

1 [Disapprove certification of New M.H. de Young Museum EIR]

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4 **Motion disapproving the certification by the Planning Commission of the Final**
5 **Environmental Impact Report for the New M.H. de Young Museum Development Project**
6 **located at 75 Tea Garden Drive.**

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8 WHEREAS, The New M.H. de Young Museum (the "Project") is proposed to be
9 constructed at the museum's existing site at 75 Tea Garden Drive in the Music Concourse of
10 Golden Gate Park, Lot 1 in Assessor's Block 1700, after demolition of the eight existing
11 buildings comprising the M.H. de Young Museum and the Asian Art Museum and relocation of
12 the Asian Art Museum to its new facility in the City's Civic Center; and,

13 WHEREAS, The Corporation of the Fine Arts Museums of San Francisco submitted its
14 application for environmental review of the proposed New de Young Museum on July 12,
15 1999 (City Planning File No. 1999.455E); and

16 WHEREAS, The Planning Department for the City and County of San Francisco (the
17 "Department") determined that an Environmental Impact Report ("EIR") was required and
18 provided public notice of that determination by publication in a newspaper of general
19 circulation on May 6, 2000; and

20 WHEREAS, On July 22, 2000, the Department published the Draft Environmental
21 Impact Report ("DEIR") for the Project; and

22 WHEREAS, On August 24, 2000, the Commission held a duly noticed public hearing
23 on the DEIR, at which time opportunity for public comment was received on the DEIR, and
24 written comments were received through August 24, 2000; and

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1 WHEREAS, The Department prepared responses to comments received at the public
2 hearing on the DEIR and submitted in writing to the Department, prepared revisions to the text
3 of the DEIR and published a Draft Summary of Comments and Responses on November 22,
4 2000; and

5 WHEREAS, A Final Environmental Impact Report ("FEIR") for the Project was
6 prepared by the Department, consisting of the DEIR, any consultations and comments
7 received during the review process, any additional information that became available and the
8 Draft Summary of Comments and Responses, all as required by law; and

9 WHEREAS, On December 7, 2000, the Commission reviewed and considered the
10 FEIR and, by Motion No. 16039, found that the contents of said report and the procedures
11 through which the FEIR was prepared, publicized and reviewed complied with the provisions
12 of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and
13 Chapter 31 of the San Francisco Administrative Code; and

14 WHEREAS, By Motion No. 16039, the Commission found the FEIR to be adequate,
15 accurate and objective, reflected the independent judgment and analysis of the Department
16 and the Commission and that the Summary of Comments and Responses contained no
17 significant revisions to the DEIR, adopted findings relating to significant impacts associated
18 with the Project and certified the completion of the FEIR in compliance with CEQA and the
19 State CEQA Guidelines; and

20 WHEREAS, A challenge to the FEIR and the process by which the FEIR was certified
21 was brought and the San Francisco Superior Court issued a Writ of Mandamus on August 2,
22 2001 requiring the Board of Supervisors to hear an appeal of the FEIR in compliance with
23 CEQA; and

24 WHEREAS, The Board of Supervisors held a public hearing on August 20, 2001 to
25 review the decision by the Planning Commission to certify the FEIR, and the Corporation of

1 the Fine Arts Museums (COFAM) stated that it had discovered a discrepancy in the height of
2 the proposed Educational Tower analyzed in the FEIR, and the height actually proposed for
3 the tower, which affected the visual and shadow impact analyses of the FEIR, and COFAM
4 and the Planning Department asked the Board of Supervisors to remand the FEIR back to the
5 Planning Department and Planning Commission to correct those errors; and

6 WHEREAS, At the August 20, 2001 hearing, the Board disapproved the certification of
7 the FEIR and remanded the FEIR to the Planning Commission, and the Board's findings in
8 Board Motion M01-127 directed the Planning Commission and Planning Department to revise
9 the FEIR to include corrections and related environmental analysis, as may be appropriate
10 under CEQA, on the following issues: (1) errors and discrepancies in the shadow impacts
11 analysis relative to the height of the Tower; (2) errors and discrepancies in the visual impacts
12 analysis relative to the height of the Tower; (3) updating and correcting the Project Description
13 relative to the height of the tower and to other information now available regarding the
14 proposed Project design; and (4) broadening and correcting the description and related
15 impacts analysis of the Project environmental setting relative to existing and potentially
16 qualified historic resources, already addressed on FEIR pages C&R.80 - C&R.82; and

17 WHEREAS, The Final EIR now includes minor text changes to reflect the updated
18 information on the project description in the following sections: the Summary; the Project
19 Description; and, the Visual Quality and Shadow Impact Analyses contained in Chapter III;
20 and

21 WHEREAS, The Final EIR has also been amended to include expanded
22 information about the cultural resources in the area and includes additional text in Chapter III
23 A, Land Use, Plans and Zoning, to include a specific reference to the cultural resources in the
24 area, and The Responses to Comments, pages C&R 67 – C&R 85H, include expanded
25 information about cultural resources based upon *An Evaluation of the Potential Effect of the*

1 *Proposed New de Young Museum on the Golden Gate Park Historic District* (Report), a report
2 prepared by Page & Turnbull, historic architectural consultants; and

3 WHEREAS, The revised sections of the Final EIR were published and made available
4 to the Planning Commission, the Board of Supervisors and the public on November 20, 2001;
5 and

6 WHEREAS, On December 6, 2001, the Planning Commission reviewed and
7 considered the revised Final EIR and found in its Motion No.16291 that the contents of said
8 report and the procedures through which the Final EIR was prepared, publicized and reviewed
9 comply with the provisions of CEQA, the CEQA Guidelines and Chapter 31, and the revised
10 Final EIR reflects the independent judgment and analysis of the City and County of San
11 Francisco, that the revised Final EIR is adequate, accurate and objective, and that the
12 Summary of Comments and Responses contains no significant revisions to the Draft
13 Environmental Impact Report, and certified the completion of the revised Final EIR in
14 compliance with CEQA and the CEQA Guidelines; and

15 WHEREAS, the FEIR files and other Project-related Department files have been
16 available for review by this Board of Supervisors and the public, and those files are part of the
17 record before this Board of Supervisors; and

18 WHEREAS, this Board has reviewed and considered the revised Final EIR and heard
19 testimony and received public comment regarding the adequacy of the revised Final EIR;
20 now, therefore, be it

21 MOVED, That this Board of Supervisors disapproves the certification of the revised
22 Final EIR by the Planning Commission.

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