

File No. 230163

Committee Item No. 9

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee Date March 15, 2023

Board of Supervisors Meeting Date \_\_\_\_\_

#### Cmte Board

- Motion
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- Introduction Form
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- Presidential Action Memo - 30-Day Rule Waiver 2/24/2023
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
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Completed by: Brent Jalipa Date March 9, 2023

Completed by: Brent Jalipa Date \_\_\_\_\_

1 [De-Appropriation and Appropriation - Recreation and Park and General Services  
2 Agency-City Administrator - Mayor’s Office of Housing and Community Development -  
3 706 Mission Street Fund - \$1,724,908 - FY2022-2023]

3

4 **Ordinance de-appropriating \$1,724,908 from the Recreation and Park Department**  
5 **and the General Services Agency-City Administrator and appropriating \$1,724,908**  
6 **to the Mayor’s Office of Housing and Community Development for uses permitted**  
7 **in the 706 Mission Street Fund in Fiscal Year (FY) 2022-2023.**

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9 Note: Additions are *single-underline italics Times New Roman*;  
10 deletions are ~~*strikethrough italics Times New Roman*~~.  
11 Board amendment additions are double underlined.  
12 Board amendment deletions are ~~strikethrough normal~~.

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

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14 Section 1. The uses of funding outlined below are herein de-appropriated to  
15 reflect the funding available for FY2022-2023.

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17 **Uses De-appropriation**

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| Fund /<br>Department ID                     | Project &<br>Activity /<br>Authority        | Account | Description                                      | Amount               |
|---|---|---------|--|----------------------|
| 14400 SR Yerba<br>Buena Gardens /<br>262676 | 10013170 - 0005/<br>17379<br>RP Gene Friend | 567000  | Bldgs,Struct&Imprv<br>Proj-Budget<br>Proj-Budget | (\$1,724,908)        |
| REC Capital<br>Projects                     | Rec Center/<br>Budget                       |         |  |                      |
| <b>Total USES De-Appropriation</b>          |   |         |  | <b>(\$1,724,908)</b> |

Section 2. The uses of funding outlined below are herein appropriated to reflect the projected funding available for FY 2022-23.

**USES APPROPRIATION**

| 1  | <b>Fund /</b>                   | <b>Project &amp; Activity /</b> | <b>Account</b> | <b>Description</b> | <b>Amount</b>      |
|----|---------------------------------|---------------------------------|----------------|--------------------|--------------------|
| 2  | <b>Department ID</b>            | <b>Authority</b>                |                |                    |                    |
| 3  |                                 |                                 |                |                    |                    |
| 4  | 14400 SR Yerba                  | 10035149 – 0001,                | 538010         | Yerba Buena        | \$1,724,908        |
| 5  | Buena Gardens /                 | ADRE YBG projects               | Community      | Gardens Project    |                    |
| 6  | 228875                          | – YBG Project                   | Based          |                    |                    |
| 7  | ADM Real Estate                 | 17379                           | Organization   |                    |                    |
| 8  | Division                        | Yerba Buena                     | Services       |                    |                    |
| 9  |                                 | Gardens Project                 |                |                    |                    |
| 10 |                                 |                                 |                |                    |                    |
| 11 | <b>Total Uses Appropriation</b> |                                 |                |                    | <b>\$1,724,908</b> |

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13 Section 3. The uses of funding outlined below are herein de-appropriated to

14 reflect the funding available for FY2022-2023.

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| 16 | <b>Fund /</b>                      | <b>Project &amp; Activity /</b> | <b>Account</b> | <b>Description</b> | <b>Amount</b>        |
|----|------------------------------------|---------------------------------|----------------|--------------------|----------------------|
| 17 | <b>Department ID</b>               | <b>Authority</b>                |                |                    |                      |
| 18 | 14400 SR Yerba                     | 10035149 – 0001,                | 538010         | Yerba Buena        | (\$1,724,908)        |
| 19 | Buena Gardens /                    | ADRE YBG projects               | Community      | Gardens Project    |                      |
| 20 | 228875                             | – YBG Project                   | Based          |                    |                      |
| 21 | ADM Real Estate                    | 17379                           | Organization   |                    |                      |
| 22 | Division                           | Yerba Buena                     | Services       |                    |                      |
| 23 |                                    | Gardens Project                 |                |                    |                      |
| 24 |                                    |                                 |                |                    |                      |
| 25 | <b>Total USES De-Appropriation</b> |                                 |                |                    | <b>(\$1,724,908)</b> |

