

File No. 140465

Committee Item No. _____
Board Item No. 27

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____
Board of Supervisors Meeting

Date _____
Date May 20, 2014

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OTHER (Use back side if additional space is needed)

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Appeal Letter, April 30, 2014 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Project Sponsor's Response, May 12, 2014 *plus LINKED DOCS |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Appellant's Supplemental Letter, May 8, 2014 *plus LINKED DOCS |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Project 7970 Address List |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Clerical Documentation and Hearing Notice |

Completed by: John Carroll Date May 15, 2014

**ALSO ENCLOSED: DPW Documentation -
Application, Planning Commission Motion, Vesting
Tentative Approval, DPW Letter dated 04/24/14
Pages 2059-2102**

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April 30, 2014

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

Re: Notice of Appeal of Department of Public Works approval of Subdivision Map for Project 7970 relating to Block 3706, Lots 275, 277, 093 and 706 Mission Street - Residential Tower and Mexican Museum Project.

Dear President Chiu and Supervisors:

This office represents the 765 Market Street Residential Owners Association ("ROA"), the Friends of Yerba Buena ("FYB"), Paul Sedway, Ron Wornick, Matthew Schoenberg, Joe Fang, and Margaret Collins (collectively "Appellants") in their appeal of the Department of Public Works' approval of a subdivision map for Project 7970 relating to Block 3706, Lots 275, 277, 093 and 706 Mission Street - Residential Tower and Mexican Museum Project ("the Project"). A copy of the County Surveyor's Notice of Decision is attached hereto.

The grounds for this appeal are that the City cannot approve this tentative subdivision map because it is a project subject to the California Environmental Quality Act ("CEQA") and the City has not yet complied with CEQA for the reasons described in my clients' prior appeal of the EIR for this Project, which is Board of Supervisors File No. 130308; and because there is new, "post-certification" information requiring preparation of a subsequent or supplemental EIR under Public Resources Code section 21166 and CEQA Guideline 15162, including subdivision (a)(3)(c) of section 15162 ["Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative"]. For example:

- Information presented by the Project Sponsor after certification of the EIR (i.e., the May 8, 2013 "EPS Report") shows there are feasible alternative tower heights higher than 351 feet but lower than 520 feet. Therefore, the City cannot lawfully make the finding that there are no feasible mitigation measures that would "substantially lessen" the significant cumulative show impact on Union Square.
- Information presented by Appellant's after certification of the EIR (i.e., the June 28, 2013 "Sussman Report") shows that a tower height of 351 feet is financially feasible and the EPS Report's analysis and conclusion that the Reduced Shadow Alternative is not financially

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Board of Supervisors
Appeal of Subdivision Map for Project 7969
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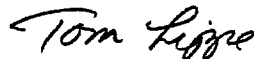
feasible does not constitute substantial evidence supporting the City's finding because it is "clearly inadequate or unsupported." *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 409.

To the extent the County Surveyor is relying on the Project EIR previously certified by the Planning Commission on March 21, 2013, and the Board of Supervisors on May 7, 2013, that reliance is misplaced because the EIR is defective. . . and because the tentative subdivision map is for a project that violates a number of provisions of the State Planning and Zoning Law and the San Francisco Planning Code and is inconsistent with the San Francisco Master Plan. (See Government Code sections 66473.5, 66474; San Francisco Planning Code section 101.1.)

In addition, the subdivision project does not comply with zoning, in particular Planning Code, Article 11, § III.6(c)(6) because the Project will increase the height of the Aronson Building by more than one story; Planning Code, Article II, § III.6(c)(6) because the Project tower is not compatible in scale with the Aronson Building; Planning Code, Article II, § III.3(a) because the Project tower is not compatible in scale and design with the New Montgomery-Mission-Second ("NMMS") Conservation District, as described in Article 11, Appendix F, Sections 6 and 7; and Planning Code §§ 295 and 309.

Thank you for your attention to this matter.

Very Truly Yours,



Thomas N. Lippe



Edwin M. Lee, Mayor
Mohammed Nuru, Director
Fuad S. Sweiss, PE, PLS,
City Engineer & Deputy Director of Engineering



Phone: (415) 554-
Fax: (415) 554-5-
www.sfdpw.org
E mail: Subdivision.Mapping@sfdpw.org

Department of Public Works
Office of the City and County Surveyor
1155 Market Street, 3rd Floor
San Francisco, CA 94103

Bruce R. Storrs, City and County Surveyor

Date: April 28, 2014

THIS IS NOT A BILL

The City and County Surveyor has approved a tentative map for a proposed subdivision located at:

Address	Block	Lots
86 Third Street	3706	093
700 Mission Street	3706	275
706 Mission Street	3706	275
738 Mission Street	3706	277

This subdivision will result in:

190 Unit Mixed-Use Condominium Project

This notification letter is to inform you of your right to appeal this tentative approval.

IF YOU WOULD LIKE TO FILE AN APPEAL OF THE TENTATIVE APPROVAL:

You must do so in writing with the Clerk of the Board of Supervisors **within ten (10) days of the date of this letter** along with a check in the amount of **\$290.00**, payable to the Department of Public Works.

The Clerk of the Board is located at: City Hall of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
(415) 554-5184

If you have any questions on this matter, please call us at (415) 554 – 5827 or email:
Subdivision.Mapping@sfdpw.org.

Sincerely,

Bruce R. Storrs, P.L.S.
City and County Surveyor
City and County of San Francisco

THE LAW OFFICES OF THOMAS N LIPPE, APC
201 MISSION ST. 12TH FLOOR
SAN FRANCISCO, CA 94105

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4/30/2014

PAY TO THE
ORDER OF Department of Public Works

\$ **290.00

Two Hundred Ninety and 00/100***** DOLLARS

Department of Public Works
c/o Clerk of the Board of Supervisors
City of San Francisco; City Hall, Rm 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689
706; Notice of Appeal Subd Map Project 7970

MEMO


AUTHORIZED SIGNATURE

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THE LAW OFFICES OF THOMAS N LIPPE, APC

3249

Department of Public Works

4/30/2014

706 Notice of Appeal Subd
Map for Project 7970, Block 3706
Lots 275,277,093 & 706 Mission

290.00

LOTNL OA 4327 706; Notice of Appeal Subd Map Project 79

290.00



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San Francisco, California 94104-1513
P: 415.262.5100 F: 415.262.5199

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BY _____

Margo N. Bradish
415.262.5101
mbradish@coxcastle.com

File No. 56238

May 12, 2014

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

Re: Response to Mr. Thomas Lippe's May 8, 2014 Letter in Support of the
Appeal of the Department of Public Works' approval of a Subdivision Map for
Project ID # 7970

Dear President Chiu and Supervisors:

We write on behalf of 706 Mission Street Co LLC ("Millennium Partners") in response to the May 8, 2014, letter submitted by the 765 Market Street Residential Owners Association, the Friends of Yerba Buena, Paul Sedway, Ron Wornick, Matthew Schoenberg, Joe Fang, and Margaret Collins (collectively, "Appellants") in support of Appellants' appeal of the Department of Public Works' approval of subdivision map for Project ID # 7070. The appeal filed by Appellants is meritless, and we respectfully request that the Board of Supervisors reject the appeal.

All of arguments that Appellants now raise in support of their appeal are a rehashing of the same arguments that Appellants previously raised and that the City and County of San Francisco ("City") previously rejected during the land use entitlement proceedings for the 706 Mission Street-The Mexican Museum Project (the "Project"). On numerous occasions the City has already considered and rejected these arguments, including the Project's alleged non-compliance with CEQA, the State Planning and Zoning Law, the San Francisco General Plan, and the San Francisco Planning Code (e.g., Section 295, Section 309, and Article 11).

In their May 8, 2014, letter, Appellants do not make any arguments specific to the subdivision map approval at issue, but instead repeat the same meritless arguments from their previously submitted administrative letters and appeals. Because City decisionmakers already have considered and rejected these arguments, and because Appellants have not presented any new information or evidence that the approval of the subdivision map for Project ID # 7070 violates law, this appeal should be rejected.

Air Quality

1. Air Quality - Impact AQ-1

a. Appellants contend that the EIR fails to inform the public that the BAAQMD no longer recommends that public agencies use its numerical thresholds to determine the significance of air quality impacts. As explained in the Planning Department's April 29, 2013 and May 6, 2013, appeals responses and Millennium Partners' May 6, 2013, response letter, contrary to the Appellants' statement, it is appropriate for the City to choose to use thresholds of significance established and adopted by the BAAQMD, as stated in the introduction to the Air Quality questions in the CEQA Checklist provided in Appendix G to the CEQA Guidelines, which specifies: "Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations." Further, as expressed in Millennium Partners' May 6, 2013, response letter, "the City has discretion under CEQA to use these BAAQMD thresholds or any other threshold, provided the use of those thresholds is supported by substantial evidence. Here, the City has determined that Appendix D of the BAAQMD CEQA Air Quality Guidelines, in combination with BAAQMD's Revised Draft Options and Justification Report, provides substantial evidence to support the BAAQMD threshold."

b. Appellants next contend the City is required to undertake a rule-making procedure to adopt the BAAQMD thresholds of significance. Planning Department Staff responded to this argument in their May 6, 2013, Supplemental Appeals Response, noting that the thresholds have not been adopted for general use. A similar response was provided in Millennium Partners' May 6, 2013, response letter.

c. While Appellants contend the EIR fails to specify substantial evidence to support its use of the BAAQMD numerical thresholds, Millennium Partners' April 29, 2013, Appeals Response and May 6, 2013, Supplemental Appeals Responses explain that the substantial evidence in support of using the numerical Air Quality Significance Thresholds appears in the 'Approach to Analysis,' pp. IV.G.20-IV.G.27. Millennium Partners' May 6, 2013, response letter also identified the substantial evidence justifying the use of the standards.

d. Appellants suggest the evidence provided by BAAQMD's source documents cited in the EIR does not constitute substantial evidence, but fails to explain the basis for this contention. As explained in part (c) above, the City has provided substantial evidence to support use of the thresholds.

e. Appellants argue that the project and cumulative thresholds for ozone precursor emissions are legally flawed. However, as discussed in Millennium Partners' May 6, 2013, response letter, the EIR sufficiently analyzes the potential for overlapping construction emissions. This letter explains that Appellants' argument reflects a misunderstanding of the BAAQMD's approach to achieving air quality attainment because Appellants fail to consider that the Project is consistent with the applicable Clean Air Plan.

f. As above, Millennium Partners' May 6, 2013, response letter explains that Appellants' argument reflects a misunderstanding of the BAAQMD's approach to achieving attainment, because Appellants fail to consider that the Project is consistent with the applicable Clean Air Plan.

g. Appellants argue that the use of BAAQMD thresholds of significance is erroneous for various other reasons. Their arguments are addressed by both Millennium Partners' and the Planning Department's May 6, 2013, appeals responses.

h. Appellants note that the arguments they raise in Paragraph 2 are described in more detail in Appellants' April 28, 2013, and May 7, 2013, comment letters. Millennium Partners' and the Planning Department's responses to those comment letters are more particularly described in the Planning Department's April 29, 2013, and May 6, 2013, response letters and Millennium Partners' May 6, 2013, response letter.

2. Air Quality - Mitigation Measure M-AQ-1

a. Appellants claim that the EIR defers the development of mitigation measures to reduce significant diesel particulate and toxic air contaminant emissions to the post-approval preparation and approval of a Construction Emission Minimization Plan. Appellants contend the Plan is not detailed enough to be enforceable or effective. Planning Staff responded to this argument in the May 6, 2013, Supplemental Appeals Response, noting that the mitigation measure includes various equipment specifications and that the CEQA Guidelines permit mitigation measures which may be accomplished in more than one way. Millennium Partners also responded to this argument in its May 6, 2013, letter explaining that the mitigation measure was detailed, specific, and enforceable.

b. Appellants express concerns regarding the qualifications of the City's Environmental Planning Air Quality Specialist who will be reviewing and approving the Construction Emissions Minimization Plan prior to the commencement of construction activities. Planning Staff already responded to this in its May 6, 2013, Supplemental Appeals Response by stating that the Planning Department's Air Quality Technical Specialist is a recognized expert on air quality issues in the Bay Area, and serves on the Air Quality Advisory Counsel to the BAAQMD Board of Directors. Millennium Partners also addressed this argument in its May 6, 2013, letter, noting that the City has an experienced environmental review staff and that the specialist will have the necessary training and expertise to evaluate the adequacy of the Plan.

c. Appellants maintain the EIR fails as an informational document with respect to the City's obligation to identify mitigation measures that will substantially reduce the Project's potentially significant impacts from increased diesel particulate and toxic air contaminant emissions. As discussed above, Appellants' arguments have been fully and adequately addressed in Planning Department's April 29, 2013, and May 6, 2013, response letters and Millennium Partners' May 6, 2013, response letter.

d. Appellants note that the arguments they raise in Paragraph 3 are described in more detail in Appellants' April 28, 2013, and May 7, 2013, comment letters. Millennium Partners' and the Planning Department's responses to those comment letters are more particularly described in the Planning Department's April 29, 2013, and May 6, 2013, response letters and Millennium Partners' May 6, 2013, response letter.

Historic Resources

3. Appellants argue the Project EIR fails as an informational document regarding the Project's impacts on historic resources, and that the EIR omits analysis of the Project tower's impacts on historic resources. As noted in Millennium Partners' May 6, 2013, letter, the EIR fully analyzes the impacts of the tower on historic resources.

4. While Appellants maintain the EIR fails to inform the public that the Historic Preservation Commission has permitting jurisdiction over the Project, the Project requires a Permit to Alter, and the Project must comply with Planning Code Article 11, the EIR makes no assumptions regarding the applicability of the procedural requirements of Article 11 to the proposed tower project and such a determination is not necessary for the adequacy of the EIR under CEQA, as more particularly discussed in Millennium Partners' and the Planning Departments' May 6, 2013, appeals responses.

a. Appellants argue that the EIR fails to inform the public that the Project will increase the height of the Aronson Building by 39 stories. The July 1, 2013, Major Permit to Alter Appeal Case Report, Millennium Partners' May 6, 2013, response letter, and the Planning Department's April 29, 2013, and May 6, 2013, appeals responses explain that the EIR adequately described and analyzed impacts to historical resources and that the only vertical addition would be a one story solarium on the roof of the Aronson Building.

b. Appellants suggest the Project tower is not compatible with the scale and character of the Aronson Building. However, as addressed in Millennium Partners' and the Planning Department's May 6, 2013, appeals responses, the Project tower is compatible with the Aronson Building in composition, massing, scale, materials and colors, and detailing and ornamentation.

c. Appellants suggest the Project tower is not compatible with the scale and design of the Conservation District. However, as addressed in Millennium Partners' and the Planning Department's May 6, 2013, appeals responses, the Project tower is compatible with the Conservation District.

d. Further and more detailed responses to Appellants' historical resources arguments are set forth in the Planning Department Appeals Response dated April 29, 2013, the Planning Department Supplemental Appeals Response, dated May 6, 2013, Millennium Partners' supplemental appeal response dated May 6, 2013, the July 1, 2013 Major Permit to Alter Appeal Case Report, and the letters submitted by Millennium Partners, on July 1, 2013, July 15, 2013, and July 23, 2013.

5. Historic Resources - Cumulative Impact Analysis

a. Appellants argue the EIR wrongly assumes the current degraded nature of the environmental setting decreases, rather than increases, the significance of the Project's impacts. This argument was addressed in the Millennium Partners' and the Planning Department's appeals letters dated May 6, 2013, which discussed how the Project is compatible with its surroundings under the relevant legal standards. Millennium Partners explained in its May 6, 2013, letter that the Aronson Building, together with St. Patrick's Church and the Jessie Street Substation, do not collectively form a coherent historic district, and accordingly, the EIR reasonably concludes that construction of the tower would not further harm this altered context in a manner that would be significant.

b. Appellants contend that the Project impermissibly relies on an arbitrary standard of "views within the district." This claim was addressed in the July 1, 2013, Major Permit to Alter Appeal Case Report, which, after noting that it is not clear exactly what the Appellants mean by this claim, explained that the Project would not block any views of the Aronson Building and that the Aronson Building would continue to relate to the historic architectural character of nearby buildings.

c. Further and more detailed responses to Appellants' historical resources arguments are set forth in the Planning Department Appeals Response dated April 29, 2013, the Planning Department Supplemental Appeals Response, dated May 6, 2013, Millennium Partners' supplemental appeal response dated May 6, 2013, the July 1, 2013 Major Permit to Alter Appeal Case Report, and the letters submitted by Millennium Partners, on July 1, 2013, and July 15, 2013.

6. Appellants next assert that the Project violates Article 11 of the Planning Code and related provisions of the General Plan, and that the EIR fails to discuss inconsistencies and impacts resulting from these violations. As indicated in the Planning Department's and Millennium Partners' appeals responses dated May 6, 2013, the Project is consistent with existing applicable height and bulk limitations of the Planning Code and General Plan, and these issues were discussed in the EIR on pages III.4-III.7.

