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August 30, 2021

VIA ELECTRONIC SUBMISSION

President Shamann Walton and Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102

Re: Appeal of Mitigated Negative Declaration
530 Sansome Street (Case No. 2019-017481ENV)

Dear President Walton and Supervisors:

Our office represents 447 Partners, LLC, owner of the property located at 447 Battery Street, which is adjacent to the 530 Sansome project. We submit this letter pursuant to Administrative Code § 31.16(d) to appeal the Mitigated Negative Declaration (“MND”) for the proposed project at 530 Sansome (Case No. 2019-017481ENV). The appellants filed an appeal of the preliminary MND during the public comment period. The Planning Commission approved the preliminary MND on July 29, 2021 by a vote of 4-2. The appellants oppose the 530 Sansome project on the grounds that the project violates the California Environmental Quality Act (“CEQA”). The MND violates CEQA because the Planning Department did not provide adequate notice of the availability of the preliminary MND; the project description is not accurate, stable, or finite; the project will have significant adverse environmental impacts; and the MND inappropriately defers mitigation until some future time.

1. **The Planning Department Did Not Provide Adequate Notice of the Availability of the MND**

Courts are clear that procedural issues are subject to strict judicial review, and when determining whether an agency has employed the correct procedures, courts “scrupulously enforce all legislatively mandated CEQA requirements.” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.)

As a threshold matter, the Planning Department did not provide legally adequate notice to the property owner at 447 Battery Street. San Francisco Administrative Code § 31.11 requires notice to be mailed to all owners of all real property within 300 feet of the exterior boundaries of the project area sufficiently prior to adoption of the negative declaration to allow a review period of not less than 20 days. The property owners at 447 Battery Street are within 300 feet of the project area, yet received the notice in the mail on May 17, just one day before the end of the public review period. Robert Canepa, Senior Vice President of 447 Partners, LLC, has submitted a declaration confirming that the notice was not received until May 17. (See attached Declaration of Robert Canepa). In addition, at least one tenant of 447 Battery Street did not receive notice until after the comment period had ended. Finally, Wilad Properties LLC, owners of 423 Washington, which is just north of 447 Battery Street, also commented during the Planning Commission hearing that they too did not receive the mailed notice until days before the review period ended.

The mailed notice did not provide the public with 20 days to review and comment on the preliminary MND as legally required. The owners were unable to provide meaningful comments regarding the project's potential environmental effects, and the MND is therefore based on incomplete information. The Planning Department must reissue the notice, provide the legally required 20-day review period, and consider any comments submitted during the legally required review period.

2. The Project Description is Not Accurate, Stable, or Finite

Courts have consistently stated that “an accurate, stable and finite project description” is an essential component of an informative and legally sufficient environmental document. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-193; CEQA Guidelines § 15378.) On the other hand, “a project description that gives conflicting signals to decision makers and the public about the nature and scope of the project is fundamentally inadequate and misleading. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 84.) The City's Administrative Code only allows a single MND to be used for more than one project when “all such projects are essentially the same in terms of environmental effects.” (See Admin. Code § 31.20)

The project description in the MND states the project could potentially include 6,470 square feet of retail/restaurant space; 40,490 square feet of office space; 35,230 square feet of fitness center space; 146,065 square feet of hotel space with 200 guest rooms; and 48 vehicle parking spaces. Alternatively, the project could potentially instead include 256 residential units instead of the hotel, office, fitness center, and retail/restaurant uses with three additional stories cantilevered over the third floor and three below-grade levels to provide 82 vehicle parking spaces. In other words, the MND describes two completely different projects with distinctly different environmental impacts to traffic, land use, housing, population, emissions, public services, and more. The projects would be subject to different Planning Code requirements and state laws, requiring different variances and local approvals. The two opposite project descriptions preclude informed decision making and informed public comment regarding the project because the public does not know which project is going to be approved.

The City-owned property at 530 Sansome has long been identified by the City as an underutilized space and prime candidate for the development of affordable housing and has been subject to numerous resolutions urging the construction of housing units at this property. (see Board of Supervisors Resolution Nos. 244-17 and 143-18.) Without understanding which project will be built, the public cannot determine whether the project is compatible with prior City actions and existing General Plan Policies, such as Housing Policy 1.3, which states the City will “Work proactively to identify and secure opportunity sites for permanently affordable housing,” Housing Policy 7.4, which requires the City to “Facilitate affordable housing development through land subsidy programs, such as land trusts and land dedication,” and Downtown Area Plan Policy 7.2, which requires the City to “Facilitate conversion of underused industrial and commercial areas to residential use.” The project sponsor should identify which project will be constructed so the public can fully understand how this City-owned property will be utilized and whether the project is consistent with San Francisco’s General Plan.