1 Section 4. The uses of funding outlined below are herein appropriated to reflect  
 2 the projected funding available for FY 2022-23.  
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| 5  | Fund /                          | Project & Activity / | Account | Description | Amount             |
|----|---------------------------------|----------------------|---------|-------------|--------------------|
| 6  | Department ID                   | Authority            |         |             |                    |
| 7  | XXXXXXXX 706 Mission            | XXXXXXXX –           | XXXXX   | XXXXXXXX    | \$1,724,908        |
| 8  | Open Space Fund /               | XXXX,                | XXXXX   |             |                    |
| 9  | XXXXX                           | XXXXXXXX             | XXXXX   |             |                    |
| 10 | Mayor’s Office of               | XXXXXXXX/            | XXXXXX  |             |                    |
| 11 | Housing and Community           | XXXXX                |         |             |                    |
| 12 | Development                     | XXXXXXXX             |         |             |                    |
| 13 |                                 |                      |         |             |                    |
| 14 |                                 |                      |         |             |                    |
| 15 | <b>Total USES Appropriation</b> |                      |         |             | <b>\$1,724,908</b> |

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 17 Section 5. The Controller is authorized to record transfers between funds and  
 18 adjust the accounting treatment of sources and uses appropriated in this ordinance as  
 19 necessary to conform with Generally Accepted Accounting Principles and other laws.  
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1 APPROVED AS TO FORM:  
2 DAVID CHIU, City Attorney

FUNDS AVAILABLE:  
BEN ROSENFELD, Controller

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4 By:                   /s/                    
5 JON GIVNER  
6 Deputy City Attorney

By:                   /s/                    
BEN ROSENFELD  
Controller

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| <p><b>Item 9</b><br/><b>Files 23-0163</b></p>  | <p><b>Departments:</b><br/>Recreation and Park Department<br/>Mayor’s Office of Housing and Community Development</p> |
| <p><b>EXECUTIVE SUMMARY</b></p>  |   |
| <p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• The proposed ordinance de-appropriates \$1,724,908 from the Recreation and Park Department and appropriates \$1,724,908 to the Mayor’s Office of Housing and Community Development for uses permitted in the 706 Mission Street Fund in FY 2022-2023.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• In 2013, the Office of Community Investment and Infrastructure (OCII) and 706 Mission Street Co, LLC entered into a purchase and sale agreement for property located at 706 Mission Street. The agreement required the developer to make payments to OCII to be used only for cultural operations, general maintenance and operations, and capital expenditures of open spaces in the South of Market area and Yerba Buena Gardens. The agreement also required the developer to make a transfer payment to OCII to fund public benefits within the South of Market area.</li> <li>• In February 2022, a Government Audit and Oversight Committee hearing was held to receive updates on the developer payments and present on the use of funds. The Recreation and Park Department provided an update on the transfer of \$1,800,268 in one-time open space fee payment funds that was allocated and encumbered for the Gene Friend Recreation Center Capital Project, which is located in the South of Market area.</li> <li>• In December 2022, the Board of Supervisors passed an ordinance amending the Administrative Code to establish the 706 Mission Fund, which authorized the Recreation and Park Department and the Mayor’s Office of Housing and Community Development to expend monies from the Fund for specified purposes after receiving recommendations from the SOMA Community Stabilization Fund Community Advisory Committee.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• The proposed ordinance de-appropriates \$1,724,908 from the Recreation and Park Department’s Gene Friend Recreation Center Capital Project. According to Recreation and Parks staff, as of this writing, only \$1,674,056 is available for de-appropriation due to the payment of design contractor invoices between October 2022 and February 2023.</li> <li>• If the proposed ordinance is passed, the appropriated funds will be used for public benefits within the South of Market Area. Because a SOMA Community Stabilization Fund Community Advisory Committee hearing has not occurred yet, the Mayor’s Office of Housing and Community Development intends to expend funds only after this has been held.</li> </ul> <p style="text-align: center;"><b>Policy Consideration</b></p> <ul style="list-style-type: none"> <li>• The Recreation and Park Department has not identified an alternative funding source to backfill the \$1.7 million funding that is the subject of the proposed appropriation and may remove a planned multi-purpose room from the project’s scope of work.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• Approval of the proposed ordinance is a policy matter for the Board of Supervisors.</li> </ul> |   |

**MANDATE STATEMENT**

City Charter Section 9.105 states that amendments to the Annual Appropriations Ordinance, after the Controller certifies the availability of funds, are subject to Board of Supervisors approval by ordinance.