Noise

7. Appellants maintain that the EIR fails to provide sufficient information and analysis to evaluate the significance of construction noise. The specific arguments are as follows:

a. First, Appellants claim that the EIR fails to specify the amount of noise attenuation that will occur as a result of the distances between the generation of noise and sensitive noise receptors in the area. Millennium Partners' May 6, 2013, letter responded to this argument, explaining that EIRs cannot, and are not required to, quantify decibel reduction associated with noise attenuation due to distance because such a calculation is based on a complex, unpredictable multitude of factors, and any attempt at such an analysis would be speculative.

b. Second, Appellants argue the EIR should specify the amount of noise attenuation that will occur as a result of the various noise reduction mitigation measures. This argument is addressed in Millennium Partner's May 6, 2013, response letter, which explains that EIRs do not typically quantify the decibel reduction associated with construction noise mitigation measures because there is no reliable methodology for doing so.

c. Third, Appellants seek further information regarding when mitigation measures that will only be used when "feasible" or "possible" will actually be feasible or possible. Millennium Partner's May 6, 2013, response letter, addressed these arguments, explaining that the Project must meet its obligation to comply with the Noise Ordinance no matter which mitigation measures will ultimately prove feasible. The "feasible" or "possible" modifiers merely acknowledge that certain mitigation measures may not be feasible in all situations.

d. Responses to Appellants arguments regarding noise impacts are provided in more detail in the Planning Department's April 29, 2013, and May 6, 2013, response letters, and Millennium Partners' May 6, 2013, response letter.

8. Appellants argue that the Project's construction noise impact should be found to be significant. As addressed in the Planning Department April 29, 2013, letter and Millennium Partners' May 6, 2013, letter, substantial evidence in the record supports the conclusion that construction noise impacts would be less than significant with mitigation.

9. Appellants repeat concerns over the EIR's application of Section 2909 of the San Francisco Noise Ordinance as follows:

a. Appellants claim that the EIR falsely asserts that Section 2909 does not apply to "non-permanent" generators of noise. Millennium Partners responded to this argument in its May 6, 2013, letter, stating that section 2909 specifically refers to "fixed noise sources" and does not apply to construction noise.

b. Appellants objects to the City's use of compliance with the Noise Ordinance as a threshold of significance. Millennium Partners' addressed this argument in its May 6, 2013, letter, explaining that compliance with the Noise Ordinance combined with feasible mitigation to ensure that any potentially significant impacts are less than significant is a reasonable and acceptable means of evaluating the significance of construction noise and mitigating any such impacts.

Shadow Impacts on Union Square

10. Appellants repeat their assertion that the EIR fails as an informational document because it does not include information relating to the feasibility or effectiveness of mitigation measures or alternatives that would avoid or substantially reduce the Project's significant shadow impact on Union Square. Appellants further maintain that because the Project's cumulative shadow impact is "significant," the Project had an obligation to identify additional mitigation. As discussed in the Planning Department's April 29, 2013, appeals response, the EIR reasonably

concludes there is no feasible mitigation for the Project's contribution to significant cumulative shadow impacts, because any theoretical mitigation would fundamentally alter the Project's basic design and programming parameters, and that any significant development on the Project site would shadow some public open spaces. The appeals response also explains that the EIR identified two Project alternatives that would not result in net new shadow on Union Square, although neither of which would reduce cumulative shadow impacts to a less than significant level.

11. Appellants next contend that information relating to the feasibility or effectiveness of mitigation measures or alternatives that would avoid or substantially reduce the Project's significant shadow impact on Union Square was not made available until after the close of comment on the Draft EIR, and therefore, the EIR should have been recirculated for public comment. The Planning Department's April 29, 2013, appeals response responded that any new information did not rise to the level of requiring recirculation.

12. Appellants reiterate arguments previously made about the Project's compliance with Planning Code Section 295:

a. Appellants argue that Proposition K and, by extension, Planning Code Section 295, serve as CEQA thresholds of significance for shadow impacts and that the shadow budgets established by the Parks and Recreation and Planning Commissions function as mitigation measures. The Planning Department's and Millennium Partners' May 6, 2013, letters explain that Section 295 and Prop K are not CEQA thresholds of significance.

b. See part (a) above.

c. Appellants argue the City made the absolute cumulative shadow limit for Union Square less environmentally protective by increasing the shadow budget. As explained in Millennium Partners' May 6, 2013, letter, the Parks and Recreation and Planning Commissions have the authority to increase shadow budgets where the Commissions determine that to do so would not result in additional shadow that would be adverse to the use and enjoyment of the applicable parks.

d. See part (c) above.

e. Appellants again argue that Planning Code Section 295 and Prop K establish thresholds of significance and mitigation measures under CEQA. Millennium Partners' May 6, 2013, letter explains why significance under CEQA and significance under Section 295 are not the same.

f. See part (e) above.

g. Further responses to Appellants' shadow related arguments are set forth in the Planning Department's appeals responses dated April 29, 2013, and May 6, 2013, Millennium Partners' appeal response dated May 6, 2013, and Millennium Partners' brief before the Board of Appeals dated July 25, 2013.

13. Appellants argue that the City's decision to increase the absolute cumulative shadow limit is inconsistent with several policies of the Downtown Plan. The Planning Department addressed this comment in its May 6, 2013, response letter, finding the Project is consistent with the Plan because the Project does not include development of new open space and would minimize shadow on Union Square, among other reasons.

Shadow Impacts on Jessie Square

14. Appellants repeat their argument that the main text of the DEIR impermissibly fails to quantify new shadow that the Project would generate on Jessie Square. The Planning Department's April 29, 2013, appeals response explains that this information was added to the EIR on pp. III.F.22-III.F.23 of the RTC document using technical background studies that were available to the public in the case file for the Project at the time of publication of the DEIR.

15. Appellants also maintain that the EIR fails to explain how the Project's spring and summer shadow impacts would be less than significant. The Planning Department's April 29, 2013, appeals response state that p. III.F.23 of the RTC document explains what factors were used in reaching the conclusion that the Project's shadow impacts on public open spaces (including Jessie Square) would be less than significant. Further, Planning staff noted that, on p. IV.I. 58, the EIR concluded that, due to the times of day and times of year that would be affected, the duration of shadow, the proportion of open space that would be affected by net new shadow, and the use of the areas affected, the Project-related shadows would not substantially impair the use and enjoyment of public open spaces (including Jessie Square), and that the proposed Project would have a less than significant shadow impact on public open spaces (including Jessie Square).

16. While Appellants argue that the EIR fails to present any Project alternative that would substantially reduce the Project's new shadow impacts on Jessie Square, the EIR included a reasonable range of alternatives, and the City provided thorough and well-reasoned responses to these comments on pp. III.I.15-III.I.25 of the RTC document. The Planning Department's April 29, 2013, appeals response also addressed this claim.

Greenhouse Gases

17. Appellants suggest the EIR fails to assess the Project's greenhouse gas impacts, fails to identify adequate mitigation or Project alternatives, and fails to adequately respond to public comments on these issues. The Planning Department's April 29, 2013, appeals response addressed these arguments, noting that the EIR contains a thorough and accurate analysis of Project impacts related to greenhouse gases, and that no public comments received on the DEIR related to greenhouse gases.

18. Appellants argue that because the EIR fails to quantify greenhouse gas emissions, the document does not properly assess the significance of the Project's impact. As above, the Planning Department's April 29, 2013, appeals response addresses this comment. It stated the approach employed by the City to determine the significance of greenhouse gas impacts is consistent

with CEQA Guidelines 15064.4(2), which states that a lead agency may rely on a qualitative analysis or performance standards when determining the significance of a projects GHG impact.

Recreation

19. Appellants contend the EIR fails to adequately assess the significance of the Project's impacts on recreation, fails to identify adequate mitigation measures or alternatives, or fails to adequately respond to public comments. The Planning Department's April 29, 2013, appeal response responded to these comments, explaining that the FEIR contains a thorough, detailed analysis of the impacts of Project-related increases in the use of public parks and recreation facilities and public open spaces, and that the document accurately concludes that less than significant impacts would result from the Project. Further, there were no public comments on the DEIR related to recreation, so no responses were required.

20. Next, Appellants claim the EIR lacks information on rates of utilization of nearby parks and fails to assess the overcrowding of these parks. Please see the response to comment 20 above. Furthermore, the April 29, 2013, appeals response noted that the EIR's impact analysis under Impact RE-1, Impact RE-2, and Impact RE-3 on EIR pp. IV.J.10-IV.J.15 evaluates the increased demand on existing public recreation resources.

Traffic

22. Appellants claim that the EIR fails as an informational document with respect to traffic and circulation impacts. The EIR assessed traffic and circulation impacts, as noted by staff on pages 10 through 16 of the Planning Department's April 29, 2013, appeals response. Appellants have failed to state why the assessment of traffic and circulation impacts in the EIR failed to adequately inform the public.

23. Appellants claim that the traffic impact analysis is flawed for the following reasons:

a. Appellants argue that the EIR misidentifies eastbound traffic through movement at Market and Fourth Street as a critical movement. Planning Department staff addressed this comment in the appeals response dated April 29, 2013. As staff noted, the comment was addressed in the RTC document for the Draft EIR, which explains why the eastbound through movement at the intersection of Fourth and Market Streets is the critical movement.

b. Appellants argue that the EIR failed to account for vehicle delays caused by increases in pedestrian volumes at the intersection of Third Street and Stevenson Street. Planning Department staff addressed this comment in the appeals response dated April 29, 2013. As staff noted, the comment was addressed on pages III.E.41 through III.E.49 of the RTC document, under the subtopic, "Consideration of Pedestrians and Parking Supply in Traffic Analysis." As explained there, the analysis of intersection delay takes into account the general inefficiency of traffic and pedestrian flows affecting the capacity of an intersection and acknowledges the existing conflicts between pedestrians and vehicular traffic at the intersection.

c. Appellants reiterate by reference the traffic and circulation arguments that they made in Section 1 of the comment letter they submitted to the Board of Supervisors on April 10, 2013. The Planning Department's April 29, 2013, appeal response responded to these comments.

24. Appellants claim that the EIR's analysis of alternatives is flawed because the EIR's conclusion that Traffic Variants 6 and 7 would cause significant traffic impacts is inaccurate for the following reasons: (1) the EIR misidentifies the eastbound through movement at Market and Fourth Street as a critical movement (2) the analysis is based on inaccurate trip distribution assumptions, (3) the analysis considers only the proposed Project's residential parking supply of one space per unit, which exceeds the standard set in the Planning Code, resulting in higher traffic volumes and fails to consider variants of Variants 6 and 7 involving reducing the allowable parking supply, which would reduce vehicle trips and both traffic and transit impacts, and (4) the alternatives fail to include improvement measures designed to reduce vehicle traffic generated by the Project. Appellants note that their reasons for claiming that the EIR's alternatives analysis is flawed are described in more detail in Appellants' April 10, 2013, comment letter submitted on the Project to the San Francisco Board of Supervisors.

Planning Department staff responded to Appellants' April 10 comments, repeated in their March 31 letter, in the April 29, 2013, response letter. Staff noted that the comments raised issues that had already been addressed in the RTC document and Appellants provided no evidence showing the RTC's responses were inadequate. Appellants also did not submit such evidence with their March 31, 2014, letter. As noted above, staff found that substantial evidence supported the EIR's conclusion of the critical movement at the intersection of Market and Fourth Streets. Staff also found that the RTC document, particularly pages III.E.17 through III.E.25, addressed Appellants' trip distribution claim and explained the substantial evidence in the record to support the appropriateness of the EIR's analysis and conclusions. Similarly, staff found that Appellants' claim regarding the number of on-site parking spaces was addressed in the RTC document under the subtopic, "Consideration of Pedestrians and Parking Supply in Traffic Analysis." The RTC response stated that the on-site parking was code compliant and "research does not support the comment that states that by limiting the amount of parking on site, the traffic impact analysis for both the proposed project and vehicle access Variants 1 to 7 would lead to different transportation impact results." Appellants' comment concerning improvement measures also was addressed in the RTC document and staff's April 29, 2013, appeal response. These documents explain that the Planning Code incorporates travel demand management elements that encourage alternative mode use and the proposed project would meet all applicable Planning Code requirements and, although not required by CEQA, the EIR includes Improvement Measure I-TR-M, Transportation Demand Management, to encourage use of alternative transportation modes.

Recirculation

25. Appellants claim that significant new information was presented to the City after the close of comment on the Draft EIR, but before final certification of the EIR or Project approval, and therefore the City should have recirculated the Project's draft EIR or prepared a

supplemental EIR to include this new information. Appellants allege that the following constituted new information:

- a. Information relating to the Historic Preservation Commission's permitting jurisdiction over the Project; and
- b. Information relating to the feasibility or effectiveness of mitigation measures or alternatives that would avoid or substantially reduce the Project's contribution to significant cumulative shadow impacts on Union Square.

According to Appellants, the grounds for alleging that the DEIR should have been recirculated or that a supplemental EIR was required are described in more detail in the following documents: (1) Appellants' April 10, 2013, comment letter submitted on the Project to the Board of Supervisors, section 10; (2) Appellants' May 15, 2013, comment letter submitted on the Project to the Historic Preservation Commission, section VI; and (3) Appellants' July 16, 2013, comment letter submitted on the Project to the Successor Agency.

As Appellants note, Appellants recirculation claims are not new and Appellants have not presented any reason why prior responses to comments on this issue were inadequate or incorrect. Appellants claims were adequately addressed in the appeal response dated April 29, 2013, (pages 53-56), in which staff explains why the information cited by Appellants does not meet CEQA's standards for recirculation or preparation of a supplemental EIR. Millennium Partners also addressed Appellants' recirculation claims in its July 1, 2013, letter, noting that new information regarding the shadow budget for Union Square did not trigger the need for recirculation of the EIR because that change did not change the baseline used in the EIR to determine whether impacts would be potentially significant. Further, both Planning Department staff (see July 1, 2013, report, pages 10-12) and the Millennium Partners' response (see July 1, 2013, letter to the Board of Supervisors, pages 2, 9-10) specifically addressed Appellants claims regarding the Historic Preservation Commission's permitting jurisdiction over the Project. Both Planning Department staff (see the Board of Appeals Brief dated July 25, 2013, page 11) and Millennium Partners (see July 23, 2013, letter to the Board of Supervisors, pages 1-2) also specifically addressed Appellants' claim regarding the feasibility of lower height alternatives that created less shadow.

CEQA Findings

26. Appellants claim that the City (including the Historic Preservation Commission, the Planning Commission, the Board of Supervisors, and the Board of Appeals with respect to each agencies' approvals of the permits or required findings within its jurisdiction) abused its discretion in finding that further mitigation of the Project's cumulatively considerable contribution to cumulative shadow impacts on Union Square is infeasible because the finding is not supported by substantial evidence. Specifically, Appellants argue that the City should have analyzed a project that was between 351 feet and 520 feet because such a project was financially feasible and would have lessened the Project's shadow impacts on Union Square, and the financial feasibility report relied on by the City is not substantial evidence. As Appellants note, they raised these claims multiple times since 2013 and no new information has been introduced in the current appeal.

Appellants' claims have been addressed multiple times by both the Planning Department staff and Millennium Partners. Planning Department staff addressed Appellants' CEQA findings claims on pages 44 to 46 of the appeals response dated April 29, 2013, on pages 9 to 10 of their July 1, 2013, report, and on page 11 of staff's July 25, 2013 Board of Appeals Brief. As staff noted in those documents, Appellants failed to provide evidence that a project between 351 feet and 520 feet would lessen the Project's contribution to significant cumulative shadow impacts and failed "to provide credible evidence that the economic analysis of the financial feasibility of the project alternatives described in the EIR . . . which was peer reviewed by an independent economic consultant . . . retained by and working under the direction of the Successor Agency is flawed or invalid." In approving the land use entitlements for the Project, the City considered the May 8, 2013 Financial Feasibility Report prepared by EPS and June 28, 2013 report of Eric Sussman, and the responses and rebuttals thereto, and the City made findings pursuant to Section 15162 of the CEQA Guidelines.

Millennium Partners also addressed Appellants' CEQA findings claims in its July 1, 2013, July 15, 2013, and July 23, 2013, letters to the Board of Supervisors. Millennium Partners noted that the EIR considered a reasonable range of alternatives, the financial feasibility findings were based on substantial evidence, the City could rely on experts of its own choosing when evaluating evidence and reaching conclusions as to the environmental review for the Project.

27. Appellants claim that the City failed to proceed in the manner required by law in making its finding that no feasible mitigation or alternatives existed to reduce the Project's cumulatively considerable contribution to cumulative shadow impacts because the EIR fails to include information regarding feasibility. Appellants note that they raised this claim in at least six comment letters and have not submitted any new information to support their claim.

Planning Department staff adequately addressed this claim in the April 29, 2013, appeals response as well as in subsequent reports. As staff explained on page 44 of its April 29, 2013, report, the EIR explained "that there is no feasible mitigation for the proposed project's cumulative shadow impacts on public open spaces because any theoretical mitigation would fundamentally alter the project's basic design and programming parameters, and any significant development on the project site would shadow downtown open spaces and sidewalks that may also be affected by other downtown development." Staff also explained that "no further modification of the tower could eliminate the tower's net new shadow on Union Square unless the height of the tower were reduced to approximately 351 feet or less, but even then the proposed project would still shadow other downtown open spaces and sidewalks" and result in cumulatively considerable contribution to cumulative shadow impacts on public open spaces. Thus, the EIR explained why mitigation was infeasible.

Millennium Partners also addressed Applicants' claim that the City failed to proceed in the manner required by law, particularly on pages 7 to 8 of its July 1, 2013, letter and pages 1 to 2 of its July 23, 2013, letter to the Board of Supervisors. Millennium Partners reiterated staff's points that substantial evidence, including peer reviewed financial feasibility studies and the shadow analysis in the EIR, supported the City's finding that no feasible mitigation measures or alternatives could

lessen the Project's cumulatively considerable contribution to cumulative shadow impacts on public open spaces.