The public’s confusion regarding the project was evident during the Planning Commission hearing, with some commentors supporting the new hotel or opposing additional office space, while others advocating for the project because of the need for more housing. Commissioners themselves were also unclear on what they were voting for, with Commissioner Moore stating that she “shares the public’s confusion about what project we are talking about”

and explaining that she could not make a determination on an MND for “two projects that have very different impacts.” Commissioner Imperial also noted that the two different projects “confuses me how to respond to the MND.” The two different projects sent decisionmakers and the public conflicting signals about the nature and scope of the project, which is fundamentally inconsistent with an informative and legally sufficient environmental document.

Because the project does not identify one specific project and the projects are not the same in terms of environmental effects, a single MND for the two different projects is inconsistent with Administrative Code § 31.20, and the project description is not accurate, stable, and finite as legally required by CEQA. The Planning Department must reissue the MND with either a revised project description that chooses one project or issue a separate MND for each project.

3. The Project Will Have a Significant Effect on Historic Resources

A mitigated negative declaration is proper only where the conditions imposed on the project “avoid the effects or mitigate the effects to a point where *clearly no significant effect* on the environment would occur.” (CEQA Guidelines § 15070, emphasis added.) An environmental impact report (EIR) is required, rather than an MND, if there is even a “fair argument” that a proposed project *may* have any adverse environmental impacts. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal. 4th 310, 319-320.) Here, there is a fair argument that the proposed project would have significant environmental impacts that were not adequately addressed in the MND.

The MND largely ignores the significant impacts the project will have on the potential historic resource at 447 Battery Street. A resolution initiating a landmarking designation was passed by the Board of Supervisors on January 12, 2021. The studies conducted for the 530 Sansome project largely assume that the building at 447 Battery will be demolished and therefore do not account for the potential impacts to the 447 Battery property. Not a single study identifies the 447 Battery building as a potential landmark nor analyzes potential impacts to a landmarked building. The Historic Resource Evaluation (“HRE”) that was prepared for the project identifies the 447 Battery building as a potential contributor but does not identify 447 Battery as a potential landmark, which is subject to higher level of protection than other historic resources. The Planning Department’s HRE Response for the 530 Sansome project does not even mention the

potential landmark at 447 Battery, even though the preliminary project assessment noted the project should utilize “building materials that are compatible or complement building materials of surrounding buildings, particularly the historical resources.” Due to the failure to recognize a potential landmark, the HRE and HRE Response fail to analyze whether the project would impact 447 Battery by altering the surrounding development pattern, blocking public views of the building, or substantially reducing light and increasing shadows over the building. None of these potential impacts was identified, analyzed, or mitigated in the MND.

Additionally, the HRE that was prepared for the project is inadequate to analyze the historic resources on the project site. The HRE analyzed the existing buildings at 425 and 439-445 Washington Street, which are both proposed for complete demolition. The HRE explained that these buildings were originally built in 1906; retain some original façade and brickwork on Merchant Street; exemplify the simple industrial design of the post-1906 earthquake reconstruction era; are associated with the wholesale poultry and fish industry that was a significant and important part of San Francisco’s history; and are located near, and share some the historic context and architectural features, as contributors to the Jackson Square Historic District. Notably, these are all similar historical attributes that were cited in the resolution initiating a landmarking designation for the building at 447 Battery.

The landmarking legislation for 447 states that it is potentially eligible because it is a “rare remaining example of a brick commercial building and warehouse in the present-day Financial District.” Along Merchant Street, 447 Battery and two of the 530 Sansome project buildings (425 Washington and 439-445 Washington) are directly adjacent to each other and are all remaining examples of a brick commercial building in the present-day Financial District. All three buildings were constructed in the same period, share a common history, and contain similar architectural features. Again, the HRE did not identify the 447 Battery building as a potential landmark and consequently did not evaluate the buildings at 425 and 439-445 Washington in that context. Either the 447 Battery building is not a landmark, or all three common buildings are potentially landmark eligible and should be preserved to retain their relationship and common features.

Moreover, the landmarking designation process for 447 has not yet concluded, and the potential character-defining features of the building have not been finalized. Approval of the

PMND is simply premature because it is not possible to evaluate whether the 530 Sansome project adequately protects the character-defining features of 447 Battery when those character-defining features have not been finalized. Additional evaluation and analysis is therefore necessary and can only be completed once the landmarking process for 447 Battery concludes.

The Geotechnical Investigation that was completed for the project also assumes that the 447 Battery building will be demolished and makes recommendations on shoring to protect the *proposed* building rather than the existing building. Without additional information confirming that the proposed 50 feet of excavation in an area with liquefiable soil and significant groundwater will not adversely impact a potential historic resource, the MND cannot conclude that the project will *clearly* have no significant effect on the environment.