**BACKGROUND**

In 2013, the Office of Community Investment and Infrastructure<sup>1</sup> (OCII) and 706 Mission Street Co, LLC entered into a purchase and sale agreement for property located at 706 Mission Street, to develop the site for mixed-use market rate housing and a museum. The Mexican Museum, a nonprofit organization, was named as a third-party beneficiary as part of the agreement. The agreement required the developer to make payments (Open Space Fee and Developer Payment<sup>2</sup>) to OCII to be used only for cultural operations, general maintenance and operations, and capital expenditures of open spaces in the South of Market area and Yerba Buena Gardens. The agreement also required the developer to make a transfer payment<sup>3</sup> to OCII to fund public benefits within the South of Market area, including homeless prevention rent subsidies, affordable housing, housing/eviction counseling, nonprofit and small business rental assistance and services to senior and youth.

On February 17, 2022, a hearing was held at a Government Audit and Oversight Committee meeting to receive updates on the developer payments and funding streams required by the 706 Mission purchase and sale agreement and to present on the use of funds, Request for Proposal timelines and fund balances (File 21-0973). The Recreation and Park Department provided an update on the transfer of \$1,800,268 in one-time open space fee payment funds that was allocated and encumbered for the Gene Friend Recreation Center Capital Project, which is a capital improvement project for a recreation center located in the South of Market area (270 Sixth St.) and owned by the Recreation and Park Department. According to the department, this use meets the open spaces requirement of the agreement because it is defined as “other public

<sup>1</sup> Previously known as the Successor Agency to the Redevelopment Agency of the City and County of San Francisco  
<sup>2</sup> According to the agreement, the Open Space Fee will be paid on an annual basis, in the following amounts: (1) at the initial rate of \$1.50 per square foot of the Project’s above-grade net leasable building area devoted to commercial uses, exclusive of the Cultural Component, subject to annual increases based on the annual Consumer Price Index for the San Francisco-Oakland-San Jose Metropolitan Statistical Area (“CPI”) not to exceed 5% per annum, and (2) at the initial rate of \$1.25 per square foot of the Project’s above-grade net residential saleable area, subject to annual increases based on the annual CPI not to exceed 3% per annum (collectively, the “Open Space Fee Payment”). The Open Space Fee Payment will be based on building square footage at completion, and each payment shall include a brief report to show how the payment amount was calculated. In addition to the Open Space Fee, the Developer will pay to the Successor Agency a one-time payment for open space uses (the “Developer Payment”) before issuance of the first construction document (as defined in Section 107A.13.1 of the City Building Code) for the Project. The Developer Payment shall be calculated based on the gross square footage of each of the following uses that are developed as part of the Project: (i) residential at \$2.50/gsf, (ii) institutional/cultural/medical at \$5.00/gsf, and (iii) retail at \$5.00/gsf. The Developer Payment shall be used for the Permitted Uses only within the SOMA Open Spaces.  
<sup>3</sup> According to the agreement, subject to any applicable requirements of the California Department of Real Estate and California Civil Code section 1098, the sale of residential condominium units in the project is subjected to a transfer payment made to OCII for public benefits within the South of Market area.

open spaces owned by the City in the adjacent South of Market area.” The proposed ordinance (and subject of this report) addresses this initial one-time payment to the Recreation Center.

**Establishment of 706 Mission Fund**

In December 2022, the Board of Supervisors passed an ordinance amending the Administrative Code to establish the 706 Mission Fund to receive funds provided to the City under the 2013 purchase and sale agreement regarding the property at 706 Mission Street; to authorize the Recreation and Park Department and the Mayor’s Office of Housing and Community Development to expend monies from the Fund for specified purposes after receiving recommendations from the SOMA Community Stabilization Fund Community Advisory Committee; and to require the Recreation and Park Department and the Mayor’s Office of Housing and Community Development to prepare reports regarding expenditures from the Fund (File 22-1125). The ordinance established two separate subsidiary funds as part of the 706 Mission Fund: (1) 706 Mission Open Space Fund to be used by the Recreation and Park Department for open spaces in the South of Market area, and (2) 706 Mission Community Development Fund to be used by the Mayor’s Office of Housing and Community Development for public benefits in the South of Market area. As part of the ordinance, the departments are prohibited from spending money in the funds until the SOMA Community Stabilization Fund Community Advisory Committee has held at least one hearing to make recommendations on the spending. The departments are also required to submit annual reports summarizing fund expenditures. In addition, the ordinance requires the SOMA Community Stabilization Fund Community Advisory Committee to hold quarterly hearings in calendar years 2023, 2024 and 2025 to provide recommendations to the Recreation and Park Department on expenditures of monies in the 706 Mission Open Space Fund and to monitor the department’s expenditures from that fund.

**DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance de-appropriates \$1,724,908 from the Recreation and Park Department and appropriates \$1,724,908 to the Mayor’s Office of Housing and Community Development for uses permitted in the 706 Mission Street Fund in FY 2022-2023.<sup>4</sup>

**Gene Friend Recreation Center Project**

The proposed ordinance de-appropriates \$1,724,908 from the Recreation and Park Department’s Gene Friend Recreation Center Capital Project. According to the department, the center is located in the South of Market area and is slated for a large-scale capital improvement project beginning in Fall 2023.<sup>5</sup>

The center will be expanded to include a dual court gym, multi-purpose rooms and related outdoor amenities such as a playground, half basketball court and landscaping. According to the department, the project’s current total cost is approximately \$59.3 million, as shown in Exhibit 1 below. The department states that approximately \$1.75 million has been spent so far on the

<sup>4</sup> The ordinance includes an interim transfer from REC to ADM and then to MOHCD.

<sup>5</sup> The department anticipates that the general contractor will be bidding out the first trade packages in Spring 2023 and starting demolition, remediation, and then new construction late Summer 2023/early Fall 2023.

project, with approximately \$4.3 million transferred to other departments or encumbered. The Recreation and Park Department awarded a \$39 million construction contract to Swinerton in August 2022.

### Exhibit 1: Gene Friend Recreation Center Capital Project Budget

| Sources   | Amount              |
|---|---------------------|
| 2020 Health and Recovery Bond – Neighborhood Parks        | \$30,000,000        |
| The Trust for Public Land In-Kind Grant                   | 520,500             |
| Downtown Park Fund  | 1,000,000           |
| Impact Fees (Eastern Neighborhood)                        | 2,800,300           |
| Impact Fees (SOMA Neighborhood)                           | 14,238,000          |
| 706 Mission Open Space Fund (Special Revenue)             | 1,800,268           |
| Impact Fees (11 <sup>th</sup> and Natoma)                 | 5,500,000           |
| 2020 Health and Recovery Bond – Sustainability            | 2,000,000           |
| 2020 Health and Recovery Bond – Named Project Contingency | 1,461,732           |
| <b>Total Sources</b>                                      | <b>\$59,320,800</b> |

Source: Recreation and Park Department

### FISCAL IMPACT

The appropriation and de-appropriation sources and uses budget is shown in Exhibit 2 below.

### Exhibit 2: Sources and Uses of Proposed Appropriation

| Sources De-Appropriation                             | Total              |
|--|--------------------|
| Gene Friend Recreation Center Capital Project Budget | \$1,724,908        |
| <b>Total Sources</b>                                 | <b>\$1,724,908</b> |

| Uses Re-Appropriation   | Total              |
|---|--------------------|
| 706 Mission Open Space Fund/Mayor's Office of Housing and Community Development | \$1,724,908        |
| <b>Total Uses</b>   | <b>\$1,724,908</b> |

Source: Appropriation Ordinance

According to Recreation and Parks staff, as of this writing, only \$1,674,056 is available for de-appropriation due to the payment of design contractor invoices between October 2022 and February 2023.<sup>6</sup>

<sup>6</sup> The department states that approximately \$1.8 million has been encumbered as partial funding for a design contract with a Joint Venture between Mark Cavagnero Associates and Kuth Ranieri Architects for the Gene Friend project. Funding for that contract includes the 706 developer payment, 2020 general obligation bond proceeds, and developer fees.