28. Appellants claim that the City's approval of the Project violates a number of provisions of Article 11 of the Planning Code, as described in Appellants' comments letters submitted on April 25, May 15, June 13, July 1, July 15, July 16, and July 23, 2013. Both Planning Department staff and Millennium Partners responded to Appellants' claim and Appellants have not explained why those responses were inadequate. For example, staff in its July 1, 2013, report to the Board of Supervisors explained in detail how the Project is consistent with Article 11, including the tower portion (pages 6 to 7), and the Project's massing, composition, scale, materials and colors, and detailing and ornamentations, (pages 7 to 9). Millennium Partners also explained the myriad reasons that the Project is consistent with Article 11 in a July 1, 2013, letter to the Board of Supervisors, including the reasons that the Project would not increase the height of the Aronson Building by more than one story, the tower would not be an addition to the Aronson Building and in any case would be compatible with it, the Project would be compatible with the NMMS Conservation District, the Project effectuates the purposes of Article 11, and the Project complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties and Rehabilitation.

29. Appellants argue that the Project approval violates Planning Code sections 295 and 309 for the reasons stated in their May 23, 2013, comment letter and July 11, 2013, brief submitted to the Board of Appeals. Staff addressed these claims in its July 1, 2013, report (page 10-11) and July 25, 2013, Board of Appeals Brief, explaining that Section 295 provides the Planning and Recreation and Park Commissions with the authority to adopt criteria to implement that provision and the authority was properly exercised, determinations of significance under CEQA and Section 295 are not interchangeable, and the reasons that the Planning Commission's Determination of Compliance with Planning Code section 309 should be upheld, Appellants offer no reason why staff's prior responses to their claim is inadequate or incorrect.

Moreover, Millennium Partners also addressed Appellants' claim, including in its July 23, 2013, letter to the Board of Supervisors and July 25, 2013, Board of Appeals brief. For the reasons stated in the brief, the Planning Commission's section 309 action and the actions regarding the shadow budget were proper and supported by substantial evidence in the record.

30. Finally, Appellants claim that the Project approval violates the uniformity requirements of state and local law as explained in Appellants' July 12, 2013 comment letter. Millennium Partners provided a detailed response to Appellants' July 12, 2013, letter in a letter dated July 23, 2013, which explained that state "uniformity" requirements, as set forth in section 65852, do not apply to charter cities, such as the City. Even if the City were subject to the uniformity requirement of Section 65852, the adoption of the SUD or zoning map amendment would not violate that section because that section expressly permits differences of treatment among zones. In addition, that letter explained that the Project did not violate Planning Code section 101.1, which states that zoning ordinances and development agreements shall not be adopted unless they are found to be consistent with the City's General Plan and the Priority Policies set forth in Section 101.1 (b), because the Project is consistent with both the General Plan and the Priority

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Policies. Once again, Appellants fail to explain how the prior response to this comment is inadequate or inaccurate.

For the foregoing reasons, Appellants' appeal of the subdivision map only serves to reiterate stale arguments already considered by the City. Therefore, this appeal should be dismissed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Margo N. Bradish', with a long horizontal flourish extending to the right.

Margo N. Bradish

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May 12, 2014
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Enclosed Herewith on CD: Previously Submitted Letters, Appeals, and Memoranda

1. Planning Department Appeal Response of EIR Certification, April 29, 2013
2. Planning Department Supplemental Appeal of EIR Certification, May 6, 2013
3. Planning Department Board of Appeals Brief, July 15, 2013
4. Planning Department Board of Appeals Brief, July 25, 2013
5. Major Permit to Alter Case Report, May 15, 2013
6. Major Permit to Alter Appeal Report, July 1, 2013
7. EPS Response to "Expert Report of Eric Sussman," July 9, 2013
8. Project Sponsor letter to Board of Supervisors, July 1, 2013
9. Project Sponsor letter to Board of Supervisors, July 15, 2013
10. Project Sponsor letter to Board of Supervisors, July 23, 2013 (1)
11. Project Sponsor letter to Board of Supervisors, July 23, 2013 (2)
12. Project Sponsor letter to Board of Supervisors, July 23, 2013 (3)
13. Project Sponsor letter to Board of Supervisors, July 30, 2013
14. Planning Executive Summary Section 309 Determination of Compliance, March 28, 2013 with Board of Supervisors stamp of receipt dated June 3, 2013
15. Keyser Marston Memorandum to Christine Maher, July 15, 2013
16. Keyser Marston Memorandum to Christine Maher, July 23, 2013
17. Memorandum from Stacy Radine Bradley, to Recreation and Park Commission, May 23, 2013 (addendum and amendments to resolutions)
18. Memorandum from Stacy Radine Bradley, to Recreation and Park Commission, May 23, 2013 (addendum)
19. Memorandum from Calvillo to Jon Givner, June 20, 2013
20. Planning Memorandum from Debra Dwyer to Kevin Guy, May 22, 2013
21. Memorandum from Mauney-Brodek, to Recreation and Park Commission, May 23, 2013

22. Memorandum from Mauney-Brodek, to Recreation and Park Commission, Evaluation of Shadow Impact on Union Square, May 23, 2013
23. Memorandum to the Planning Commission, May 20, 2013
24. Memorandum to the Planning Commission, May 20, 2013 with Board of Appeals June 23, 2013 stamp of receipt
25. Motion Holder's Brief before Board of Appeals, July 25, 2013

All other documents in the City's files that were before City decisionmakers in considering and acting on the land use entitlements for the Project are herein incorporated by this reference.

MNB

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May 8, 2014

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

RECEIVED
BOARD OF SUPERVISORS
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MAY - 8 PM 2:41

Re: Argument in Support of Appeal of Department of Public Works approval of Subdivision Map for Project 7970 relating to Block 3706, Lots 275, 277, 093 and 706 Mission Street - Residential Tower and Mexican Museum Project.

Dear President Chiu and Supervisors:

This office represents the 765 Market Street Residential Owners Association ("ROA"), the Friends of Yerba Buena ("FYB"), Paul Sedway, Ron Wornick, Matthew Schoenberg, Joe Fang, and Margaret Collins (collectively "Appellants") in their appeal of the Department of Public Works' approval of a subdivision map for Project 7970 relating to Block 3706, Lots 275, 277, 093 and 706 Mission Street - Residential Tower and Mexican Museum Project ("the Project").

Introduction

The grounds for this appeal are that the City cannot approve this tentative subdivision map because it is a project subject to the California Environmental Quality Act ("CEQA") and the City has not yet complied with CEQA; and because the tentative subdivision map is for a project that violates a number of provisions of the State Planning and Zoning Law and the San Francisco Planning Code and is inconsistent with the San Francisco Master Plan. (See Government Code sections 66473.5, 66474; San Francisco Planning Code section 101.1.)

The County Surveyor has made no determination of record regarding the Project's compliance with CEQA, nor has any other City decision-maker. CEQA cannot simply be ignored.

The County Surveyor has not made any findings regarding the adequacy of the environmental impact report prepared for this project. Despite the Board of Supervisors' prior certification of the EIR for this project, the County Surveyor's approval of this subdivision map is a new discretionary decision pursuant to CEQA Guidelines 15090(a)(2). There is no evidence that the final EIR was presented to the County Surveyor, or that the County Surveyor reviewed and considered the information contained in the EIR prior to approving this subdivision map for this Project.

Nor has the County Surveyor complied with San Francisco Administrative Code section

31.17, subdivision (b), which requires that “Before making its decision whether to carry out or approve the project, the decision-making body or appellate body shall review and consider the information contained in the EIR and shall make findings as required by CEQA” or subdivision (c), which provides that “Thereafter, the decision-making body or appellate body may make its decision whether to carry out or approve the project.”

Nor has the County Surveyor made the findings required by Public Resources Code section 21081 or CEQA Guidelines 15090 through 15093, which are required here because the Project EIR identified a number of significant adverse environmental effects of the Project.

The Planning Department will presumably take the position that “since certification of the EIR, there is no new information of substantial importance raised by Appellants or that has otherwise come to light under CEQA Guidelines Section 15162.” This is incorrect because there is new, “post-certification” information requiring preparation of a subsequent or supplemental EIR under Public Resources Code section 21166 and CEQA Guideline 15162, including subdivision (a)(3)(c) of section 15162 [“Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative”]. For example:

- As discussed in paragraph 26.b below, information presented by the Project Sponsor after certification of the EIR (i.e., the May 8, 2013, “EPS Report”) shows there are feasible alternative tower heights higher than 351 feet but lower than 520 feet. Therefore, the City cannot lawfully make the finding that there are no feasible mitigation measures that would “substantially lessen” the significant cumulative show impact on Union Square.
- Also, as discussed in paragraph 26.c and d below, information presented by Appellant’s after certification of the EIR (i.e., the June 28, 2013, “Sussman Report”) shows that a tower height of 351 feet is financially feasible and the EPS Report’s analysis and conclusion that the Reduced Shadow Alternative is not financially feasible does not constitute substantial evidence supporting the City’s finding because it is “clearly inadequate or unsupported.” *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 409.

To the extent the County Surveyor is relying on the Project EIR previously certified by the Planning Commission on March 21, 2013, and the Board of Supervisors on May 7, 2013, that reliance is misplaced because the EIR is defective.

Appellants have previously argued all of their grounds for appeal in detail in previous submissions to various City agencies, including this Board. Therefore, this letter will briefly summarize these arguments and provide cross-references to the previously submitted letters and briefs where these arguments are presented in more detail. This letter also lists, below, all of these previously submitted letters and briefs. Appellants also submit herewith copies of all of these previously submitted letters and briefs, in both paper and electronic (DVD) formats. These previously submitted letters and briefs are incorporated herein by this reference.

Summary of Grounds and Arguments

1. The approval does not comply with CEQA for all the reasons described in my clients prior appeal of the EIR for this Project, which is Board of Supervisors File No. 130308. These legal violations arise in connection with a number of areas of environmental impact, including the following.

Air Quality

2. **Impact AQ-1.** Impact AQ-1 analyzes the significance of the Project's construction phase air quality impacts against "Thresholds of Significance" G2 and G3. Threshold of Significance G2 is "violate any air quality standard or contribute substantially to an existing or projected air quality violation." The assessment is based on numerical standards previously established by the Bay Area Air Quality Management District (BAAQMD) for the ozone precursors: Reactive Organic Gases (ROG) at 54 lbs/day and Nitrogen Oxides (NOx) at 54 lbs/day; and for Exhaust Particulate Matter 10 (PM10) at 82 lbs/day and Exhaust Particulate Matter 2.5 (PM2.5) at 54 lbs/day. The EIR's analysis of these impacts fails as an informational document for several reasons.

a. The EIR fails to inform the public that the BAAQMD no longer recommends that public agencies use its numerical thresholds to determine the significance of air quality impacts.

b. The City of San Francisco uses these numerical thresholds for virtually all land use development projects in the city that require CEQA review. Therefore, the City was required, but failed, to undertake its own rule-making proceeding to adopt these thresholds as its own and determine in a public process that they are supported by substantial evidence. (CEQA Guideline, § 15064.7.) Since the City has not formally adopted the air quality significance thresholds in a public process supported by substantial evidence, it failed to proceed in the manner required by law by using these thresholds on an ad hoc basis in this EIR.

c. The EIR fails to specify the evidence that purportedly constitutes "substantial evidence" supporting its use of these numerical thresholds.

d. The evidence provided by BAAQMD's source documents cited in the EIR does not constitute "substantial evidence" supporting the City's use of these numerical thresholds.

e. The EIR's assumption that these thresholds are appropriate for the purpose for which they are used is logically and legally flawed. Using the EIR's logic, if the City finds that one project will add 46 lbs/day of ozone precursors, it is considered a less-than-significant impact, but if that project will add 55 lbs/day of ozone precursors, it is considered significant. Yet, if the City approved 2 new large projects in the area in the same 2- or 3-year period that construction of such large projects takes, each emitting 46 lbs/day of ozone precursors, it is considered a less-than-significant impact even though the total of the two added together

equals 92 lbs/day of ozone precursors. This scenario is not hypothetical; it is unfolding in San Francisco, with the many large construction projects the City has recently approved and is considering approving in the downtown area that will be under construction at the same time. As a result, the thresholds violate a fundamental CEQA principal that regardless of whether projects' incremental impacts are deemed insignificant in isolation, they may be cumulatively significant.

f. The San Francisco Bay Area Air Quality District is in "non-attainment" status under federal and state clean air laws for criteria pollutants. This project, along with many others, will substantially contribute to that existing significant adverse impact. The City's untenable position is that public agencies in the Air Basin can approve project after project, each emitting, for example, up to 54 lbs/day of new and additional ozone precursors, without ever causing a cumulatively considerable increase in air pollution. This approach runs counter to the reason for conducting cumulative impact analysis. If the City (and other agencies in the Air Basin) continues to find that projects that make air quality worse - when it is already significantly degraded - do not have a significant adverse cumulative impact on air quality, then the City will have no legal obligation to adopt feasible mitigation measures to reduce the significant cumulative impact.

g. The DEIR's use of the BAAQMD thresholds of significance is erroneous as a matter of law for several other reasons:¹

(1) The EIR cannot merely reference a project's compliance with another agency's regulations. Lead agencies must conduct their own fact-based analysis of project impacts, regardless of whether the project complies with other regulatory standards. The EIR uses BAAQMD's thresholds of significance uncritically, without any factual analysis of its own, in violation of CEQA;²

(2) This uncritical application of the BAAQMD's thresholds of significance represents a failure of the City to exercise its independent judgement in preparing the EIR;³

¹ *Endangered Habitats League v County of Orange* (2005) 131 Cal.App.4th 777, 793 ("The use of an erroneous legal standard [for the threshold of significance in an EIR] is a failure to proceed in the manner required by law that requires reversal.").

² *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109 [underscore emphasis added], citing *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 114 ("CBE"); accord *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 342 ["A threshold of significance is not conclusive ... and does not relieve a public agency of the duty to consider the evidence under the fair argument standard."].)

³ *Friends of La Vina v. County of Los Angeles* (1991) 232 Cal.App.3d 1446.

(3) Just as disagreement from another agency does not deprive a lead agency of discretion under CEQA to judge whether substantial evidence supports its conclusions,⁴ agreement from another agency does not relieve a lead agency of separately discharging its obligations under CEQA;

(4) The BAAQMD CEQA Guidelines do not provide any factual explanation as to why the 54 lbs. per day standard represents an appropriate threshold of significance for judging the significance of project-level ozone pollution impacts. More importantly, the DEIR also fails to include any such explanation, and is therefore inadequate as a matter of law;⁵ and

(5) Compliance with other regulatory standards cannot be used under CEQA as a basis for finding that a project's effects are insignificant, nor can it substitute for a fact-based analysis of those effects.⁶

h. The grounds described in this paragraph are described in more detail in:

(1) Appellants' April 28, 2013, comment letter submitted on the Project to the Board of Supervisors; and

(2) Appellants' May 7, 2013, comment letter submitted on the Project to the Board of Supervisors.

⁴*California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 626.

⁵*Santiago County Water Dist. v. County of Orange, supra*, 118 Cal.App.3d 818.

⁶ See, e.g., *Californians for Alternatives to Toxics v. Department of Food & Agriculture* (2005) 136 Cal.App.4th 1, 16 (lead agencies must review the site-specific impacts of pesticide applications under their jurisdiction, because "DPR's [Department of Pesticide Regulation] registration does not and cannot account for specific uses of pesticides..., such as the specific chemicals used, their amounts and frequency of use, specific sensitive areas targeted for application, and the like"); *Citizens for Non-Toxic Pest Control v. Department of Food & Agriculture* (1986) 187 Cal.App.3d 1575, 1587-1588 (state agency applying pesticides cannot rely on pesticide registration status to avoid further environmental review under CEQA); *Oro Fino Gold Mining Corporation v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881-882 (rejects contention that project noise level would be insignificant simply by being consistent with general plan standards for the zone in question). See also *City of Antioch v. City Council of the City of Pittsburg* (1986) 187 Cal.App.3d 1325, 1331-1332 (EIR required for construction of road and sewer lines even though these were shown on city general plan); *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 712-718 (agency erred by "wrongly assum[ing] that, simply because the smokestack emissions would comply with applicable regulations from other agencies regulating air quality, the overall project would not cause significant effects to air quality.").

3. **Mitigation Measure M-AQ-1.** The EIR defers the development of mitigation measures to reduce significant diesel particulate and toxic air contaminant emissions to “less than significant” to the post-approval preparation and “approval” of a “Construction Emission Minimization Plan.” But the EIR presents no evidence suggesting that developing this Plan now is impractical or infeasible; therefore, this procedure violates CEQA.

a. As a result, mitigation measures intended to reduce diesel particulate and toxic air contaminant emissions to “less than significant” are not detailed enough to be enforceable or effective. For example, the Construction Emission Minimization Plan:

(1) Does not specify how vehicles with lower-emitting engines or Verified Diesel Emissions Control Strategies (VDECS) technologies will be confirmed as acceptable, either in advance or during the project’s three year building period;

(2) Does not specify how idling time of diesel equipment onsite will be limited to no more than two minutes at a time;

(3) Does not define the term “feasible for use” as used in Mitigation Measure M-AQ-1’s measure “Requiring use of Interim Tier 4 or Tier 4 equipment where such equipment is available and feasible for use” (See EIR, Appendix G, pg. 27); and

(4) Does not disclose the basis for the EIR’s conclusion that the Construction Emission Minimization Plan will reduce construction period diesel emissions by 65%.

b. The Construction Emission Minimization Plan is to be reviewed by an “Environmental Planning Air Quality Specialist.” The qualifications of this Specialist are undefined. These qualifications include intimate familiarity with diesel engines, construction vehicles and equipment, VDECS technologies, new and used construction vehicles and emission control options, and air regulations. With no assurance that this specialist will have the required qualifications, the success of this yet to be developed plan cannot be assumed.

c. Therefore, the EIR fails as an informational document with respect to the City’s obligation to identify mitigation measures in the EIR that will substantially reduce the Project’s potentially significant impacts from increased diesel particulate and toxic air contaminant emissions; and the EIR’s conclusion that Mitigation Measure M-AQ-1 will reduce significant diesel particulate and toxic air contaminant emissions to “less than significant” is unsupported.

d. The grounds described in this paragraph are described in more detail in:

(1) Appellants’ April 28, 2013, comment letter submitted on the Project to the Board of Supervisors; and

(2) Appellants' May 7, 2013, comment letter submitted on the Project to the Board of Supervisors.