To the contrary, there is a significant risk that the proposed project would cause irreparable harm to the building at 447 Battery. Geotechnical expert Eddy Lau reviewed the geotechnical reports for 530 Sansome, conducted a site visit, and completed a report demonstrating that the project would likely have a significant impact on the 447 Battery building. (See Eddy Lau, Geotechnical Engineer *Potential Impact of Construction of the 530 Sansome Project*, July 28, 2021.) Mr. Lau's report explains that the 447 Battery building is either supported by timber piles or spread footings on timber ribbing. The 530 Sansome project would require 50 feet of excavation that will require shoring and dewatering of the site. If the building is on timber piles, dewatering would cause dry rot, and impose downdrag loading and if the building is on spread footings, dewatering would result in additional building settlement. Mr. Lau's report concludes that regardless of the type of foundation, the proposed dewatering will have significant impacts to the building at 447 Battery. These impacts were not identified in the project's geotechnical report, likely because the report assumed that the 447 building would be demolished.

4. The Project May Have a Significant Effect on Traffic, Circulation, and Pedestrian Safety

Much like all of the other reports for this project, the transportation study assumes that the building at 447 Battery will be demolished and the proposed project at the 447 Battery site will be constructed. The conclusions and analysis of that report relies on this basic assumption, and serious doubt has been raised regarding the conclusions of that analysis now that the landmarking designation has been initiated for the 447 Battery property.

The transportation study explains that the proposed sidewalk width on Washington Street does not meet Better Streets Plan standards, and relies on the Privately Owned Public Open Space (“POPOS”) improvements along Merchant Street to accommodate the additional pedestrians anticipated from the project. The report relies on other 447 Battery POPOS features that are “intended to reduce potentially hazardous conditions for people walking,” such as a raised crosswalk across the intersection of Merchant and Battery. However, these POPOS features would only be constructed if the 447 Battery project moves forward. The transportation study even acknowledges that additional environmental review would likely be necessary if the proposed POPOS on Merchant Street is infeasible. Footnote 3 of the report states that if “Merchant Street cannot be a shared street meeting the POPOS requirement, the project sponsor will need to provide POPOS on the project site, *which will likely require building design change* and coordination with [the Urban Design Advisory Team] *and potentially additional environmental review.*” (Emphasis added.)

There is not enough information to determine whether the proposed POPOS Street is feasible, including because the City’s Street Design Advisory Team (SDAT) has not reviewed the most current proposal. SDAT’s primary function is to ensure that street and sidewalk changes are built to the highest possible standards in terms of safety, accessibility, and functionality. SDAT specifically stated in its initial review of this project that “an alternative location for the project’s POPOS may need to be contemplated should Merchant Street need to accommodate the project’s loading needs.” After this initial review, the project was modified and Merchant Street is proposed to be used as a passenger loading zone. Despite SDAT specifically raising concerns about mixing loading and POPOS, SDAT was never provided the opportunity to review the changes. In fact, SDAT identified five different issues that needed to be addressed *prior* to

receiving any entitlements, yet there was never a second SDAT review even after the project was significantly redesigned.

Moreover, the transportation study fails to analyze the impacts of removing all current metered parking spaces along Washington Street. The proposed project relocates the existing fire station entrance from Sansome Street to Washington Street, which is a one-way street. This will require the installation of a fire lane on Washington that will require the removal of all 21 metered parking spaces and the one-handicapped space. The transportation study does not evaluate, and barely acknowledges, the removal of this parking because CEQA does not require the evaluation of parking for certain projects in transit priority areas. However, CEQA does require the analysis of transportation impacts as they relate to safety. The transportation report already acknowledges that the proposed freight loading spaces may be inadequate to meet demand and that the existing loading spaces along Washington are already often utilized for general parking, a problem that will only be exacerbated by the removal of all existing general parking spaces. The removal of all parking along Washington Street may interfere with emergency access if trucks or passenger cars are forced to park in the emergency lane due to the lack of parking, will exacerbate the inadequacy of the on-site freight loading spaces, and cause serious safety concerns. SDAT flagged the lack of analysis regarding the interaction of fire access, loading, and on street parking and requested additional information prior to receiving any entitlements. However, SDAT never had the opportunity to review of the project after it raised these concerns.

The existing transportation study fails to analyze the potential impacts of the project if 447 Battery is not redeveloped and fails to fully consider the impacts to safety from relocating the fire station entrance onto a one-way street and removing all parking. SDAT, the City's advisory body specifically created to ensure pedestrian and street safety, never reviewed the loading analysis or the POPOS as currently proposed. The analysis is therefore insufficient to support a determination that the project will clearly have no significant effect on the environment.

