code.

Project Description

The San Francisco Museum of Modern Art (Museum) is cooperating with the City to construct a new wing for the Museum's current building on Third Street, to house the Fisher Art Collection and for other purposes. The Museum intends to raze two buildings on Howard Street, including the City's Fire Station #1, at 676 Howard Street, and develop a new wing for the museum, connecting to the rear of the existing museum building.

The Museum and the City have negotiated an arrangement wherein the City will convey to the Museum Fire Station #1, as well as a portion of the Hunt Street right-of-way directly behind the fire station. In return, the Museum has purchased a parcel at 935 Folsom Street, will build a new fire station for the city on a portion of this parcel at no cost to the City and will convey the new parcel and the underlying land to the City at no cost. The combined value of the land at 935 Folsom Street and the new fire station considerably exceeds the value of the existing fire station and the portion of the Hunt Street right-of-way behind it.

Case Number 2009.0291R
SFMOMA CLDAA

The ordinance which is the subject of this General Plan Referral has the effect of approving a "Conditional Land Disposition and Acquisition Agreement" (CLDAA). The CLDAA is an agreement between the City and the Museum which sets out the terms for the above-described land transfer. The agreement is conditioned and contingent upon a number of other independent actions by the Board of Supervisors, the Planning Commission and other City decision-making bodies to take place in the future. These include, but are not limited to certification of an environmental impact report, rezoning of properties subject to the CLDAA and approval of the new museum wing and new fire station.

Environmental Review

As noted above, the ordinance which is the subject of this General Plan Referral approves the CLDAA subject to the satisfaction of express conditions, including completion of environmental review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 *et seq.*), the CEQA Guidelines (California Code of Regulations, title 14, Sections 15000 *et seq.*), and Chapter 31 of the San Francisco Administrative Code and the City making certain environmental findings at the conclusion of and based on the analysis provided by the Environmental Review.

Staff has determined that the Project is consistent with the Eight Priority Policies of the Planning Code Section 101.1 (see attachment).

Staff has determined that the project is, on balance, IN CONFORMANCE with the General Plan.

Please note that some or all of the future actions noted above may require subsequent General Plan Referrals.

Sincerely,



John Rahaim
Director of Planning

Attachments:

1. General Plan Case Report
2. Eight Priority Policies Findings- Planning Code Section 101.1

Case Report

Attachment 1

Case No: 2009.0291R
SFMOMA CLDAA

Staff reviewer: Ken Rich
Date: 7/13/10

General Plan Policy Findings

Note: General Plan Objectives are in **BOLD CAPS**, and Policies are in **bold font**, General Plan text is in regular font, and staff comments are in *italic font*.

ARTS ELEMENT

OBJECTIVE I-2

INCREASE THE CONTRIBUTION OF THE ARTS TO THE ECONOMY OF SAN FRANCISCO.

POLICY

I-2.2

Continue to support and increase the promotion of the arts and arts activities throughout the City for the benefit of visitors, tourists, and residents.

OBJECTIVE

III-2

STRENGTHEN THE CONTRIBUTION OF ARTS ORGANIZATIONS TO THE CREATIVE LIFE AND VITALITY OF SAN FRANCISCO

POLICY

III-2.2

Assist in the improvement of arts organizations' facilities and access in order to enhance the quality and quantity of arts offerings.

Comment: The proposed land conveyances will support these policies by enabling the SFMOMA to significantly expand its facilities and incorporate an extremely significant modern and contemporary art collection.

PUBLIC FACILITIES ELEMENT

OBJECTIVE 5

DEVELOPMENT OF A SYSTEM OF FIREHOUSES WHICH WILL MEET THE OPERATING REQUIREMENTS OF THE FIRE DEPARTMENT IN PROVIDING FIRE PROTECTION SERVICES AND WHICH WILL BE IN HARMONY WITH RELATED PUBLIC SERVICE FACILITIES AND WITH ALL OTHER FEATURES AND FACILITIES OF LAND DEVELOPMENT AND TRANSPORTATION PROVIDED FOR A OTHER SECTIONS OF THE GENERAL PLAN

The following principles are an integral and basic part of the Fire Facilities Section:

1. In general, firehouses should be distributed throughout the city so that each firehouse has a primary service area extending within a radius of one-half mile. This spacing should vary in relation to population densities, building intensities and types of construction, the pattern of trafficways, and with the relative degree of fire hazard.
2. Firehouses should be located on streets close to and leading into major or secondary thoroughfares.
3. Firehouses should be so located that no topographic barriers require time-consuming detours within the primary service area of each firehouse.