Historic Resources

4. The Project will demolish part of the Aronson Building and construct a residential tower where the part to be demolished is located. The tower will be physically attached to and programmatically integrated with the Aronson building. Pursuant to San Francisco Planning Code Article 11, Appendix F, the Aronson Building is a Category I Significant Building and the Aronson Building parcel is within the New Montgomery-Mission-Second Conservation ("NMMS") District. Because the Project involves "construction, alteration, removal or demolition of a structure ... or any new or replacement construction for which a permit is required pursuant to the Building Code, on any designated Significant or Contributory Building or any building in a Conservation District" (Planning Code § 1111(a)), the developer must obtain permits from the San Francisco Historic Preservation Commission for the entire Project. The EIR fails as an informational document with respect to the Project's impacts on historic resources for many reasons.

5. The EIR fails to inform the public that the Historic Preservation Commission has permitting jurisdiction over the Project, that the Project requires a Permit to Alter from the San Francisco Historic Preservation Commission to protect historic and cultural resources, and that the Project must comply with substantive historic and cultural resource protection requirements of San Francisco Planning Code Article 11, including:

a. Planning Code section 1111.6(c)(6), which provides that any additions to height of a Category I Significant Building such as the Aronson Building, "shall be limited to one story above the height of the existing roof." The Project will increase the height of the Aronson Building by 39 stories;

b. Planning Code section 1111.6(c)(6), which provides that any additions to height of a Category I Significant Building such as the Aronson Building, "shall be compatible with the scale and character of the building." The Aronson Building is a 10-story, 154 foot high building (144 feet to the roof of the highest occupied floor plus a 10-foot-tall mechanical penthouse); the Project is approximately 40 floors and 510 feet high (480 feet to the roof of the highest occupied floor plus a 30-foot-tall elevator/mechanical penthouse);

c. Under Planning Code § 1113(a), which provides that "any new or replacement structure or for an addition to any existing structure in a Conservation District" must be "compatible in scale and design with the District as set forth in Sections 6 and 7 of the Appendix that describes the District." Sections 6 and 7 of the Appendix that describes the District (i.e., Appendix F) establishes that the scale, particularly the predominant height of the district and the predominant height of the buildings that define the conservation characteristics of the district, as three to eight floors;

- d. The grounds described in this paragraph are described in more detail in:
- (1) Appellants' April 25, 2013, comment letter submitted on the Project to the Board of Supervisors, section 2 and 4;
 - (2) Appellants' May 7, 2013, comment letter submitted on the Project to the Board of Supervisors, section 1;
 - (3) Appellants' May 15, 2013, comment letter submitted on the Project to the Historic Preservation Commission, sections II.A, IV, and V;
 - (4) Appellants' June 13, 2013, comment letter submitted on the Project to the Board of Supervisors;
 - (5) Appellants' July 1, 2013, comment letter submitted on the Project to the Board of Supervisors;
 - (6) Appellants' July 15, 2013, comment letter submitted on the Project to the Board of Supervisors;
 - (7) Appellants' July 16, 2013, comment letter submitted on the Project to the Successor Agency; and
 - (8) Appellants' July 23, 2013, comment letter submitted on the Project to the Board of Supervisors.

6. The EIR's assessment of whether the Project's cumulative impact on historic and cultural resources significant is legally inadequate in that, without limitation:

- a. It wrongly assumes the current degraded nature of the environmental setting decreases, rather than increases, the significance of the impact;
- b. The EIR's conclusion that the Project's cumulative impact on historic resources is less than significant is impermissibly based in part on an arbitrary standard of "views within the district;"
- c. The grounds described in this paragraph are described in more detail in:
 - (1) Appellants' April 25, 2013, comment letter submitted on the Project to the Board of Supervisors, section 4;
 - (2) Appellants' May 7, 2013, comment letter submitted on the Project to the Board of Supervisors;

- (3) Appellants' May 15, 2013, comment letter submitted on the Project to the Historic Preservation Commission, sections V.A and V.B;
- (4) Appellants' May 7, 2013, comment letter submitted on the Project to the Board of Supervisors; and
- (5) Appellants' July 15, 2013, comment letter submitted on the Project to the Board of Supervisors.

7. As alleged in the Fourth Cause of Action, the Project violates the Planning Code provisions described paragraph 5 above. The EIR fails to discuss these violations of the Planning Code as inconsistent with the City's General Plan (San Francisco Master Plan), because the Planning Code implements the General Plan. (Planning Code § 101.) The EIR must discuss the Project's inconsistencies with the General Plan as required by CEQA Guideline § 15125(d). These General Plan inconsistencies and statutory violations represent significant adverse impacts of the Project on the conservation values that Article 11 and the NMMS Conservation District were enacted to protect. The grounds described in this paragraph are described in more detail in:

- a. Appellants' April 25, 2013, comment letter submitted on the Project to the Board of Supervisors, section 4;
- b. Appellants' May 15, 2013, comment letter submitted on the Project to the Historic Preservation Commission, section IV.B; and
- c. Appellants' July 15, 2013, comment letter submitted on the Project to the Board of Supervisors.

Noise

8. The EIR's analysis of whether Noise Impact NO-1 (Construction Noise) will be significant with the adoption of Mitigation Measure M-NO-1a and Mitigation Measures M-NO-1b does not meet CEQA's requirements for the informational content of an EIR. The EIR does not provide sufficient information to evaluate the significance of the construction noise that will be experienced by sensitive noise receptors in the area even with adoption of the mitigation measures identified in the EIR. The missing information includes:

- a. Specifying the amount of noise attenuation (i.e., reduction) that will occur as a result of the distances between the generation of noise by construction equipment and sensitive noise receptors in the area;
- b. Specifying the amount of noise attenuation that will occur as a result of the various types of noise reduction techniques that are identified as mitigation measures; and
- c. Specifying when mitigation measures that will only be used when "feasible" or

“possible” will actually be feasible or possible. Thus, the EIR anticipates that there will be occasions when these mitigation measure are ineffective because they are not possible or feasible. Since the EIR finds this impact to be “Less than Significant with Mitigation,” the EIR must disclose that the uncertainty surrounding the implementation of these measures requires determining that the impact is “Significant.”

d. The grounds described in this paragraph are described in more detail in Appellants’ April 27, 2013, comment letter submitted on the Project to the Board of Supervisors, section 2.

9. Mitigation Measure M-NO-1a (for Impact NO-1, Construction Noise), includes a provision requiring 14-days advance notice for activities that will generate noise over 90 db. As the EIR recognizes, generating noise at this level is a significant noise impact. Therefore, the acknowledgment in the mitigation measure that noise will, in fact, be generated above this level, subject only to a notice requirement, demonstrates that this impact remains significant after mitigation. Therefore, the EIR fails as an informational document because its fails to disclose that this impact is significant. The grounds described in this paragraph are described in more detail Appellants’ April 10, 2013, comment letter submitted on the Project to the Board of Supervisors, section 6.a.

10. Subdivision (d) of section 2909 of the San Francisco Noise Ordinance establishes thresholds for determining significance of noise impacts on nearby residents of 45 dBA nighttime/55 dBA daytime noise, stating:

Fixed Residential Interior Noise Limits. In order to prevent sleep disturbance, protect public health and prevent the acoustical environment from progressive deterioration due to the increasing use and influence of mechanical equipment, no fixed noise source may cause the noise level measured inside any sleeping or living room in any dwelling unit located on residential property to exceed 45 dBA between the hours of 10:00 p.m. to 7:00 a.m. or 55 dBA between the hours of 7:00 a.m. to 10:00 p.m. with windows open except where building ventilation is achieved through mechanical systems that allow windows to remain closed.

This standard is based on the experience of sensitive receptors (i.e., preventing sleep disturbance, protecting public health, and preventing the acoustical environment from progressive deterioration). But the EIR suggests that the Project can violate these interior noise standards without causing a significant impact because, as “non-permanent” generators of noise, the Project’s construction equipment is exempt from section 2909(d).

a. The EIR does so by falsely asserting that section 2909 includes the word “permanent” as a limitation on the types of noise sources that will be considered “fixed” and therefore subject to these interior noise standards. (DEIR, p. IV.F-16.) Therefore, the EIR fails as an informational document because this less-than-significant impact conclusion is based on misleading information.

b. The EIR assumes that compliance with the San Francisco Noise Ordinance equates to achieving less-than-significant impacts. Therefore, the EIR fails as an informational document because this less-than-significant impact conclusion is based on a legally erroneous threshold of significance. Compliance with regulatory standards cannot be used as a substitute for a fact based analysis of whether an impact is significant. While San Francisco is free to adopt a Noise Ordinance that exempts specific noise sources from its regulatory effect, it is not free, under CEQA, to fail to disclose the significance of noise that exceeds these interior noise limits.

c. The grounds described in this paragraph are described in more detail in:

- (1) Appellants' April 27, 2013, comment letter submitted on the Project to the Board of Supervisors, section 2; and
- (2) Appellants' May 7, 2013, comment letter submitted on the Project to the Board of Supervisors.

Shadow Impacts on Union Square

11. The EIR fails as an informational document because it does not include information relating to the feasibility or effectiveness of mitigation measures or alternatives that would avoid or substantially reduce the Project's significant shadow impact on Union Square. The EIR finds the Project's incremental shadow impact on Union Square is "less than significant" but its cumulative shadow impact on Union Square to be "significant." This latter finding triggers an obligation that the EIR identify feasible mitigation measures that would "substantially reduce" the impact. The EIR fails to do so.

a. The grounds described in this paragraph are described in more detail in:

- (1) Appellants' April 10, 2013, comment letter submitted on the Project to the Board of Supervisors, section 3;
- (2) Appellants' May 7, 2013, comment letter submitted on the Project to the Board of Supervisors, section 4;
- (3) Appellants' May 23, 2013, comment letter submitted on the Project to the Board of Supervisors, Section 1.a and Appendix 1;
- (4) Appellants' July 11, 2013, brief to the Board of Appeals, section III.B.1;
- (5) Appellants' July 16, 2013, comment letter submitted on the Project to the Successor Agency; and

(6) Appellants' July 23, 2013, comment letter submitted on the Project to the Board of Supervisors.

12. Information relating to the feasibility or effectiveness of mitigation measures or alternatives that would avoid or substantially reduce the Project's significant shadow impact on Union Square was not provided by the City until well after the close of comment on that Draft EIR. Therefore, the EIR should have been recirculated for public comment.

a. The grounds described in this paragraph are described in more detail in:

(1) Appellants' May 7, 2013, comment letter submitted on the Project to the Board of Supervisors, section 4;

(2) Appellants' May 23, 2013, comment letter submitted on the Project to the Board of Supervisors, section 1.a and Appendix 1;

(3) Appellants' July 11, 2013, brief to the Board of Appeals, section III.B.2;

(4) Appellants' July 16, 2013, comment letter submitted on the Project to the Successor Agency; and

(5) Appellants' July 23, 2013, comment letter submitted on the Project to the Board of Supervisors.

13. By adopting Proposition K (codified at Planning Code § 295), the voters of San Francisco adopted a substantive limit on development prohibiting the approval of buildings subject to the ordinance casting new shadows on Union Square between one hour after sunrise and one hour before sunset unless the Planning Commission finds the resulting adverse impact on use of the park to be less than significant.

a. For purposes of CEQA, this ordinance establishes a threshold of significance for shadow impacts: i.e., any new shadow between one hour after sunrise and one hour before sunset is potentially significant. It also establishes a mitigation measure: disapproval of the project unless the Planning Commission finds the impact on use of the park is less than significant.

b. Proposition K tasked the Planning Commission and the Recreation and Park Commission with adopting "criteria for the implementation" of this law. In 1989, these agencies adopted numerical performance standards (known as "cumulative shadow limits") for each park under the jurisdiction the Recreation and Park Commission. These numerical limits are the performance standard by which the Planning Commission determines if individual projects will have a significant or less-than-significant impact on use of a park. In CEQA terminology, the "cumulative shadow limits" are mitigation measures.

c. In October of 2012, the City increased the cumulative shadow limit for Union Square, making it less environmentally protective.

d. For purposes of approving the Project, the City again increased the cumulative shadow limit for Union Square, making it less environmentally protective.

e. Under CEQA however, before deleting or modifying a previously adopted mitigation measure, the lead agency “must state a legitimate reason” and “must support that statement of reason with substantial evidence.” (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 359 [“when an earlier adopted mitigation measure has been deleted, the deference provided to governing bodies with respect to land use planning decisions must be tempered by the presumption that the governing body adopted the mitigation measure in the first place only after due investigation and consideration”]; accord *Katzeff v. California Dept. of Forestry and Fire Protection* (2010) 181 Cal.App.4th 601, 612; *Lincoln Place Tenants Association v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1507-1508.)

f. Here, the EIR offers no legitimate reason to water down the protections afforded by Proposition K and the previous decision of the Planning and Recreation and Park Commissions establishing the cumulative shadow limit for Union Square. The EIR’s casual assertion that “There is no feasible mitigation for the proposed project’s contribution to cumulative shadow impacts, because any theoretical mitigation would fundamentally alter the project’s basic design and programming parameters”⁷ is not a legitimate reason, because these are not legally valid grounds to find that leaving the cumulative shadow limit intact is infeasible. “The fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project.” *Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1181.

g. The grounds described in this paragraph are described in more detail in:

(1) Appellants’ April 27, 2013, comment letter submitted on the Project to the Board of Supervisors, section 1; and

(2) Appellants’ July 11, 2013, comment letter submitted on the Project to the Board of Appeals, section III.B.2.

14. The City’s decision to increase the cumulative shadow limit for Union Square as described in paragraph 13.c is inconsistent with several policies of the Downtown Plan, including:

⁷DEIR, p. IV.I-60.

POLICY 9.3 Give priority to development of two categories of highly valued open space; sunlit plazas and parks.

Providing ground level plazas and parks benefits the most people. If developed according to guidelines for access, sunlight design, facilities, and size, these spaces will join those existing highly prized spaces such as Redwood Park, Sidney Walton Park, Justin Herman Plaza, and the State Compensation Building Plaza.

POLICY 10.5 Address the need for human comfort in the design of open spaces by minimizing wind and maximizing sunshine.

The EIR fails as an informational document because it fails to discuss the Project's inconsistency with these General Plan policies. The grounds described in this paragraph are described in more detail in Appellants' April 27, 2013, comment letter submitted on the Project to the Board of Supervisors, section 1.

Shadow Impacts on Jessie Square

15. The main text of the DEIR fails to quantify new shadow the Project would generate on Jessie Square. The reader must find the letters from Turnstone Consulting buried in the Shadow Appendix to learn that the Project will add 8,031,176 square feet of new shadow to Jessie Square, i.e, more than eight million new square feet of shadow. The EIR fails as an informational document because "Information scattered here and there in EIR appendices' or a report 'buried in an appendix,' is not a substitute for 'a good faith reasoned analysis.'" *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442. The grounds described in this paragraph are described in more detail in Appellants' April 10, 2013, comment letter submitted on the Project to the San Francisco Board of Supervisors, section 4.

16. The DEIR finds the shadow impact on Jessie Square less-than-significant based on its assertions that in the spring, the Project's new shadowing of Jessie Square and CJM's outdoor seating area would end by 11:00 a.m. and in the summer the new shadows on Jessie Square and the outdoor seating area of the CJM would end by 12:30 PM and noon, respectively. (DEIR. page IV.I.47.) The EIR fails as an informational document because it fails to explain why this level of impact is less-than-significant. The grounds described in this paragraph are described in more detail in Appellants' April 10, 2013, comment letter submitted on the Project to the San Francisco Board of Supervisors, section 4.

17. The EIR fails as an informational document because it fails to present any Project alternative that would substantially reduce the Project's new shadow impacts on Jessie Square. The grounds described in this paragraph are described in more detail in Appellants' April 10, 2013, comment letter submitted on the Project to the San Francisco Board of Supervisors, section 4.

Greenhouse Gases

18. The EIR does not lawfully assess the significance of the Project's impacts on greenhouse gases (GHG), lawfully identify and discuss mitigation measures or Project alternatives to substantially reduce these significant impacts, or adequately respond to public comments submitted

on these issues. Therefore, the EIR fails as an informational document.

19. The EIR fails as an informational document because it does not quantify the Project's GHG emissions; therefore, it cannot and does not apply the first of its two stated "thresholds of significance" (i.e., threshold H.1.)⁸ Instead, it folds the first threshold into its second one to produce one threshold, i.e., the Project's compliance with the City's "Strategies to Address Greenhouse Gas Emissions." But the "Strategies" does not have a provision addressing GHG emissions associated with the manufacture or transportation to the project site of construction materials to be used in the building. The grounds described in this paragraph are described in more detail in Appellants' April 10, 2013, comment letter submitted on the Project to the San Francisco Board of Supervisors, section 9.