5. The MND inappropriately defers mitigation until some future time

“The basic purpose of an EIR is to ‘provide public agencies and the public in general with detailed information about the effect [that] a proposed project is likely to have on the

environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 511.) Because the basic function of CEQA is to provide information before a project is approved, CEQA Guidelines § 15126.4 states that “[f]ormulation of mitigation measures should not be deferred until some future time.” Thus courts have found as a general rule that “it is inappropriate to postpone the formulation of mitigation measures.” (*POET, LLC v. State Air Resources Bd.*, (2013) 218 Cal.App.4th 681, 735.) While an agency may specify performance standards and identify potential mitigation alternatives, “an agency goes too far when it simply requires a project applicant to obtain a [] report and then comply with any recommendations that may be made in the report.” (*Defend the Bay v. City of Irvine*, (2004) 119 Cal.App.4th 1261, 1275.)

The MND here inappropriately defers the formulation of mitigation measures by relying on future reports and recommendations from those reports, without specifying specific performance standards or identifying alternatives. As such, the MND’s conclusions are not supported by substantial evidence and does not ensure that the project will clearly have no significant effect on the environment as required by CEQA.

A. *Vibration Management and Monitoring Plan*

The PMND states that construction vibration may cause damage to the neighboring potential historic structure at 447 Battery Street. However, the PMND merely states that the project sponsor will mitigate the potential impact by conducting a Pre-Construction Survey and submitting a Vibration Management and Monitoring Plan at some point in the future. The PMND recommends, but does not actually require, a specific maximum vibration level. The specific maximum vibration level will be determined by the Project Sponsor’s consultants at some future date without any input from the public or the owners of 447 Battery. The PMND does not specify the type of vibration generating-equipment that may be used, does not identify potential construction methods or techniques, does not identify any monitoring standards, and does not specify the inspection intervals that should be required.

Moreover, the PMND only requires the project to stay below the to-be-determined-later maximum vibration level “to the extent feasible.” Because the maximum vibration levels have not been set and the construction methods have not been identified, there is not substantial evidence

to show that the proposed mitigation measure is even possible. The PMND notes that typical maximum vibration levels to avoid impacts to a historic structure are .25 inches per second peak particle velocity (PPV). (Preliminary Mitigated Negative Declaration 530 Sansome Street, p. 104) Yet the PMND also states that common construction equipment will all create vibrations far above that threshold, explaining that a compactor would cause 1.23 inches per second PPV at 447 Battery and a caisson drill would cause .523 inches per second PPV. (Id.) Even the use of loaded trucks would cause .44 inches per second PPV at 447 Battery, almost twice the maximum recommended PPV for historic structures. (Id.) The PMND does not identify the construction techniques or equipment that the 530 Sansome project will utilize in order to demolish three structures, excavate 40 feet below ground, and construct a 236-foot-tall building without the use of compactors, drills, or loaded trucks. The PMND inappropriately omits all the specific mitigation measures to protect a potential landmark building until some future date. Without providing any level of specificity, the public and the owners of the building at 447 have no basis to determine whether the project would clearly have no significant effect on the 447 Battery building, as required by CEQA. The information provided in the PMND show the opposite.

B. Geotechnical Recommendations

Additionally, the geotechnical analysis does not adequately address the measures that will be taken to ensure that the building at 447 Battery will be protected during excavation and construction. The report does not include the type of foundation that will be used. The report explains that “[f]urther investigation into the type and depth of foundations as well as the basement configuration of the adjacent buildings should be performed to better understand constraints on the proposed shoring system and permanent basement walls.” (Langan Engineering, *Geotechnical Investigation 530 Sansome Street 425 and 435-445 Washington Street San Francisco, California*, p. 15.) The report identifies multiple additional tests that should be performed and evaluated before finalizing the design. The project inappropriately defers the final design until a future date and without that information, there is no basis to determine whether the project would clearly have no significant effect on the environment.

Moreover, Geotechnical expert Eddy Lau has submitted a report (see **Exhibit B**) that concludes no matter what type of foundation is present at 447 Battery, the proposed dewatering of the site will have significant adverse impacts to this building. Deferring the necessary testing,

evaluation, and design until after the MND is certified will not provide the public or the owner's of 447 Battery to determine whether potential impacts can be mitigated to the point there the project would clearly have no significant effect as required by CEQA.

C. Historic Sculpture Relocation Plan

The project will also completely remove and relocate a historical sculpture currently located on the existing fire station. The HRE response notes that the “current plans and supporting documentation fail to confirm the definite location of the sculpture and fail to identify the methods by which the sculpture can be safely removed, stored, and reinstalled in a manner and location that would not result in irreparable damage to its distinctive materials.” (530 *Sansome Street Historic Resource Evaluation Response Part II*, p. 3) Despite acknowledging that no alternatives have actually been identified, the MND states the potential impacts will be mitigated simply because a relocation plan will be submitted and the recommendations of the future plan will be followed. The HRE does not identify potential appropriate locations or provide standards for how the sculpture should be handled and stored. This future relocation plan inappropriately defers mitigation and is inadequate to ensure that the proposed project will clearly have no significant effect on the environment.