According to the Mayor's Office of Housing and Community Development, if the proposed ordinance is passed, the appropriated funds will be used for public benefits within the South of Market Area, including affordable housing, rent subsidies to prevent homelessness, housing/eviction counseling, rental assistance to small business and nonprofits organizations, and services to youth and seniors. The department states that a proposed budget and timeline have not been developed yet for the use of the funds. As previously mentioned, as part of the ordinance passed in December 2022 (File 22-1125), the departments are prohibited from spending money in the funds until the SOMA Community Stabilization Fund Community Advisory Committee has held at least one hearing to make recommendations on the spending. The department states that there has been no hearing since the legislation was passed in December 2022. Because a hearing has not occurred yet, the department intends to expend funds only after this has been held. The department plans to work with the SOMA Community Advisory Committee to set up a hearing date and finalize a process for the community hearing.

### **Annual Reports**

As previously mentioned, the ordinance passed in December 2022 required the Mayor's Office of Housing and Community Development and the Recreation and Park Department to submit annual reports summarizing fund expenditures. Both departments have not yet issued a report for the 706 Mission Fund because the first report is due September 30, 2023.

## **POLICY CONSIDERATION**

### **Impact on Gene Friend Recreation Center Capital Project**

According to the Recreation and Park Department, if the funds are de-appropriated and not backfilled, the department will remove a planned multi-purpose room from the project's scope of work. The department states that the budget shortfall would require additional design costs for redesign work and possibly contractor costs for extended overhead due to project delay<sup>7</sup>. The department estimates the project will be delayed at least three months due to value engineering to address the budget change and because permit drawings that have been submitted will likely need to be updated and resubmitted and the final Arts Commission Civic Design Review presentations will need to be postponed or revisited.

According to the department, the project has been scoped with the anticipated \$1,800,268 as a confirmed source of funding. If the funds are de-appropriated, the department states that it has not identified an alternative source of funding as of this writing. In addition, the department states that, if necessary, they intend to participate in the SOMA Community Stabilization Fund Community Advisory Committee hearing to request the funds be returned to the Gene Friend Recreation Center Capital Project budget.

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<sup>7</sup> The department states that because a contractor is already on board, via the Construction Manager/General Contractor (CM/GC) contract approved by the Recreation and Park Commission in August 2022, delays of such nature make it likely that the department would be required to compensate the Contractor for extended overhead.

**RECOMMENDATION**

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

President, District 3  
BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. 554-7450  
Fax No. 554-7454  
TDD/TTY No. 554-6546

Aaron Peskin

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**PRESIDENTIAL ACTION**

Date: 2/24/2023

To: Angela Calvillo, Clerk of the Board of Supervisors

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Madam Clerk,  
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. 230163 Peskin  
(Primary Sponsor)

Title. [De-Appropriation and Appropriation - Recreation and Park and  
General Services Agency-City Administrator - Mayor's Office of

Transferring (Board Rule No 3.3)

File No. 221071 Melgar  
(Primary Sponsor)

Title. BOS File No. 221071 – Police Code – Prohibiting Pregnancy  
Discrimination in Housing

From: Rules Committee

To: Land Use & Transportation Committee

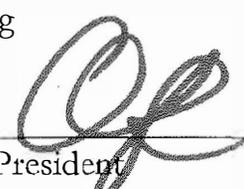
Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor: \_\_\_\_\_ Replacing Supervisor: \_\_\_\_\_

For: \_\_\_\_\_ Meeting  
(Date) (Committee)

Start Time: \_\_\_\_\_ End Time: \_\_\_\_\_

Temporary Assignment:  Partial  Full Meeting

  
\_\_\_\_\_  
Aaron Peskin, President  
Board of Supervisors

## Introduction Form

*(by a Member of the Board of Supervisors or the Mayor)*

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)  
*(Routine, non-controversial and/or commendatory matters only)*
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor [ ] inquires..."
- 5. City Attorney Request
- 6. Call File No. [ ] from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Topic submitted for Mayoral Appearance before the Board on [ ]

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission     Youth Commission     Ethics Commission
- Planning Commission     Building Inspection Commission     Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes                       No

*(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)*

Sponsor(s):

Supervisor Peskin; Dorsey, Chan

Subject:

[De-Appropriation and Appropriation – Recreation and Park and General Services Agency-City Administrator – Mayor’s Office of Housing and Community Development – \$1,724,908 - FY2022-2023]

Long Title or text listed:

Ordinance de-appropriating \$1,724,908 from the Recreation and Park Department and the General Services Agency-City Administrator and appropriating \$1,724,908 to the Mayor’s Office of Housing and Community Development for uses permitted in the 706 Mission Street Fund in Fiscal Year (FY) 2022-2023.

Signature of Sponsoring Supervisor: 