Recreation

20. The EIR fails as an informational document because the EIR does not lawfully assess the significance of the Project's impacts on recreation in this area, lawfully identify and discuss mitigation measures or Project alternatives to substantially reduce these significant impacts, or adequately respond to public comments submitted on these issues.

21. The EIR fails as an informational document because it only looks at impacts in terms of physical deterioration and degradation of nearby parks and park facilities. It does not include any information of rates of utilization of these parks and whether the additional population brought to the area will degrade recreation by causing more overcrowding of these parks. The grounds described in this paragraph are described in more detail in Appellants' April 10, 2013, comment letter submitted on the Project to the San Francisco Board of Supervisors, section 7.

Traffic

22. The EIR fails as an informational document with respect to its assessment of traffic and circulation impacts.

23. The EIR's conclusion that Project's traffic impact is less than significant is based in part on:

- a. The EIR's misidentification of the eastbound traffic through movement at Market and Fourth Street as a critical movement;
- b. The EIR's failure to account for vehicle delays caused by increases in pedestrian

⁸"Implementation of the proposed project would have a significant effect on greenhouse gas emissions if the project would: H.1. Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment; or H.2. Conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs." (DEIR 4.H-16.)

volumes at the intersection of Third and Stevenson Street.

- c. The grounds described in this paragraph are described in more detail in Appellants' April 10, 2013, comment letter submitted on the Project to the San Francisco Board of Supervisors, section 1.
24. The EIR's analysis of alternatives is flawed in that:
- a. The EIR's conclusion that Traffic Variants 6 and 7 would cause significant traffic impacts is based in part on:
 - (1) The EIR's misidentification of the eastbound through movement at Market and Fourth Street as a critical movement;
 - (2) The EIR's inaccurate trip distribution assumptions;
 - (3) The proposed Project's residential parking supply of one space per unit exceeds the standard set in the Planning Code, resulting in higher traffic volumes. The EIR fails to consider variants of Variants 6 and 7 involving reducing the allowable parking supply, which would reduce vehicle trips and both traffic and transit impacts; and
 - (4) The EIR's failure to include improvement measures designed to reduce vehicle traffic generated by the Project.
 - b. The grounds described in this paragraph are described in more detail in Appellants' April 10, 2013, comment letter submitted on the Project to the San Francisco Board of Supervisors, section 1.

Recirculation

25. Because significant new information was presented to the City after the close of comment on the Draft EIR, but before final certification of the EIR or Project approval, the City must recirculate the Project's draft EIR or prepare a supplemental EIR to include this new information. Such new information includes:
- a. Information relating to the Historic Preservation Commission's permitting jurisdiction over the Project; and
 - b. Information relating to the feasibility or effectiveness of mitigation measures or alternatives that would avoid or substantially reduce the Project's significant shadow impact on Union Square.
 - c. The grounds described in this paragraph are described in more detail in:

- (1) Appellants' April 10, 2013, comment letter submitted on the Project to the Board of Supervisors, section 10;
- (2) Appellants' May 15, 2013, comment letter submitted on the Project to the Historic Preservation Commission, section VI; and
- (3) Appellants' July 16, 2013, comment letter submitted on the Project to the Successor Agency.

CEQA Findings

26. The City (including the Historic Preservation Commission, the Planning Commission, the Board of Supervisors, and the Board of Appeals with respect to each agencies' approvals of the permits or required findings within its jurisdiction) abused its discretion in finding that further mitigation of the Project's significant cumulative shadow impact on Union Square is infeasible. Because the Project EIR finds that the Project's cumulative shadow impacts on Union Square are "significant," CEQA requires that the City adopt all feasible mitigation measures that will "substantially lessen" that impact or find that there is no feasible mitigation available. (Pub. Res. Code §§ 21002, 21002.1, 21081(a).) The City adopted a CEQA Finding that further mitigation of the Project's significant cumulative shadow impact on Union Square by reducing the height of the tower is infeasible. This finding is not supported by substantial evidence because:

- a. The applicant's analysis of the financial feasibility of Project alternatives (i.e., the May 8, 2013, report by Economic and Planning Systems ("EPS report")) finds the Reduced Shadow Alternative (i.e. a tower height of 351 feet with 27 stories, as discussed in the Project EIR) is not financially feasible. But neither the Project EIR nor the EPS Report analyze any mitigation measure or alternative that calls for a tower lower than 520 feet but higher than 351 feet that would "substantially lessen" the impact, even if it would not entirely avoid the impact.
- b. The EPS report shows that there are feasible alternative tower heights higher than 351 feet but lower than 520 feet. Therefore, the City cannot lawfully make the finding that there are no feasible mitigation measures that would "substantially lessen" this impact.
- c. The EPS Report's analysis and conclusion that the Reduced Shadow Alternative is not financially feasible does not constitute substantial evidence supporting the City's finding because it is "clearly inadequate or unsupported." *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 409.
- d. The grounds described in this paragraph are described in more detail in:
 - (1) Appellants' May 23, 2013, comment letter submitted on the Project to the Planning Commission, section 1.a, b;

- (2) Appellants' July 11, 2013, brief submitted on the Project to the Board of Appeals, section III.B.1;
- (3) Appellants' July 12, 2013 (1 of 3), comment letter submitted on the Project to the Board of Supervisors, section 1;
- (4) Appellants' July 16, 2013, comment letter submitted on the Project to the Successor Agency; and
- (5) Appellants' July 23, 2013, comment letter submitted on the Project to the Board of Supervisors.

27. The City failed to proceed in the manner required by law in making this finding because the EIR fails to include any information relating to the feasibility or effectiveness of mitigation measures or alternatives that would avoid or substantially reduce the Project's significant shadow impact on Union Square.

a. The grounds described in this paragraph are described in more detail in:

- (1) Appellants' April 10, 2013, comment letter submitted on the Project to the Board of Supervisors, section 3;
- (2) Appellants' May 23, 2013, comment letter submitted on the Project to the Board of Supervisors, section 1.a, b and Appendix 1;
- (3) Appellants' July 11, 2013, brief to the Board of Appeals, section III.B.1;
- (4) Appellants' July 12, 2013, (1 of 3) comment letter submitted on the Project to the Board of Supervisors, section 1;
- (5) Appellants' July 16, 2013, comment letter submitted on the Project to the Successor Agency; and
- (6) Appellants' July 23, 2013, comment letter submitted on the Project to the Board of Supervisors.

28. The approval violates a number of provisions of Article 11 of the Planning Code. These violations are described in more detail in:

- a. Appellants' April 25, 2013, comment letter submitted on the Project to the Board of Supervisors.
- b. Appellants' May 15, 2013, comment letter submitted on the Project to the Historic

Preservation Commission.

- c. Appellants' June 13, 2013, comment letter submitted on the Project to the Board of Supervisors (Appeal of Permit to Alter).
- d. Appellants' July 1, 2013, comment letter submitted on the Project to the Board of Supervisors.
- e. Appellants' July 15, 2013, comment letter submitted on the Project to the Board of Supervisors (Appeal of Permit to Alter).
- f. Appellants' July 16, 2013, comment letter submitted on the Project to the Successor Agency.
- g. Appellants' July 23, 2013, comment letter submitted on the Project to the Board of Supervisors.

29. The approval violates Planning Code §§ 295 and 309. These violations are described in more detail in:

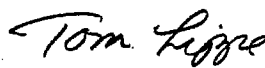
- a. Appellants' May 23, 2013, comment letter submitted on the Project to the Planning Commission.
- b. Appellants' July 11, 2013, brief submitted on the Project to the Board of Appeals.

30. The approval violates the uniformity requirements of state and local law. These violations are described in more detail in:

- a. Appellants' July 12, 2013 (1 of 3), letter to the Board of Supervisors, section 2.

Thank you for your attention to this matter.

Very Truly Yours,



Thomas N. Lippe

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Enclosed herewith: Previously Submitted Letters and Briefs

1. Appellants' April 10, 2013, letter to the Board of Supervisors (Appeal of EIR)
2. Appellants' April 25, 2013, letter to the Board of Supervisors (Appeal of EIR)
3. Appellants' April 27, 2013, letter to the Board of Supervisors (Appeal of EIR)
4. Appellants' April 28, 2013, letter to the Board of Supervisors (Appeal of EIR)
5. Appellants' May 7, 2013, letter to the Board of Supervisors (Appeal of EIR)
6. Appellants' May 15, 2013 letter to the Historic Preservation Commission (Permit to Alter)
7. Appellants' May 23, 2013, letter to the Planning Commission (Planning Code 295 and 309)
8. Appellants' June 13, 2013, letter to the Board of Supervisors (Appeal of Permit to Alter)
9. Appellants' July 1, 2013, letter to the Board of Supervisors (Appeal of Permit to Alter)
10. Appellants' July 11, 2013, brief to the Board of Appeals (Planning Code 295 and 309)
11. Appellants' July 12, 2013 (1 of 3), letter to the Board of Supervisors (Appeal of EIR; Special Use District and zoning height)
12. Appellants' July 15, 2013, letter to the Board of Supervisors (Appeal of Permit to Alter)
13. Appellants' July 16, 2013, letter to the Successor Agency (Purchase and Sale Agreement)
14. Appellants' July 23, 2013, letter to the Board of Supervisors (Appeal of Permit to Alter; Special Use District and zoning height)



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0001	003	RADIUS SERVICES	1221 HARRISON ST #18	SAN FRANCISCO	CA	94103
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0001	005
3706	001	RKI 703 IRR INVSTRS	703 MARKET ST	SAN FRANCISCO	CA	94103-2102
3706	002	RKI 703 IRR INVSTRS	703 MARKET ST	SAN FRANCISCO	CA	94103-2102
3706	003	RKI 703 IRR INVSTRS	703 MARKET ST	SAN FRANCISCO	CA	94103-2102
3706	014	ARCHDIOCESE OF SF & SCHL J P R L	1301 POST ST #102	SAN FRANCISCO	CA	94109-6667
3706	061	CB-1 HOTEL LLC	735 MARKET ST	SAN FRANCISCO	CA	94103-2026
3706	062	731 MARKET ST OWNER LLC	6475 CHRISTIE AV #550	EMERYVILLE	CA	94608-2262
3706	063	DIGITAL GARAGE DEV LLC	6475 CHRISTIE AV #550	EMERYVILLE	CA	94608-2262
3706	064	DIGITAL GARAGE DEV LLC	6475 CHRISTIE AV #550	EMERYVILLE	CA	94608-2262
3706	065	TBJ INVSTMTS LLC	3450 SACRAMENTO ST #128	SAN FRANCISCO	CA	94118-1914
3706	068	ARCHDIOCESE OF SF & SCHL J P R L	1301 POST ST #102	SAN FRANCISCO	CA	94109-6667
3706	074	WSF MTGL8 LLC	3300 PGA BL #820	PALM BEACH GARDEN	FL	33410-2811
3706	093	706 MISSION ST CO LLC	735 MARKET ST #3RD	SAN FRANCISCO	CA	94103-2026
3706	096	CHANG TRS	1150 BAY LAUREL DR	MENLO PARK	CA	94025-5339
3706	099	LISA PETTIGREW	3841 20TH ST #A	SAN FRANCISCO	CA	94114-3018
3706	100	FREDRICK DARR	3843 20TH ST	SAN FRANCISCO	CA	94114-3018
3706	101	THOMAS FOSTER	765 MARKET ST #32E	SAN FRANCISCO	CA	94103-2040
3706	102	PAUL & LYNN SEDWAY	765 MARKET ST #26G	SAN FRANCISCO	CA	94103-2038
3706	103	HANS GRONOWSKI TRS	765 MARKET ST #32F	SAN FRANCISCO	CA	94103-2040
3706	104	STEVEN & MELINDA MAITA	765 MARKET ST #314	SAN FRANCISCO	CA	94103-2036
3706	105	S F R A CB-1 ENTERTAINMENT PAR	765 MARKET ST	SAN FRANCISCO	CA	94103-2036
3706	106	S F R A CB-1 ENTERTAINMENT PAR	765 MARKET ST	SAN FRANCISCO	CA	94103-2036
3706	107	S F R A CB-1 ENTERTAINMENT PAR	765 MARKET ST	SAN FRANCISCO	CA	94103-2036
3706	108	S F R A CB-1 ENTERTAINMENT PAR	765 MARKET ST	SAN FRANCISCO	CA	94103-2036
3706	109	FELDMAN TRS	765 MARKET ST #23G	SAN FRANCISCO	CA	94103-2037
3706	110	SF REDVLPMT AGENCY	770 GOLDEN GATE AV	SAN FRANCISCO	CA	94102
3706	111	SF REDVLPMT AGENCY	770 GOLDEN GATE AV	SAN FRANCISCO	CA	94102
3706	114	W2005 ARGENT HOTEL REALTY LLC	545 E JOHN CARPENTER FWY	IRVING	TX	75062-3931
3706	115	R C ARCHBISHOP OF SF	770 GOLDEN GATE AV	SAN FRANCISCO	CA	94102-3120
3706	119	REDVLPMT AGENCY - CCSF	735 MARKET ST #6TH	SAN FRANCISCO	CA	94103-2026
3706	120	REDVLPMT AGENCY - CCSF	770 GOLDEN GATE AV #3RD	SAN FRANCISCO	CA	94102-3120
3706	121	REDVLPMT AGENCY - CCSF	770 GOLDEN GATE AV #3RD	SAN FRANCISCO	CA	94102-3120
3706	122	REDVLPMT AGENCY - CCSF	770 GOLDEN GATE AV #3RD	SAN FRANCISCO	CA	94102-3120
3706	123	REDVLPMT AGENCY - CCSF	770 GOLDEN GATE AV #3RD	SAN FRANCISCO	CA	94102-3120
3706	124	SF REDVLPMT AGENCY	770 GOLDEN GATE AV	SAN FRANCISCO	CA	94102
3706	127	ELISHA TRS	765 MARKET ST #22A	SAN FRANCISCO	CA	94103-2037
3706	128	ELISHA TRS	765 MARKET ST #22A	SAN FRANCISCO	CA	94103-2037
3706	129	SEPIDEH VALENTINO	601 VAN NESS AV	SAN FRANCISCO	CA	94102-3200
3706	130	HENRY DEAN	765 MARKET ST #22D	SAN FRANCISCO	CA	94103-2037
3706	131	MATTHEW PAIGE	765 MARKET ST #22E	SAN FRANCISCO	CA	94103-2037
3706	132	MILLER TRS	765 MARKET ST #22F	SAN FRANCISCO	CA	94103-2037
3706	133	VERNON WONG TRS	180 SAND HILL CIR	MENLO PARK	CA	94025-7104
3706	134	STEVEN & ANDREA MANN	765 MARKET ST #22H	SAN FRANCISCO	CA	94103-2037
3706	135	BTIC LLC	5111 OCEAN BL #C	SARASOTA	FL	34242-1678
3706	136	BTIC LLC	5111 OCEAN BL #C	SARASOTA	FL	34242-1678
3706	137	IRENE LEE	PO BOX 22696	SAN FRANCISCO	CA	94122-0696
3706	138	CAMABERG CO LTD	765 MARKET ST #23D	SAN FRANCISCO	CA	94103-2037
3706	139	FRUITBOWL INVSTMTS LTD	5115 SOLLIDEN LN	LA CANADA FLINTRIDG	CA	91011-1354
3706	140	ELEANOR ZUCKERMAN	765 MARKET ST #23F	SAN FRANCISCO	CA	94103-2037
3706	141	ERIC FELDMAN	765 MARKET ST #23G	SAN FRANCISCO	CA	94103-2037
3706	142	ERIC FELDMAN	765 MARKET ST #23G	SAN FRANCISCO	CA	94103-2036
3706	143	LAWRENCE TRS	PO BOX 1157	ROSS	CA	94957-1157
3706	144	PEACH INVSTMT CORP	23 GEARY ST #11THFL	SAN FRANCISCO	CA	94108-5701
3706	145	SAUNDERS TRS	765 MARKET ST #24D	SAN FRANCISCO	CA	94103-2037
3706	146	J & S SAUNDERS	201 CALIFORNIA ST #450	SAN FRANCISCO	CA	94111-5032
3706	147	BATTAT TRS	PO BOX 2187	S SAN FRANCISCO	CA	94083-2187
3706	148	CHARA SCHREYER TRS	83 MOUNT TIBURON RD	TIBURON	CA	94920-1511
3706	149	SONG & LAIDERMAN TRS	765 MARKET ST #24G	SAN FRANCISCO	CA	94103-2037
3706	150	JENNIE LEE TRS	765 MARKET ST #24H	SAN FRANCISCO	CA	94103-2038
3706	151	WORNICK TRS	44 MONTGOMERY ST #3060	SAN FRANCISCO	CA	94104-4804
3706	152	WORNICK TRS	44 MONTGOMERY ST #3060	SAN FRANCISCO	CA	94104-4804