D. Transportation Safety Measures

Similarly, the transportation study also relies on future final designs to reach conclusion that the project will not have a significant effect on the environment. The report states that the “project sponsor would be required to include design features that ensure that the proposed project's POPOS operations would not create potentially hazardous conditions as a part of the POPOS condition of approval, subject to SFMTA and Planning Department approval.” (Fehr & Peers, 530 *Sansome Street Transportation Study*, p. 52) However, the report fails to actually identify any of these design features or provide alternatives to avoid creating hazardous conditions. The report merely states that those features will be figured out later, assuming that the POPOS is even feasible without the project at 447 Battery. As explained above, SDAT was never provided the opportunity to review the proposed design and noted that the POPOS may need to be relocated if Merchant Street were needed for loading purposes. The project will utilize Merchant Street as a passenger loading zone, which may create a hazardous condition that will force the proposed POPOS to be relocated and redesigned at some future date. Without the final

details of the POPOS program, there is no basis to determine that the project would clearly have no significant effect on the environment.

E. Hazardous Materials

The MND also notes that several underground storage tanks were previously removed from the project site and that contaminated soil and groundwater may be present at the site. Rather than investigating this issue further, the MND defers investigation of this issue to the future. The MND states that, based on the initial site assessment, the “project sponsor would be required to conduct soil and groundwater sampling and analysis” and “would be required to submit a site mitigation plan to the health department” to remediate any site contamination. (*Preliminary Mitigated Negative Declaration 530 Sansome Street*, p. 173) In other words, there is not enough information to determine whether the project would clearly have no significant effect on the environment. The MND defers that to a future date when more testing is conducted.

The Planning Department must collect all necessary pre-construction testing, surveys, and information prior to issuing the MND. Based on the results of that information, specific mitigation measures and alternatives must be identified prior to approval. Without additional investigation, the MND is inadequate to sufficiently inform the public of the environmental effects of the project, does not allow the public to meaningfully review the effectiveness of the mitigation measures, and does not ensure that the project would clearly have no significant effect on the environment.

6. Conclusion

This environmental review of this project violates CEQA for multiple reasons. The Planning Department failed to provide adequate public notice, and the project lacks an accurate, stable, and finite project description. The MND fails to sufficiently analyze the significant environmental impacts regulated by CEQA. The MND’s analysis and conclusions are all premised on the assumption that the building at 447 Battery will be demolished, a presumption that has been put in serious doubt due to the initiation of a landmarking designation on the 447 Battery property. We strongly urge that a more rigorous evaluation of the project be conducted through a full Environmental Impact Report. At a minimum, the Board of Supervisors should reject the MND and require additional analysis regarding the potential impacts and the

President Shamann Walton and Supervisors

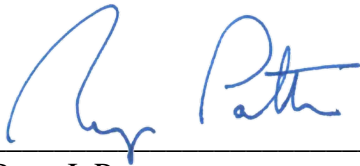
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identification of specific mitigation measures in order to satisfy the requirements of CEQA and fully inform the public about the project and its impacts.

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC

A handwritten signature in blue ink, appearing to read "Ryan Patterson", is written above a horizontal line.

Ryan J. Patterson

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10 Attorneys for Appellant:
11 447 Partners, LLC

12 **SAN FRANCISCO PLANNING COMMISSION**

13 Case Number: 2019-017481ENV

14 **DECLARATION OF ROBERT CANEPA**
15 **IN SUPPORT OF APPEAL OF PRELIMINARY**
16 **MITIGATED NEGATIVE DECLARATION**

17 Date: July 23, 2021

18 Time: 4:04 PM *rm*

19 I, Robert Canepa, declare as follows:

20 1. I am Senior Vice President of 447 Partners, LLC, the appellant in Case No. 2019-
21 017481ENV. I make this declaration based on my own personal knowledge of the following facts,
22 except to those matters state on information and belief, and as to those matters, I believe them to be
23 true. If called as a witness to testify, I could and would testify thereto.

24 2. 447 Partners, LLC owns the property located at 447 Battery Street. To my
25 knowledge, the property is located within 300 feet of the exterior boundaries of the 530 Sansome
26 Street project area.

27 3. I received a Notice of Availability and Intent to Adopt a Mitigated Negative
28 Declaration for the 530 Sansome Street project (Case No. 2019-017481ENV) from the San
Francisco Planning Department in the mail on May 17, 2021.

4. The Notice of Availability I received in the mail on May 17, 2021 stated that the
review period for the Preliminary Mitigated Negative Declaration for the 530 Sansome Project
would end at 5 p.m. on May 18, 2021.

1 5. I spoke with Danielle Kuzinich, owner of the Wine Society and current tenant at the
2 447 Battery Street building, regarding the Notice of Availability. Ms. Kuzinich confirmed that she
3 received the Notice of Availability a week or so after we received our Notice for the review period,
4 and again, the Preliminary Mitigated Negative Declaration for the 530 Sansome Project had already
5 ended. I personally received the mail from the mailperson and hand delivered it to her that day.