Comment: The replacement of an outdated fire house with a new, state of the art facility, in a less congested location will support this objective.

URBAN DESIGN ELEMENT

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING

POLICY

2.8

Maintain a strong presumption against the giving up of street areas for private ownership or use, or for construction of public buildings.

POLICY

2.9

Review proposals for the giving up of street areas in terms of all the public values that streets afford.

Every proposal for the giving up of public rights in street areas, through vacation, sale or lease of air rights, revocable permit or other means, shall be judged with the following criteria as the minimum basis for review:

a. No release of a street area shall be recommended which would result in:

1. Detriment to vehicular or pedestrian circulation;
2. Interference with the rights of access to any private property;
3. Inhibiting of access for fire protection or any other emergency purpose, or interference with utility lines or service without adequate reimbursement;
4. Obstruction or diminishing of a significant view, or elimination of a viewpoint; industrial operations;
5. Elimination or reduction of open space which might feasibly be used for public recreation;
6. Elimination of street space adjacent to a public facility, such as a park, where retention of the street might be of advantage to the public facility;
7. Elimination of street space that has formed the basis for creation of any lot, or construction or occupancy of any building according to standards that would be violated by discontinuance of the street;
8. Enlargement of a property that would result in (i) additional dwelling units in a multi-family area; (ii) excessive density for workers in a commercial area; or (iii) a building of excessive height or bulk;
9. Reduction of street space in areas of high building intensity, without provision of new open space in the same area of equivalent amount and quality and reasonably accessible for public enjoyment;
10. Removal of significant natural features, or detriment to the scale and character of surrounding development.
11. Adverse effect upon any element of the General Plan or upon an area plan or other plan of the Department of City Planning; or

12. Release of a street area in any situation in which the future development or use of such street area and any property of which it would become a part is unknown.

b. Release of a street area may be considered favorably when it would not violate any of the above criteria and when it would be:

1. Necessary for a subdivision, redevelopment project or other project involving assembly of a large site, in which a new and improved pattern would be substituted for the existing street pattern;
2. In furtherance of an industrial project where the existing street pattern would not fulfill the requirements of modern industrial operations;
3. Necessary for a significant public or semi-public use, or public assembly use, where the nature of the use and the character of the development proposed present strong justifications for occupying the street area rather than some other site;
4. For the purpose of permitting a small-scale pedestrian crossing consistent with the principles and policies of The Urban Design Element; or
5. In furtherance of the public values and purposes of streets as expressed in The Urban Design Element and elsewhere in the General Plan.

POLICY

2.10

Permit release of street areas, where such release is warranted, only in the least extensive and least permanent manner appropriate to each case.

In order to avoid the unnecessary permanent loss of streets as public assets, methods of release short of total vacation should be considered in cases in which some form of release is warranted. Such lesser methods of release permit later return of the street space to street purposes, and allow imposition of binding conditions as to development and use of the street area.

Mere closing of the street to traffic should be used when it will be an adequate method of release. Temporary use of the street should be authorized when permanent use is not necessary. A revocable permit should be granted in preference to street vacation. And sale or lease of air rights should be authorized where vacation of the City's whole interest is not necessary for the contemplated use. In any of these lesser transactions, street areas should be treated as precious assets which might be required for unanticipated public needs at some future time.

Comment: The vacation of the remaining portion of Hunt Street is contemplated in the CLDAA. An analysis of the guidance provided under policies 2.8 and 2.9 of the Urban

Design Element indicates that vacation of Hunt Street for the purposes of expansion of the SFMOMA can be supported under the by the General Plan.

The following Priority Policies are hereby established. They shall be included in the preamble to the General Plan and shall be the basis upon which inconsistencies in the General Plan are resolved:

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

The project would have no adverse effect on neighborhood-serving retail uses

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

The project would have no adverse effect on existing housing and neighborhood character.

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

The Project would have no adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede Muni transit services or overburden our streets or neighborhood parking;

The Project is not in conflict with this policy. The project will not create a significant number of new commute trips.

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

The Project would have no adverse effect on industrial or service sectors.

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

The new wing of the museum would be designed to meet all seismic safety codes. The establishment of a new Fire Station 1 would improve the City's ability to respond to disasters.

7. That landmarks and historic buildings be preserved; and

The project would have no adverse effect on landmarks or historic buildings.

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

The project would have no adverse effect on parks or open space.