3706	153	JOHN COMBS	342 LEDROIT ST	LAGUNA BEACH	CA	92651-1349
3706	154	MCCHRISTY TRS	765 MARKET ST #25D	SAN FRANCISCO	CA	94103-2029
3706	155	PEACH INVSTMT CORP	720 MARKET ST #500	SAN FRANCISCO	CA	94102-2502
3706	156	HANKS TRS	765 MARKET ST #25F	SAN FRANCISCO	CA	94103-2038
3706	157	HURST TRS	1585 HEATHER OAKS LN	WESTLAKE VILLAGE	CA	91361-1545
3706	158	LAURENCE SPITTERS	555 BYRON ST #105	PALO ALTO	CA	94301-2037
3706	159	CLUMECK TRS	765 MARKET ST #26A	SAN FRANCISCO	CA	94103-2038
3706	160	MARK ROBERTS TRS	2755 CAMPUS DR #240	SAN MATEO	CA	94403-2515
3706	161	MARK TRS	2755 CAMPUS DR #240	SAN MATEO	CA	94403-2515
3706	162	MARK ROBERTS TRS	2755 CAMPUS DR #240	SAN MATEO	CA	94403-2515
3706	163	FELIX CHANG	23 GEARY ST #11TH	SAN FRANCISCO	CA	94108-5701
3706	164	FRAN COISE FLEISHHACKER	765 MARKET ST #26F	SAN FRANCISCO	CA	94103-2038
3706	165	PAUL SEDWAY	765 MARKET ST #26G	SAN FRANCISCO	CA	94103-2038
3706	166	MAGNOLIA POST LP	PO BOX 204	PALO ALTO	CA	94302-0204
3706	167	MOSES PRPTYS LLC	PO BOX 194591	SAN FRANCISCO	CA	94119-4591
3706	168	ADMIRALTY ENTERPRISES LLC	2930 YORBA ST	SAN FRANCISCO	CA	94116-2749
3706	169	ZDERIC TRS	765 MARKET ST #027CD	SAN FRANCISCO	CA	94103-2036
3706	170	ZDERIC TRS	765 MARKET ST #027CD	SAN FRANCISCO	CA	94103-2036
3706	171	CASA SANDOVAL LLC	765 MARKET ST #27E	SAN FRANCISCO	CA	94103-2038
3706	172	PSF INVSTMTS LLC	PO BOX 500	SAN FRANCISCO	CA	94104-0500
3706	173	PSF INVSTMTS LLC	PO BOX 500	SAN FRANCISCO	CA	94104-0500
3706	174	RICHARD & TRUDY ROBERTSON	10487 NE SUNRISE BLUFF LN	BAINBRIDGE ISLAND	WA	98110-4519
3706	175	ELAIN E HARTMAN TRS	24700 W 12 MILE RD	SOUTHFIELD	MI	48034-1264
3706	176	HERNANDEZ TRS	765 MARKET ST #28B	SAN FRANCISCO	CA	94103-2038
3706	177	IDEC CORP	1175 ELKO DR	SUNNYVALE	CA	94089-2209
3706	178	MGR TRS	765 MARKET ST #28D	SAN FRANCISCO	CA	94103-2038
3706	179	MARKET ST TRS	765 MARKET ST #28E	SAN FRANCISCO	CA	94103-2038
3706	180	KARSHMER & WHITCHURCH	765 MARKET ST #28F	SAN FRANCISCO	CA	94103-2039
3706	181	CHIN & LISA LIN	765 MARKET ST #28G	SAN FRANCISCO	CA	94103-2039
3706	182	KL TRS	14137 OKANOGAN DR	SARATOGA	CA	95070-5533
3706	183	RICHARD MYRON TRS	765 MARKET ST #29A	SAN FRANCISCO	CA	94103-2039
3706	184	CHRISTOPHER OLOFSON	501 KANSAS AV	KANSAS CITY	KS	66105-1309
3706	185	MANDATO TRS	82 MONTE VISTA AV	ATHERTON	CA	94027-5431
3706	186	MANDATO TRS	82 MONTE VISTA AV	ATHERTON	CA	94027-5431
3706	187	ROBERT NEIL	3550 EL CENTRO ST	ST PETE BEACH	FL	33706
3706	188	KOCHIS WONG TRS	765 MARKET ST #29F	SAN FRANCISCO	CA	94103-2039
3706	189	IRENE CHEUNG TRS	765 MARKET ST #29G	SAN FRANCISCO	CA	94103-2039
3706	190	29H LLC	1801 CENTURY PARK E #STE	LOS ANGELES	CA	90067-2302
3706	191	THIRD SECURITY LLC	1881 GROVE AV	RADFORD	VA	24141-1628
3706	192	PEDRO WEINER	765 MARKET ST #30B	SAN FRANCISCO	CA	94103-2039
3706	193	ELIZABETH CHANG	23 GEARY ST #11TH	SAN FRANCISCO	CA	94108-5701
3706	194	HENDRIE & JOHANSEN	PO BOX 690	SOUTHBOROUGH	MA	01772-0690
3706	195	FRITZ TRS	765 MARKET ST #30E	SAN FRANCISCO	CA	94103-2036
3706	196	LYNN FRITZ TRS	50 FREMONT ST #1150	SAN FRANCISCO	CA	94105-2233
3706	197	ROBERT ARNOLD TRS	1001 4TH AV #4710	SEATTLE	WA	98154-1119
3706	198	PIAZZA TRS	PO BOX 515	KENWOOD	CA	95452-0515
3706	199	MARGARET LIU TRS	765 MARKET ST #31A	SAN FRANCISCO	CA	94103-2039
3706	200	WINOKUR TRS	765 MARKET ST #31D	SAN FRANCISCO	CA	94103-2039
3706	201	WINOKUR TRS	7830 SILVERADO TRL	NAPA	CA	94558-9432
3706	202	JOHN MITHUN TRS	117 CALLE BELLO	SANTA BARBARA	CA	93108-1806
3706	203	TMD INVSTMTS LLC	765 MARKET ST #31F	SAN FRANCISCO	CA	94103-2039
3706	204	MARVIN PRPTYS	PO BOX 1461	PALO ALTO	CA	94302-1461
3706	205	STEVEN & MELINDA MAITA	1900 CENACLE LN	CARMICHAEL	CA	95608-5700
3706	206	ROVENS TRS	765 MARKET ST #32A	SAN FRANCISCO	CA	94103-2036
3706	207	SCHOENBERG TRS	765 MARKET ST #32C	SAN FRANCISCO	CA	94103-2040
3706	208	SCHOENBERG TRS	765 MARKET ST #32D	SAN FRANCISCO	CA	94103-2040
3706	209	THOMAS ORRIN FOSTER EST	PO BOX 450	HICKMAN	CA	95323-0450
3706	210	ROBERT FRIEND TRS	501 2ND ST #720	SAN FRANCISCO	CA	94107-4134
3706	211	JENNIE LEE TRS	765 MARKET ST #32G	SAN FRANCISCO	CA	94103-2040
3706	212	SUSANN CHRISTEN	1279 LEANING OAK DR	NAPA	CA	94558-5355
3706	213	FANG SHIN & ROSE-JEAN CHANG	765 MARKET ST #33A	SAN FRANCISCO	CA	94103-2040
3706	214	ZLOT TRS	765 MARKET ST #33C	SAN FRANCISCO	CA	94103-2040
3706	215	ZLOT TRS	44 MONTGOMERY ST #37	SAN FRANCISCO	CA	94104-4810
3706	216	765 MARKET 33E LLC	1822 PAGE ST	SAN FRANCISCO	CA	94117-1910
3706	217	ELIZABETH MARCUS TRS	765 MARKET ST #33F	SAN FRANCISCO	CA	94103-2040
3706	218	GRAMERCY HLDG LTD	765 MARKET ST #33G	SAN FRANCISCO	CA	94103-2040

3706	219	ANN MATHEWSON TRS	8475 DIERINGER DR	RENO	NV	89511-7555
3706	220	VERMUT TRS	765 MARKET ST #34A	SAN FRANCISCO	CA	94103-2040
3706	221	TERENCE CHANG	23 GEARY ST #11TH	SAN FRANCISCO	CA	94108-5701
3706	222	SAN SIMEON CO LLC	765 MARKET ST #34D	SAN FRANCISCO	CA	94103-2040
3706	223	JOHN BRENNAN TRS	33321 DOWE AV	UNION CITY	CA	94587-2033
3706	224	ROY HAHN TRS	765 MARKET ST #34F	SAN FRANCISCO	CA	94103-2040
3706	225	ANDREW WONG TRS	PO BOX 204	PALO ALTO	CA	94302-0204
3706	226	RICHARD HOWARD	1388 GOUGH ST #901	SAN FRANCISCO	CA	94109-6579
3706	227	BASTA TRS	765 MARKET ST #35A	SAN FRANCISCO	CA	94103-2041
3706	228	RONALD & JOYCE GREEN	4027 CALLE ISABELLA	SAN CLEMENTE	CA	92672-4532
3706	229	HERST TRS	2027 4TH ST #201	BERKELEY	CA	94710-1912
3706	230	VALENTINE & LISTWIN TRS	3480 WOODSIDE RD	WOODSIDE	CA	94062-3640
3706	231	JONATHAN KUTCHINS	28 EXETER ST #703	BOSTON	MA	02116-4843
3706	232	WELCH TRS	765 MARKET ST #35G	SAN FRANCISCO	CA	94103-2041
3706	233	ROBERT BECKER	765 MARKET ST #35H	SAN FRANCISCO	CA	94103-2041
3706	234	KEY STONE INVSTMT PRPTY CORP	2 LILAC DR	ATHERTON	CA	94027-2128
3706	235	MELCHOR TRS	800 N MICHIGAN AV #4601	CHICAGO	IL	60611-2155
3706	236	MELCHOR TRS	800 N MICHIGAN AV #4601	CHICAGO	IL	60611-2155
3706	237	BONAVITO TRS	7303 CAMINO TASSAJARA	PLEASANTON	CA	94588-9427
3706	238	COLES TRS	765 MARKET ST #36F	SAN FRANCISCO	CA	94103-2041
3706	239	NGO NG LEE	765 MARKET ST #36G	SAN FRANCISCO	CA	94103-2041
3706	240	CADHS TRS	6 CARRIAGE HOUSE CT	CHERRY HILL	NJ	08003-5159
3706	241	JOSEPH FANG ETAL	765 MARKET ST #PH1A	SAN FRANCISCO	CA	94103-2041
3706	242	LEO VANMUNCHING TRS	765 MARKET ST #37D	SAN FRANCISCO	CA	94103-2041
3706	243	LEO VANMUNCHING TRS	765 MARKET ST #37D	SAN FRANCISCO	CA	94103-2041
3706	244	EDWARD DOWD TRS	1900 S NORFOLK ST #150	SAN MATEO	CA	94403-1161
3706	245	EDWARD DOWD TRS	765 MARKET ST #37E	SAN FRANCISCO	CA	94103-2041
3706	246	ANTHONY & ROBYN COLES	765 MARKET ST #37G	SAN FRANCISCO	CA	94103-2041
3706	247	DERRICK CHANG	23 GEARY ST #11TH	SAN FRANCISCO	CA	94108-5701
3706	248	JOSEPH FANG ETAL	765 MARKET ST #PH1A	SAN FRANCISCO	CA	94103-2041
3706	249	KENNETH PAIGE	1531 MISSION ST	SAN FRANCISCO	CA	94103-2512
3706	250	KENNETH PAIGE	1531 MISSION ST	SAN FRANCISCO	CA	94103-2512
3706	251	SIXTH AVE PRPTYS LP	2900 6TH AV	SAN DIEGO	CA	92103-5905
3706	252	MEILAHTI LLC	765 MARKET ST #PH1-F	SAN FRANCISCO	CA	94103-2036
3706	253	CHANG TRS	1150 BAY LAUREL DR	MENLO PARK	CA	94025-5339
3706	254	KENT HO	765 MARKET ST #PH1H	SAN FRANCISCO	CA	94103-2041
3706	255	LAWRENCE STUPSKI TRS	101 2ND ST #1100	SAN FRANCISCO	CA	94105-3652
3706	256	SUSAN VANWAGNER	765 MARKET ST #PH2CD	SAN FRANCISCO	CA	94103-2036
3706	257	SUSAN VANWAGNER	765 MARKET ST #PH2CD	SAN FRANCISCO	CA	94103-2036
3706	258	MATINKYTA LLC	765 MARKET ST #PH2E	SAN FRANCISCO	CA	94103-2041
3706	259	HENRY & RITA KHACHATURIAN	360 POST ST #401	SAN FRANCISCO	CA	94108-4907
3706	260	RICHARD BARKER TRS	765 MARKET ST #PH2G	SAN FRANCISCO	CA	94103-2042
3706	261	FIVE POINTE L P	697 MEDER ST	SANTA CRUZ	CA	95060-2311
3706	262	TOWER VIEW TRS	3355 LAS VEGAS BL S	LAS VEGAS	NV	89109-8941
3706	263	WILLIAM LARSON	PO BOX 6043	CARMEL	CA	93921-6043
3706	264	AHMED ELTOUKHY TRS	20 WHY WORRY LN	WOODSIDE	CA	94062-3654
3706	265	GRAND PENTHOUSE LLC	1801 CENTURY PARK E #1010	LOS ANGELES	CA	90067-2312
3706	266	WOODY CREEK INC	29304 SADDLEBAG TRL	MYAKKA CITY	FL	34251-8428
3706	267	WYNNETTE LABROSSE TRS	855 EL CAMINO REAL #13A	PALO ALTO	CA	94301-2305
3706	268	TREASURE KING HLDGS	388 E VALLEY BL #218	ALHAMBRA	CA	91801-5172
3706	269	CB-1 GARAGE CO LLC	1995 BROADWAY #3RD	NEW YORK	NY	10023-5882
3706	270	VII MP SF HOTEL OWNER LLC	645 MADISON AV #18TH	NEW YORK	NY	10022-1010
3706	271	VII MP SF HOTEL OWNER LLC	645 MADISON AV #18TH	NEW YORK	NY	10022-1010
3706	272	REDVLPMT AGENCY - CCSF	1790 BROADWAY #5TH	NEW YORK	NY	10019-1412
3706	273	CB-1 COMMERCIAL CO LLC	1995 BROADWAY #3RD	NEW YORK	NY	10023-5882
3706	274	CONTEMPORARY JEWISH MUSEUM	736 MISSION ST	SAN FRANCISCO	CA	94103-3113
3706	275	REDVLPMT AGENCY - CCSF	770 GOLDEN GATE AV	SAN FRANCISCO	CA	94102-3120
3706	276	CONTEMPORARY JEWISH MUSEUM	736 MISSION ST	SAN FRANCISCO	CA	94103-3113
3706	277	SUNNY & LAUREN SCHWARTZ	207 KING ST #408	SAN FRANCISCO	CA	94107-5452
3707	021	CA HISTORICAL SOCIETY	678 MISSION ST	SAN FRANCISCO	CA	94105-4014
3707	057	HEARST CORP	5 3RD ST #200	SAN FRANCISCO	CA	94103-3203
3707	058	HEARST CORP	5 3RD ST #200	SAN FRANCISCO	CA	94103-3203
3707	063	THIRD & MISSION ASSOCS LLC	423 W 55TH ST #9TH	NEW YORK	NY	10019-4460
3723	113	SFRA	PO BOX 130940	CARLSBAD	CA	92013-0940
3723	114	WESTFIELD METREON LLC	11601 WILSHIRE BL #11	LOS ANGELES	CA	90025-1747
3723	115	WESTFIELD METREON LLC	11601 WILSHIRE BL #11	LOS ANGELES	CA	90025-1747