6 I declare under penalty of perjury under the laws of the State of California that the foregoing
7 is true and correct. Executed on July 23rd, 2021 in San Francisco, CA.



By: Robert Canepa
Senior Vice President
447 Partners, LLC

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July 28, 2021

Our Job No. 1839-001

Zacks Freedman & Patterson PC
600 Montgomery Street, Suite 400
San Francisco, California 94111-2607

Attention: Brian O'Neill, ESQ.

Ladies and Gentlemen:

Report
Geotechnical Consultation
Potential Impact of Construction of the 530 Sansome Street
Hotel project to the 447 Battery Street building
447 Battery Street
San Francisco, California

This letter report presents the results of our geotechnical consultation in connection with the evaluation of the potential impact of the construction of proposed 530 Sansome Street hotel to the 447 Battery Street building in San Francisco, California.

The 447 Battery Street building is located at the northwest corner of the intersection of Battery Street and Merchant Street. The rectangular shaped site measures approximately 74 feet by 97 feet with plan dimensions and is presently occupied by a three-story brick building with a basement. The subject building is reportedly constructed circa 1907.

We were provided with the following five documents:

- Noise and Vibration Technical Memorandum - 530 Sansome Street Project, prepared by ESA, and dated March 31, 2021.
- Report entitled, "Geotechnical Investigation, 530 Sansome Street, 425 AND 435-445 Washington Street, San Francisco, California," prepared by Langan Engineering and Environmental Services, Inc., and dated December 20, 2019, Project No. 731728602.

- "530 Sansome Street Plan, San Francisco, CA," prepared by SOM, updated April 23, 2021.
- Report entitled, "Geotechnical Investigation, 447 Battery Street, San Francisco, CA 94111" prepared by Langan Engineering and Environmental Services, Inc., and dated April 10, 2018, Project No. 731680201.
- Microfilmed drawings for the Earthquake Retrofit under the UMB Special Procedures, prepared by BMP and Vahdani & Associates, Inc. - San Francisco Department of Building Inspection Permits # 9610935 and 9824233.

PROPOSED CONSTRUCTION

The site of the proposed 530 Sansome Street hotel project consists of three lots (530 Sansome Street, 425 Washington Street and 439-445 Washington Street) located on the western portion of the block bounded by Sansome Street to the west, Washington Street to the north, Battery Street to the east, and Merchant Street to the south. The site is located on the east side of Sansome Street between Merchant Street and Washington Street, and extends in an easterly direction from Sansome Street to the west property line of the 447 Battery Street.

The hotel project site is currently improved with three buildings: the 425 Washington Street, a three-story building with a basement, the 439-445 Washington Street, a two-story building with a basement, and the 530 Sansome Street, a two-story San Francisco Fire Station # 13 with a basement.

Present plan of the hotel project calls for demolition of the three existing buildings and construction of a 19-story building and a four-story replacement fire station fronting Washington Street, with three below-grade levels under both buildings.

A deep foundation system will be required to support both the 19-story building and the four-story replacement fire station. Underpinning of the 447 Battery Street building and shoring to support the excavation for the below-grade levels along with dewatering, among others, will be required for the construction of the three below-grade levels.

PURPOSE AND SCOPE OF SERVICES

The purpose of our services was to provide geotechnical consultation to you, your client, and other engineering consultants, where appropriate, in the evaluation of the potential impact of the hotel project during construction to the 447 Battery Street building.

The scope of our services included a review of the five documents cited above, in particular on issues dealing with vibration and dewatering during construction, and a site visit to the 447 Battery Street building.

DISCUSSIONS AND CONCLUSIONEXISTING CONDITIONSGeneralized Subsurface Soil Conditions

Elevation +2 Ft	Street Grade
Elevation -5 Ft	Basement
Elevation -12 Ft	Bottom of Fill
Elevation -17 Ft	Bottom of Marine Sand
Elevation -39 Ft to -49 Ft	Bottom of Bay Mud
Elevation -87 Ft	Bottom of - Dense to Dense Clayey Sand, Medium stiff to Hard Sandy Clay and Dense to Very Dense Sand
Elevation -10 Ft	Groundwater level

All elevations are referenced to the City and County of San Francisco datum

447 Battery Street Building

The brick building was reportedly constructed circa 1907; however, no record was found or available. The building was seismically retrofitted to reduce the risk of death or injury in the event of a major earthquake pursuant to Chapters 14 and 15 Of the 1992 San Francisco Building Code.

The April 10, 2018 LANGAN report indicated that the building is reportedly supported on timber piles. The construction drawings for the Earthquake Retrofit under the UMB Special Procedures, prepared by BMP and Vahdani & Associates, Inc. do not show a pile-supported structure, and the Vahdani drawings call for adding new concrete footing.

In our July 27, 2021 site visit of the 447 Battery Street building, no obvious distress and building settlement were observed. We are not in a position to ascertain the foundation support without additional investigation including field exploration.

The site along with the vicinity was reclaimed from the San Francisco Bay. It is our opinion that settlement due to consolidation of the Bay Mud, resulting from the weight of the existing fill and building loads, if any, has been substantially completed.

In the event that the 447 Battery Street building is concluded to be supported on timber piles. We believe that the timber piles could be on the order of 45 feet long, with pile tip about 6-inch to 7-inch in diameter, tapered to about 10-inch or 12-inch in diameter at the pile butt. These timber piles were probably driven with a drop hammer, to refusal into the dense to very dense clayey sand below the Bay Mud.

Zacks Freedman & Patterson, PC

July 28, 2021

If the 447 Battery Street building is found to be supported on spread footings. They could be on timber ribbing, probably redwood or treated wood.

IMPACT OF 530 SANSOME STREET CONSTRUCTION

The December 20, 2019 LANGAN report indicated that the lowest basement level could extend about 50 feet below the existing street grade. Accordingly, underpinning of the existing foundation footings would be required if it is determined that the 447 Battery Street building is supported on spread footings.

Shoring to support the excavation for the proposed basements would be required, and appropriate dewatering would also be required. The December 20, 2019 LANGAN report recommended design groundwater level at Elevation -7 feet and to be lowered to at least 3 feet below the bottom of the deepest planned excavation during construction. This could be on the order of 30 feet or more below the design groundwater level.

An impervious shoring system is required to minimize drawdown of the groundwater level within the 447 Battery Street footprint. If groundwater is lowered, the 447 Battery Street building would be substantially impacted. Additional building settlement would occur due to consolidation of the Bay Mud as a result of increase in the fill loading from buoyant weight to actual weight, if the building is supported on spread footings. For a pile supported structure, the timber piles could experience dry rot due to lowering of the groundwater level and could be imposing downdrag loading resulting from the compression of the Bay Mud.

With respect to the tiebacks required to restrain the shoring, it is our opinion that an internal strut system should be considered rather than the proposed tiebacks which would encroach into the 447 Battery Street property.

CLOSURE

Our services have been performed with the usual thoroughness and competence of the engineering profession. No other warranty or representation, whether expressed or implied, is included or intended in our proposal, contract or report.

We thank you for the opportunity to participation on this project. If you have any questions or require additional information, please contact us

Yours very truly,



Eddy T. Lau, P.E.
Reg. Civil Engineer 019897
Reg. Geotechnical Engineer 506
Expiration 9/30/2021



August 24, 2021

*Re: 530 Sansome Street (Case No. 2019-017481ENV)
Letter of Authorization for Agent*

To Whom It May Concern:

I hereby authorize the attorneys of Zacks, Freedman & Patterson, PC to file a California Environmental Quality Act Negative Declaration appeal to the Board of Supervisors for 530 Sansome Street (Case No. 2019-017481ENV).

Very truly yours,

447 Partners, LLC

DocuSigned by:

Raj Maniar

8C5B5363E3AB453...

By: Raj Maniar

Its: President



PLANNING COMMISSION MOTION NO. 20953

HEARING DATE: JULY 29, 2021

Case No.: 2019-017481ENV
Project Address: 530 SANSOME STREET
Zoning: C-3-O (Downtown Office) Use District
200-S Special Height and Bulk District
Block/Lot: 0206/013, 014, 017
Project Sponsors: James Abrams, J. Abrams Law on behalf of EQX Jackson SQ Holdco LLC
415.999.4402, jabrams@jabramslaw.com
Josh Keene, San Francisco Bureau of Real Estate
415.554.9859, joshua.keene@sfgov.org
Assistant Deputy Chief Dawn DeWitt, San Francisco Fire Department
415.674.5066, dawn.dewitt@sfgov.org
Property Owners: EQX Jackson SQ Holdco LLC
44 Montgomery Street, Suite 1300
San Francisco, CA 94104
City and County of San Francisco
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Staff Contact: Alana Callagy
628.652.7540, alana.callagy@sfgov.org