3723	116	SF REDVLPMT AGENCY	770 GOLDEN GATE AV	SAN FRANCISCO	CA	94102
3723	117	SF REDVLPMT AGENCY	770 GOLDEN GATE AV	SAN FRANCISCO	CA	94102
3722	067	ROGERS FMLY	55 NEW MONTGOMERY ST #200	SAN FRANCISCO	CA	94105-3422
3722	078	MUSEUM MODERN ART SF	151 3RD ST	SAN FRANCISCO	CA	94103-3107
3722	257	SF MUSEUM TOWER LLC	PO BOX 4900	SCOTTSDALE	AZ	85261-4900
3722	259	MINNA 22A LLC	100 4 FALLS CORPORATE CTR #CE	CONSHOHOCKEN	PA	19428-2950
3722	260	MADDEN TRS	5955 CORONADO LN	PLEASANTON	CA	94588-8518
3722	261	AIMEE KAROL	188 MINNA ST #22C	SAN FRANCISCO	CA	94105-4052
3722	262	MANDEL TRS	188 MINNA ST #22D	SAN FRANCISCO	CA	94105-4052
3722	263	MICHAEL TRS	188 MINNA ST #22E	SAN FRANCISCO	CA	94105-4052
3722	264	STEVEN BURMEISTER TRS	188 MINNA ST #22F	SAN FRANCISCO	CA	94105-4052
3722	265	SUBRAMANIAN TRS	188 MINNA ST #23A	SAN FRANCISCO	CA	94105-4052
3722	266	ROCK MENG	188 MINNA ST #23B	SAN FRANCISCO	CA	94105-4052
3722	267	LOUIS LAVIGNE TRS	188 MINNA ST #23C	SAN FRANCISCO	CA	94105-4052
3722	268	CYNTHIA LESHER	30890 AURORA DEL MAR	CARMEL	CA	93923-9771
3722	269	NEELAKANTAN HARINARAYAN TRS	15205 VIA COLINA	SARATOGA	CA	95070-6292
3722	270	WEXLER PHU TRS	188 MINNA ST #23F	SAN FRANCISCO	CA	94105-4052
3722	271	KRAMER TRS	188 MINNA ST #24A	SAN FRANCISCO	CA	94105-4052
3722	272	G & M STATHAKIS	2300 OLD SODA SPRINGS RD	NAPA	CA	94558-1218
3722	273	JEREMY POWERS	188 MINNA ST #24C	SAN FRANCISCO	CA	94105-4052
3722	274	SST ST REGIS LLC	8901 W YELLOWSTONE HWY	CASPER	WY	82604-1602
3722	275	PRAKASH AGARWAL	26323 CALLE DEL SOL	LOS ALTOS HILLS	CA	94022
3722	276	DOUGLAS DERWIN	188 MINNA ST #24F	SAN FRANCISCO	CA	94105-4052
3722	277	KLETTER TRS	188 MINNA ST #25A	SAN FRANCISCO	CA	94105-4052
3722	278	B & C WINOGRAD	188 MINNA ST #25B	SAN FRANCISCO	CA	94105-4052
3722	279	RASUL-SULLIVAN TRS	4054 EL BOSQUE DR	PEBBLE BEACH	CA	93953-3011
3722	280	VALERIAN TRS	188 MINNA ST #25D	SAN FRANCISCO	CA	94105-4051
3722	281	LENORE BLEADON TRS	188 MINNA ST #25E	SAN FRANCISCO	CA	94105-4052
3722	282	SYCAMORE PTNRS LP	101 MONTGOMERY ST #2350	SAN FRANCISCO	CA	94104-4151
3722	283	DENNIS HWANG	188 MINNA ST #26A	SAN FRANCISCO	CA	94105-4052
3722	284	AJC TRS	25 ORINDA WY #300	ORINDA	CA	94563-4402
3722	285	NEW REAL CORP INC	388 MARKET ST #1500	SAN FRANCISCO	CA	94111-5316
3722	286	BRUCE GRAY	PO BOX 5068	INCLINE VILLAGE	NV	89450-5068
3722	287	COHEN TRS	188 MINNA ST #26E	SAN FRANCISCO	CA	94105-4052
3722	288	DAVID DACUS	188 MINNA ST #26F	SAN FRANCISCO	CA	94105-4052
3722	289	POMERANTZ TRS	188 MINNA ST #27A	SAN FRANCISCO	CA	94105-4051
3722	290	SIMON FRANCIS	3 LAGOON DR #130	REDWOOD CITY	CA	94065-1566
3722	291	HUO & FUNG CO INC	188 MINNA ST #27C	SAN FRANCISCO	CA	94105-4052
3722	292	WOLLACK TRS	890 FULTON LN	SAINT HELENA	CA	94574-1019
3722	293	CHEN TRS	188 MINNA ST #27E	SAN FRANCISCO	CA	94105-4053
3722	294	DENNIS GRIFFIN	188 MINNA ST #27F	SAN FRANCISCO	CA	94105-4053
3722	295	CHAN TRS	PO BOX 26189	SAN FRANCISCO	CA	94126-6189
3722	296	PAHLMAYER LLC	811 SAINT HELENA HWY S #202	SAINT HELENA	CA	94574-2266
3722	297	NORMAN SCHULTZ TRS	1095 STATE LN	YOUNTVILLE	CA	94599-9473
3722	298	SEQUOIA INC	188 MINNA ST #28D	SAN FRANCISCO	CA	94105-4053
3722	299	ETHEL BAXTER	188 MINNA ST #28E	SAN FRANCISCO	CA	94105-4053
3722	300	RICHARD CRISMAN	188 MINNA ST #28F	SAN FRANCISCO	CA	94105-4053
3722	301	SHIRLEY HWANG TRS	PO BOX 190037	SAN FRANCISCO	CA	94119-0037
3722	302	AZITA ALIZADEH	188 MINNA ST #29B	SAN FRANCISCO	CA	94105-4053
3722	303	LARRY NATHANSON TRS	188 MINNA ST #29C	SAN FRANCISCO	CA	94105-4051
3722	304	EDWIN LENNOX TRS	188 MINNA ST #29D	SAN FRANCISCO	CA	94105-4053
3722	305	MENSTON LLC	2288 BROADWAY ST	SAN FRANCISCO	CA	94115-1240
3722	306	MICHAEL SHIGEZANE	3705 RALSTON AV	HILLSBOROUGH	CA	94010-6735
3722	307	KIRKPATRICK TRS	182 HOWARD ST	SAN FRANCISCO	CA	94105-1611
3722	308	JULIE SHAYESTEHMEHR	7125 OBELISCO CIR	CARLSBAD	CA	92009-6522
3722	309	GAUDIANI TRS	168 DEGAS RD	PORTOLA VALLEY	CA	94028-7709
3722	310	DICK WILLIAMS	5355 WESTRIDGE DR	BOULDER	CO	80301-6502
3722	311	PATRICIA FITZPATRICK TRS	188 MINNA ST #30E	SAN FRANCISCO	CA	94105-4053
3722	312	YOON LEE	1500 WHITEHALL LN	SAINT HELENA	CA	94574-9685
3722	313	JERALD & DALE FISHMAN	60 MEADOWBROOK RD	WESTON	MA	02493-2406
3722	314	TCHIKOVANI TRS	40 BUCK CT	WOODSIDE	CA	94062
3722	315	CARTER TRS	188 MINNA ST #31C	SAN FRANCISCO	CA	94105-4053
3722	316	BROWN TWO LLC	515 LYTTON AV	PALO ALTO	CA	94301-1538
3722	317	SKYHOUSE LLC	101 YGNACIO VALLEY RD #310	WALNUT CREEK	CA	94596
3722	318	SONMEZ TRS	188 MINNA ST #31F	SAN FRANCISCO	CA	94105-4053
3722	319	REBECCA MOORES TRS	PO BOX 1009	DEL MAR	CA	92014-1009

3722	320	MEILI LIN	15024 SPERRY LN	SARATOGA	CA	95070-6240
3722	321	VICTOR CHEN TRS	1475 TULARCITOS DR	MILPITAS	CA	95035-7615
3722	322	EDWARD BYRD TRS	101 CALIFORNIA ST	SAN FRANCISCO	CA	94111-5802
3722	323	OLIVER & SUSAN FLACH	102 LEOTAR CT	LOS GATOS	CA	95032-6510
3722	324	R & B MCINTOSH	10607 VENTUCOPA PL	BAKERSFIELD	CA	93311-3152
3722	325	LARISSA ROESCH	59 VICENTE RD	BERKELEY	CA	94705-1603
3722	326	JEFFRY ALLEN TRS	150 LOOKOUT LN	WHITEFISH	MT	59937-8165
3722	327	188 MINNA 33C LLC	188 MINNA ST #33C	SAN FRANCISCO	CA	94105-4054
3722	328	STEVEN BRAUSER	17 E 12TH ST	NEW YORK	NY	10003-4300
3722	329	WILSON TRS	4 EMBARCADERO CTR #3330	SAN FRANCISCO	CA	94111-4184
3722	330	KHOO HUI LENG TRS	182 HOWARD ST #001	SAN FRANCISCO	CA	94105-1611
3722	331	MARK BENYUNES	188 MINNA ST #34A	SAN FRANCISCO	CA	94105-4054
3722	332	S & C GOLDSWORTHY	188 MINNA ST #348	SAN FRANCISCO	CA	94105-4051
3722	333	WU TRS	11570 UPLAND WAY	CUPERTINO	CA	95014-5104
3722	334	DONALD RIEHL TRS	PO BOX 51070	PACIFIC GROVE	CA	93950-6070
3722	335	JESSNICK TRS	188 MINNA ST #34E	SAN FRANCISCO	CA	94105-4054
3722	336	LOWE & GARGIULO TRS	188 MINNA ST #34F	SAN FRANCISCO	CA	94105-4054
3722	337	KROLL TRS	26 N AVALON DR	LOS ALTOS	CA	94022-2315
3722	338	ROCK TRS	188 MINNA ST #35B	SAN FRANCISCO	CA	94105-4054
3722	339	W & B BROWN	188 MINNA ST #35C	SAN FRANCISCO	CA	94105-4054
3722	340	SF MUSEUM TOWER LLC	188 MINNA ST #35D	SAN FRANCISCO	CA	94105
3722	341	THOMPSON TRS	PO BOX 1029	MENLO PARK	CA	94026-1029
3722	342	SARAI TRS	142 FREEDOM CT	FREMONT	CA	94539-6267
3722	343	THEODORE SHIFF TRS	188 MINNA ST #36A	SAN FRANCISCO	CA	94105-4054
3722	344	THOMAS MITTS TRS	188 MINNA ST #36B	SAN FRANCISCO	CA	94105-4054
3722	345	POMERANTZ TRS	188 MINNA ST #36C	SAN FRANCISCO	CA	94105-4054
3722	346	LSI DESIGN & INTEGRATION CORP	PO BOX 66742	SCOTT'S VALLEY	CA	95067-6742
3722	347	MACDONNELL TRS	2755 CAMPUS DR #240	SAN MATEO	CA	94403-2515
3722	348	CROWN ST LLC	PO BOX 10195	PALO ALTO	CA	94303-0995
3722	349	188 MINNA 37B LLC	715 VICTORIA ST	SAN FRANCISCO	CA	94127-2838
3722	350	CHIA JU LAN TRS	450 PULLMAN RD	HILLSBOROUGH	CA	94010-6718
3722	351	HOWARD & LISA HYMAN	188 MINNA ST #37D	SAN FRANCISCO	CA	94105-4054
3722	352	MUSEUM TOWER TRS	PO BOX 318	CARTHAGE	TN	37030-0318
3722	353	GARY BRIDGE TRS	188 MINNA ST #38A	SAN FRANCISCO	CA	94105-4054
3722	354	ETHAN BANCROFT DORR	188 MINNA ST #38B	SAN FRANCISCO	CA	94105-4054
3722	355	TODD LONG	188 MINNA ST #38C	SAN FRANCISCO	CA	94105-4054
3722	356	REAPMORE INVSTMT	188 MINNA ST #38D	SAN FRANCISCO	CA	94105-4054
3722	357	TELESOFT MGMT SVCS LLC	188 MINNA ST #38E	SAN FRANCISCO	CA	94105-4054
3722	358	SRPH INC	73 WILDWOOD GDNS	PIEDMONT	CA	94611-3831
3722	359	SRPH INC	73 WILDWOOD GDNS	PIEDMONT	CA	94611-3831
3722	360	SRPH INC	73 WILDWOOD GDNS	PIEDMONT	CA	94611-3831
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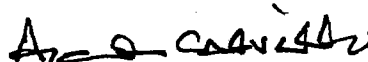
NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

- Date:** Tuesday, May 20, 2014
- Time:** 3:00 p.m.
- Location:** Legislative Chamber, Room 250 City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102
- Subject:** File No. 140465. Hearing of persons interested in or objecting to the decision of the Department of Public Works dated April 28, 2014, approving a Tentative Map for a 190 Unit Mixed-Use Condominium Project located at 86-3rd Street, 700 Mission Street, 706 Mission Street, and 738 Mission Street, Assessor's Block No. 3706, Lot Nos. 093, 275, and 277. (District 6) (Appellants: Thomas N. Lippe, on behalf of 765 Market Street Residential Owners Association, the Friends of Yerba Buena, Paul Sedway, Ron Wornick, Matthew Schoenberg, Joe Fang, and Margaret Collins) (Filed April 30, 2014).

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on these matters may submit written comments to the City prior to the time the hearing begins. These comments will be made part of the official public record in these matters, and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information will be available for public review on May 16, 2014.


Angela Calvillo
Clerk of the Board

New Order



Your Order is sent.

Customer Information

Customer Name	S.F. BD OF SUPERVISORS (NON-CONSECUTIVE)	Master Id	52704
Address	1 DR CARLTON B GOODLETT PL #244	Phone	4155547704
City	SAN FRANCISCO	Fax	4155547714
State - Zip	CA - 94102		

Product Information

Legal GOVERNMENT - GOVT PUBLIC NOTICE

Order Information

Attention Name	John Carroll	Billing Reference No.	<input type="text" value="Save"/>
Ad Description	JEC - BOS Hearing Notice - Tentative Map Appeal - 86-3rd Street, 700 Mission Street, 706 Mission Street, 738 Mission Street	Sale/Hrg/Bid Date	

Special Instructions

Orders Created

Order No.	Newspaper Name	Publishing Dates	Ad	Price Description	Price	Ad Status
2621106	SAN FRANCISCO CHRONICLE-CITY&CO. 10%, CA Billed To: S.F. BD OF SUPERVISORS (OFFICIAL NOTICES) Created For: S.F. BD OF SUPERVISORS (OFFICIAL NOTICES)	05/10/2014	Depth : 4.10" Lines : 50	\$ No Pricing Formula for 2175	Pricing will be done by DJC	Sent

Order No.	Newspaper	View
2621106	SAN FRANCISCO CHRONICLE-CITY&CO. 10%	View Ad In PDF

NOTICE OF PUBLIC HEARING BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard: **Date: Tuesday, May 20, 2014 Time: 3:00 p.m. Location: Legislative Chamber, Room 250 City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102**

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Angela Calvillo Clerk of the Board

ENVIRONMENT COVER

State's rural reaches brace for fire season

Fires from page A1

took a few trees down." The inspectors with the state Department of Forestry and Fire Protection agreed that Gray, who says grassy acreage off Highway 123 is dotted with oak and pine trees, had been vigilant and gave him mostly good marks for fire safety.

However, they dinged him for keeping a pile of firewood too close to his home. He was ordered to remove it within 90 days. The statewide drought has left California's hills and valleys dangerously dry. Fire officials say a single spark from a car or lawnmower in places such as the Wine Country or the Santa Cruz Mountains or the Oakland hills could explode into a runaway wildfire.

Double the average

Already this year, state fire crews have battled 1,250 fire blazes in foothill areas, records show — more than twice the average for this point in the season. Federal crews also report higher-than-usual numbers in forests under their watch.

Online extra

For more on the state's water problems, go to www.sfgate.com/drought.

Last week's wildfire in the Southern California community of Etiwanda (San Bernardino County), which charred more than 2,000 acres and temporarily sent 1,600 households packing, reveals the extent of this year's early fire danger, officials say, as does a similarly unusual 400-acre blaze near Salinas in March.

The threat of fire, they say, is already at summertime levels across much of the state. Citing near-record dry vegetation and sparse mountain snowpack, the National Interagency Fire Center in Boise, Idaho, announced this month that California is at risk of "significant large fire activity" at least through August.

"We're all getting a little nervous," said another Napa County resident, Robert Soper, who has lived on his 2-acre parcel since 1967. "When I was driving home, I

noticed the green hillsides are turning to brown already. And when it starts to turn, it turns quickly."

Fire inspectors walked Soper's property on Thursday, looking for pine needles on his roof, high brush around propane tanks and dead trees close to his house.

Homes at risk

Any breach of the precautions that are required of all rural homeowners, the inspectors said, could not only fuel a wildfire but make it harder for firefighters to protect a home should it become threatened.

"The yard itself looks great," fire inspectors Brandon Millitello told Soper. "But that back field, it's all branches hanging down." Millitello, who said he wasn't interested in issuing a citation, asked Soper if he would clear the limbs as soon as possible. Soper, 75, said he would do it.

"As you get older, it gets a little bit harder to do the work myself," he said. "That's why I called



Cal Fire inspectors Chris White (left) and Brandon Millitello go over a Napa Valley property, checking for hazards that could fuel a wildfire.

the tree service. Millitello and his team have done 1,650 home inspections in Napa, Sonoma and Lake counties since March — far more than usual, the inspectors said. Statewide, the number of such checks is close to double the average.

About 1 in 10 of the visits this year has revealed a major safety violation, records show.

The increase in inspections is largely due to an annual \$52 fire fee that California began to assess on rural homeowners three years ago, allowing the state to hire new inspectors. The idea is that working with property owners will

save money and lives in the long run.

Gov. Jerry Brown's declaration of a drought emergency in January also expedited funding for Cal Fire, which has since added 400 seasonal firefighters to its ranks and expanded operations at many of its stations. Such bumps normally don't begin until May.

About \$13 million from the state's emergency fund this fiscal year has gone to Cal Fire — an amount that's expected to grow to more than \$200 million by the end of the budgeting period on July 1.

The governor said this week that he might have to keep a lid on spending

in next year's budget in order to meet the additional cost of wildfires. Cal Fire officials, meanwhile, say they're continuing to evaluate their needs and monitor their finances.

"We can never predict how many fires we're going to have," said Cal Fire spokesman Daniel Berlant. "But we're way ahead of where we should be, and that number is only going to grow as we get into the warm summer months."

Kurtis Alexander is a San Francisco Chronicle staff writer. E-mail: kalexander@sfgate.com Twitter: @kurtisalexander

Odds of El Niño grow, but strength remains uncertain

By Kurtis Alexander

Drought relief for the water-stricken West may arrive later this year, according to a new report showing an increasingly likely El Niño building over the Pacific Ocean.

The U.S. Climate Prediction Center announced this week that there's a 65 percent chance of an El Niño by the end of the year, with the probability rising to nearly 80 percent by the close of the year. The

weather pattern is associated with warming sea surfaces and wintertime rains on the West Coast.

Historically, El Niños have triggered some of California's biggest rain years, including the winters of 1997-98 and 1982-83. San Francisco received a whopping 47.2 inches of rain in 1997-98, a city record.

This year, like most of the state, San Francisco is at half its normal precipitation for the season. While the possible El Niño bodes well for California, it comes with no guarantee of busting the drought.

"Here in early May, we're still not even projecting an El Niño for sure. To try to forecast how strong it would be is a foolish attempt right now," said Mike Halpert, acting director of the Climate Prediction Center.

Moreover, the effects of an El Niño vary considerably with strength — and location. While warm ocean-surface temperatures tend to

bring drier conditions to the western Pacific, in places such as Australia and Indonesia, and wetter conditions to the Americas, the outcomes are by no means constant.