ADOPTING FINDINGS RELATED TO THE APPEAL OF THE 530 SANSOME STREET PRELIMINARY MITIGATED NEGATIVE DECLARATION, FILE NUMBER 2019-017481ENV, FOR THE PROPOSED DEVELOPMENT THAT WOULD DEMOLISH THREE EXISTING BUILDINGS AND CONSTRUCT A FOUR-STORY REPLACEMENT FIRE STATION FOR SAN FRANCISCO FIRE DEPARTMENT STATION 13 AND A 19-STORY MIXED-USE HOTEL BUILDING, WITH THREE BELOW-GRADE LEVELS UNDER BOTH BUILDINGS. MERCHANT STREET ADJACENT TO THE PROJECT SITE WOULD BE CONVERTED INTO A SHARED STREET/LIVING ALLEY WITH PRIVATELY OWNED PUBLIC OPEN SPACE. THE SPONSORS ALSO PROPOSE A RESIDENTIAL VARIANT WHICH WOULD REPLACE THE FIRE STATION CONSISTENT WITH THE PROPOSED PROJECT BUT WOULD BUILD APPROXIMATELY 256 RESIDENTIAL UNITS IN A 21-STORY BUILDING (APPROXIMATELY SAME HEIGHT) INSTEAD OF A MIXED-USE HOTEL. THE PROJECT SITE IS IN A C-3-O (DOWNTOWN OFFICE) USE DISTRICT AND A 200-S HEIGHT AND BULK DISTRICT.

MOVED, that the San Francisco Planning Commission (hereinafter “Commission”) hereby AFFIRMS the decision to issue a Mitigated Negative Declaration, based on the following findings:

1. On December 20, 2019, pursuant to the provisions of the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines, and chapter 31 of the San Francisco Administrative Code, the San Francisco Planning Department (“Department”) received an Environmental Evaluation Application form for the proposed project, in order that it might conduct an initial evaluation to determine whether the Project might have a significant impact on the environment.
2. On or around September 15, 2020, the project sponsors delivered to the Department plan materials necessary for the study of a residential variant of the proposed project, which included similar building design, height and bulk, as well as a replacement fire station, but would include approximately 256 residential units in a 21-story building instead of hotel, office, fitness center and retail/restaurant uses.
3. On April 28, 2021, the Department determined that neither the proposed project nor the residential variant, as proposed, could have a significant effect on the environment.
4. On April 28, 2021, a notice of availability and intent to adopt a Mitigated Negative Declaration (MND) was issued for the 530 Sansome Street Project and was duly published in a newspaper of general circulation in the City, and the Preliminary MND (PMND) was posted on the Department website and distributed in accordance with law. In addition, posters advising the public of the notice of availability and intent to adopt an MND were posted on the Merchant Street, Sansome Street and Washington Street frontages of the Project site. The posters were regularly inspected by representatives of the project sponsors to ensure none were damaged or removed during the 20 days following posting.
5. On May 18, 2021, an appeal of the determination of no significant effect on the environment was filed by Ryan Patterson, on behalf of 447 Partners, LLC.
6. A staff memorandum, dated June 16, 2021, addresses and responds to all points raised by appellant in the appeal letter. That memorandum is attached as Exhibit A and staff’s findings regarding those points are incorporated by reference herein as the Commission’s own findings. Copies of that memorandum have been delivered to the Commission, and a copy of that memorandum is on file and available for public review at 49 South Van Ness Avenue, Suite 1400, San Francisco, California.
7. On July 29, 2021, amendments were made to the MND to update footers in the document and a new Section G.2 to address a comment letter on the PMND. Such amendments do not include new, undisclosed environmental impacts and do not change the conclusions reached in the MND. The changes do not require “substantial revision” of the PMND, and therefore recirculation of the MND is would not be required.
8. On July 29, 2021, the Commission held a duly noticed and advertised public hearing on the appeal of the PMND, at which testimony on the merits of the appeal, both in favor of and in opposition to, was received.
9. All points raised in the appeal of the PMND at the July 29, 2021, hearing have been addressed either in the memorandum or orally at the public hearing.
10. After consideration of the points raised by appellant, both in writing and at the July 29, 2021, hearing, the Department reaffirms its conclusion that neither the proposed project nor the residential variant could have a significant effect upon the environment.

11. In reviewing the PMND issued for the proposed project, the Commission has had available for its review and consideration all information pertaining to the proposed project in the Department's case file.
12. The Commission finds that Department's determination on the MND reflects the Department's independent judgment and analysis.
13. The Commission Secretary is the custodian of records; the File for Record No. 2019-017481ENV is located at 49 South Van Ness Avenue, Suite 1400, San Francisco, California.

DECISION

The Commission HEREBY DOES FIND that neither the proposed project nor the residential variant could have a significant effect on the environment, as shown in the analysis of the Mitigated Negative Declaration, and HEREBY DOES AFFIRM the decision to issue a Mitigated Negative Declaration, as prepared by the Department.

I hereby certify that the Commission ADOPTED the foregoing Motion on July 29, 2021.



Jonas P. Ionin
Commission Secretary

AYES: Tanner, Fung, Diamond, Koppel

NAYS: Moore, Imperial

ABSENT: Chan

ADOPTED: July 29, 2021

NORTHERN CALIFORNIA
LEGAL SUPPORT SERVICES, INC.
200 WEBSTER STREET, SUITE 201
OAKLAND, CA 94607

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11-35/1210

8/30 2021

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