In California, a weak to moderate El Niño has typically meant more rain in the southern half of the state while doing little for Northern California. A strong El Niño, on the other hand, has increased rainfall statewide in the past.

The Climate Prediction Center upped the odds of an El Niño occurring this summer — from 50-50 in March — because of a giant underwater swell known as a Kelvin Wave. The wave is increasingly pushing cold water toward the bottom of the sea and warm water upward.

California water managers say they're paying attention to the projections but are still planning for the worst. Supplies have been restricted from the State Water Project and residents

across California have been asked to voluntarily reduce their use by 20 percent.

"We've got a long, dry summer ahead of us," said Department of Water Resources climatologist Mike Anderson. "There's no guarantee that next year is going to be wet."

Kurtis Alexander is a San Francisco Chronicle staff writer. E-mail: kalexander@sfgate.com Twitter: @kurtisalexander

LEGAL NOTICES | legalnotice.org/pl/sfgate

PUBLIC NOTICES

NOTICE TO CONTRACTORS

NOTICE TO CONTRACTORS CALIFORNIA PUBLIC BIDS CALIFORNIA PUBLIC UTILITIES COMMISSION The CA Public Utilities Commission (CPUC) will receive bids at 505 Van Ness Avenue, Mailroom #1029, San Francisco, CA on Tuesday, 3 June 2014, at 1:00 PM, for the project to install, furnish and install new CARPET TILES, CUC #FB 1285546. Plans are available at www.bids.com (Registration is free). Enter project number 1385546 for complete RFP package and details. Contractors whose proposals are required for this project: "B" General Contractor or "C15" Electrical and Covering, "B" and "DVE" Insulators. SCOPE OF WORK: A "ceiling for ceiling" replacement project for floors and 25 of the California Public Utilities Building (CPUB) located in San Francisco. Work shall include removing and disposing existing ceiling tiles, installing a hanging new tile, fitting in place workstations and mounting new equipment as required to replace ceiling and control of air pressure and humidity, and their associated electrical and data outlets shall be removed and reinstalled as required to facilitate CPUB tile installation. Project replaces approximately 85,000 SF of carpet tile.

PUBLIC NOTICES

CITY

CITATION SUPERIOR COURT FOR THE STATE OF CALIFORNIA FOR THE CITY AND COUNTY OF SAN FRANCISCO LIMITED FAMILY COURT Case No. 13-23260 In the Matter of: C.A. A Minor The Above Named Person, Mother and Father and any other person(s) who may be named herein, and any other person(s) who may be named herein, are hereby notified that the San Francisco Juvenile Dependency Court has ordered a hearing pursuant to Welfare and Institutions Code Section 362.26, to determine whether your parental rights should be terminated and your child(ren) be placed in your custody and control for the purpose of adoption. If you appear on the above-mandated date in the above-mandated courtroom, the judge will advise you of the nature of the proceedings, the grounds, and possible consequences of the proceedings. If you do not appear, the court will proceed in your absence. If you are a parent of the child(ren), you should not be declared free from the custody and control of the parent(s) without your consent. This proceeding is for the purpose of terminating parental rights for the child(ren), which could include adoption. If you appear on the above-mandated date in the above-mandated courtroom, the judge will advise you of the nature of the proceedings, the grounds, and possible consequences of the proceedings. If you do not appear, the court will proceed in your absence. If you are a parent of the child(ren), you should not be declared free from the custody and control of the parent(s) without your consent. This proceeding is for the purpose of terminating parental rights for the child(ren), which could include adoption. If you appear on the above-mandated date in the above-mandated courtroom, the judge will advise you of the nature of the proceedings, the grounds, and possible consequences of the proceedings. If you do not appear, the court will proceed in your absence. If you are a parent of the child(ren), you should not be declared free from the custody and control of the parent(s) without your consent. This proceeding is for the purpose of terminating parental rights for the child(ren), which could include adoption.

PUBLIC NOTICES

CITY

NOTICE OF PUBLIC HEARING Tuesday, May 27, 2014 - 1:30 PM City Hall, Room 220, 1 Dr. Carlton G. Goodlett Place, San Francisco, CA 94102, at a Special Meeting of the San Francisco Public Utilities Commission, the governing body of the public utility power, gas, water and sewer services of the City and County of San Francisco. The agenda and related files will be available at least 24 hours before the scheduled meeting at the SFPUC website: www.sfpucc.org, or by calling (415) 554-3165.

PUBLIC NOTICES

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FICTITIOUS BUSINESS NAMES

The following person is doing business as: NAME STATEMENT FILE NO. A-035797-00 The following person is doing business as: NAME STATEMENT FILE NO. A-035797-00 The following person is doing business as: NAME STATEMENT FILE NO. A-035797-00 The following person is doing business as: NAME STATEMENT FILE NO. A-035797-00

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PUBLIC NOTICES

(NON-GOVERNMENT)

PUBLIC NOTICE OF INVITATION TO BID FORM-3 NOTICE IS HEREBY GIVEN THAT Peninsula Recreation and Rehabilitation Center will accept sealed bids for construction contract for kitchen and lavatory, materials and related tools to Peninsula Administration Building including Child & Teen Services wing, Gymnasium, Pool and covered walkway at 207 Skyline Boulevard, San Francisco. Bid documents are available to view at 207 Skyline Boulevard, San Francisco. Bid may be obtained from ABC Insuring. To order sets go to www.bids.com Job: "Peninsula Administration Building" complete registration for BIDDING at www.bids.com. Plans are available on file: Bids "Public Bids" at Peninsula Recreation Center bid list to order. Instructions regarding this invitation to bid should be directed to: Tracy Sorenson, Architect, 2124 Lincoln Ave., Alameda, CA 94501, Ph: 415-552-7232 - sorenson@abcins.com. Bids are due at/ or before 5:00 (P.M.) on Thursday, June 27, 2014. The contract will award will be held at the site on May 15, 2014 at 10:00 a.m. Bidder's attention is called to requirements relating to Bid, Federal Labor Standards and Federal Antidiscrimination Act employment opportunities. Rights are reserved to reject any or all bids.

PUBLIC NOTICES

CITY

CITATION SUPERIOR COURT FOR THE STATE OF CALIFORNIA FOR THE CITY AND COUNTY OF SAN FRANCISCO LIMITED FAMILY COURT Case No. 13-23260 In the Matter of: C.A. A Minor The Above Named Person, Mother and Father and any other person(s) who may be named herein, and any other person(s) who may be named herein, are hereby notified that the San Francisco Juvenile Dependency Court has ordered a hearing pursuant to Welfare and Institutions Code Section 362.26, to determine whether your parental rights should be terminated and your child(ren) be placed in your custody and control for the purpose of adoption. If you appear on the above-mandated date in the above-mandated courtroom, the judge will advise you of the nature of the proceedings, the grounds, and possible consequences of the proceedings. If you do not appear, the court will proceed in your absence. If you are a parent of the child(ren), you should not be declared free from the custody and control of the parent(s) without your consent. This proceeding is for the purpose of terminating parental rights for the child(ren), which could include adoption. If you appear on the above-mandated date in the above-mandated courtroom, the judge will advise you of the nature of the proceedings, the grounds, and possible consequences of the proceedings. If you do not appear, the court will proceed in your absence. If you are a parent of the child(ren), you should not be declared free from the custody and control of the parent(s) without your consent. This proceeding is for the purpose of terminating parental rights for the child(ren), which could include adoption.

PUBLIC NOTICES

CITY

NOTICE OF PUBLIC HEARING BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO HEREBY GIVEN THAT the Board of Supervisors will hold a public hearing on Tuesday, May 27, 2014, at 1:30 PM, at the Board of Supervisors' Chamber, 1000 Market Street, San Francisco, CA 94102. The agenda and related files will be available at least 24 hours before the scheduled meeting at the SFPUC website: www.sfpucc.org, or by calling (415) 554-3165.

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FICTITIOUS BUSINESS NAMES

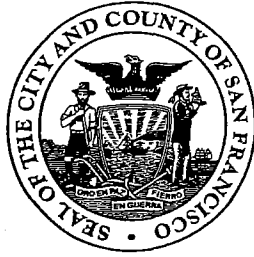
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For more local fashion photos, visit sfgate.com/style

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

May 2, 2014

Thomas N. Lippe
Law Offices of Thomas N. Lippe
201 Mission Street, 12th Floor
San Francisco, CA 94105

File No. 140465
Appeal of Tentative Map - 86 Third Street, 700 Mission Street, 706 Mission Street,
and 738 Mission Street
Assessor's Block No. 3706, Lot Nos. 093, 275, and 277
190 Unit Mixed-Use Condominium Project

Dear Mr. Lippe:

This is in reference to the appeal you submitted concerning approval of the subject
Tentative Map for property located at:

86 Third Street, 700 Mission Street, 706 Mission Street, and 738 Mission Street,
Assessor's Block No. 3706, Lot Nos. 093, 275, and 277

A hearing date has been scheduled on **Tuesday, May 20, 2014, at 3:00 p.m.**, at the
Board of Supervisors meeting to be held in City Hall, Legislative Chamber, Room 250,
1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Please provide 1 electronic copy (sent to BOS.Legislation@sfgov.org) and 18 hard copies
to the Clerk's Office by:

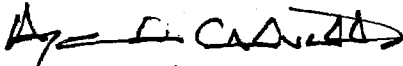
8 days prior to the hearing: any documentation which you may want available to
the Board members prior to the hearing;

15 days prior to the hearing: names and addresses of interested parties to be
notified of the hearing in label format.

For the above, the Clerk's office requests one electronic file (sent to bos.legislation@sfgov.org) and one hard copy of the documentation for distribution, and, if possible, names and addresses of interested parties to be notified in label format. NOTE: If an electronic version of the documentation is not available, please submit 18 hard copies of the documentation to the Clerk's Office for distribution. If documents are received after the deadlines prescribed above, it is your responsibility to ensure that all parties have received copies of such materials.

If you have any questions, please feel free to contact Legislative Deputy Director, Rick Caldeira at (415) 554-7711, or Legislative Clerks, Joy Lamug at (415) 554-7712, or John Carroll at (415) 554-4445.

Sincerely,


Angela Calvillo
Clerk of the Board

c:
Project Sponsor, Successor Agency to the San Francisco Redevelopment Agency, One South Van Ness, 5th Floor,
San Francisco, CA 94103, Attn. Christine Maher
Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
John Malamut, Deputy City Attorney
Mohammed Nuru, Director, Department of Public Works
Jerry Sanguinetti, Manager, Department of Public Works-Bureau of Street Use and Mapping
Fuad Sweiss, City Engineer, Department of Public Works
AnMarie Rodgers, Planning Department
Scott Sanchez, Zoning Administrator, Planning Department
Sarah Jones, Environmental Review Officer, Planning Department
Joy Navarrete, Planning Department
Tina Tam, Planning Department
Tim Frye, Planning Department
Debra Dwyer, Planning Department

(Required for all New Construction Condominium Applications)

D. APPLICATION

Property Address: 700, 706 & 738 Mission Street
and 86 Third Street

Assessor's Block: 3706 Lot Number(s): 93, 275 and Portions of 277

For DPW-BSM use only
 ID No.: 7970

Owner:	
Name:	706 Mission Street Co. LLC
Address:	735 Market Street, 6th Floor
Phone:	(415) 593-1288
E-mail:	kgonsar@millenniumptrs.com
Person to be contacted concerning this project (if different from owner)	
Name:	
Address:	
Phone:	
E-mail:	
Firm or agent preparing the subdivision map:	
Name:	Martin M. Ron Associates - Ben Ron
Address:	859 Harrison Street, Suite 200, San Francisco, CA 94107
Phone:	(415) 543-4500
E-mail:	ben@martinron.com
Subdivider: (if different from owner)	
Name:	
Address:	

Number of Units in Project: 145 to 190

This subdivision creates an airspace: No Yes (shown on Tentative Map)
 This subdivision creates an addition to an existing building No Yes (shown on Tentative Map)

Check only one of the following options:

	Indicate project type
Residential Only	<input checked="" type="checkbox"/>
Mixed-Use	<input type="checkbox"/> If checked, Number of residential unit(s): ___ Number of commercial unit(s): ___

STATE OF CALIFORNIA
 CITY AND COUNTY OF SAN FRANCISCO

I (We) 706 Mission Street Co. LLC
 (Print Subdivider's Name in full)

declare, under penalty of perjury, that I am (we are) the owner(s) [authorized agent of the owner(s)] of the property that is the subject of this application, that the statements herein and in the attached exhibits present the information required for this application, and the information presented is true and correct to the best of my (our) knowledge and belief.

Date: 10-30-13 Signed: [Signature]

Date: _____ Signed: _____

RECEIVED
 13 DEC -4 PM 1:29

MARTIN M. RON ASSOCIATES, INC.

LAND SURVEYORS

December 2, 2013

RECEIVED

13 DEC -4 PM 1:29

MARTIN M. RON, L.S. (1923-1983)

BENJAMIN B. RON, P.L.S.

ROSS C. THOMPSON P.L.S.

BRUCE A. GOWDY, P.L.S.

Mr. Bruce R. Storrs
County Surveyor
San Francisco Department of Public Works
Bureau of Street-Use and Mapping
875 Stevenson Street, Room 460
San Francisco, CA 94103

Re: **Vesting Tentative Final Map for the 706 Mission Street – The Mexican Museum and Residential Tower Project; Block 3706, Lots 093, 275, and portions of Lot 277**

Dear Mr. Storrs:

On behalf of 706 Mission Street Co LLC (the "Project Applicant") and the Successor Agency to the Redevelopment Agency of the City and County of San Francisco (the "Successor Agency"), and in compliance with the California Subdivision Map Act, the San Francisco Subdivision Code, the San Francisco Subdivision Regulations, and all amendments thereto, we, the undersigned hereby submit to you for your review and processing a proposed Vesting Tentative Final Map subdivision for the 706 Mission Street – The Mexican Museum and Residential Tower Project (the "Project").

The Project, which was approved by the City and County of San Francisco and the Successor Agency earlier this year, includes the rehabilitation of the existing 10-story Aronson Building located at 706 Mission Street, and the construction of a new, adjacent 480 foot tower (with 30 foot mechanical penthouse). The Aronson Building and tower would be connected and would contain between 145 to 190 dwelling units, ground floor retail space, and space for The Mexican Museum. The existing Jessie Square Garage would also be reconfigured as part of the Project.

The Project site includes Block 3706, Lot 093, which is owned by the Project Applicant and is improved with the existing Aronson Building ("Developer Parcel"). The Project site also includes Block 3706, Lot 275 and portions of Lot 277, which are currently owned by the Successor Agency and which include the Jessie Square Garage and the land that is contemplated as the future permanent home of The Mexican Museum ("Conveyance Parcel"). As part of the Project, the Successor Agency will convey the Conveyance Parcel to the Project Applicant pursuant to a Purchase and Sale Agreement between the Successor Agency and the Project Applicant.

The Conveyance Parcel is not currently a separate legal parcel. In order to create the Conveyance Parcel, the Successor Agency has submitted a separate Vesting Tentative Parcel Map application that will subdivide Parcel B (Lot 277) of Block 3706 into four new air space lots, including the Conveyance Parcel. After the map creating the Conveyance Parcel has been recorded and other conditions and requirements of the Purchase and Sale Agreement are satisfied, the Successor Agency will convey the Conveyance Parcel (and Lot 275 which is part of the Stevenson Street entrance/exit ramp to the Jessie Square Garage) to the Project Applicant. At that point, the Project Applicant will own the Conveyance Parcel, Lot 275, and the Developer

Parcel – which together comprise the real property covered by this Vesting Tentative Final Map application.

The Vesting Tentative Final Map would merge the Conveyance Parcel, Lot 275, and Developer Parcel and resubdivide the merged lands into a five lot airspace subdivision. Two of airspace lots would include residential condominium projects. The Vesting Tentative Final Map would not be approved until after the map creating the Conveyance Parcel had been recorded.

Because we are submitting this application as a Vesting Tentative Final Map application, the San Francisco Subdivision Code requires the submission of certain additional materials and documents in addition to those required for regular parcel and tentative maps. The following summarizes how this application satisfies those additional requirements.

Section 1333.2(a)(1). *Site Survey.*

A site survey is provided with the application; prepared by Martin M. Ron Associates, Inc.

Section 1333.2(a)(2), (3), and (4). *Plot plan showing proposed structures and adjoining structures, floor plans, elevations, sections, parking plans, roof plan for all proposed structures; landscape plans; improvements within public right of way.*

A plot plan is provided with the application; drawings and plans prepared by Handel Architects.

Section 1333.2(a)(5)(A). *Zoning reclassifications and amendments, including any such action affecting the existence, boundary or restrictions of a historic or conservation district.*

A Zoning Height Map Amendment and Planning Code Text Amendment establishing a Special Use District for the Project was approved by the Board of Supervisors (on recommendation of Planning Commission) on July 23 and 30, 2013. A copy of this approval is included in the “Final Approvals” book submitted with this application.

A Major Permit to Alter pursuant to Article 11 for the Project was approved by Historic Preservation Commission on May 15, 2013, and upheld by Board of Supervisors on July 23, 2013. A copy of this approval is included in the “Final Approvals” book submitted with this application.

Section 1333.2(a)(5)(B). *Amendments to the Master Plan, including any applicable Institutional Master Plan.*

Not applicable.

Section 1333.2(a)(5)(C). *Conditional Use approvals under the City Planning Code.*

Not applicable.

Section 1333.2(a)(5)(D). *Variances or exceptions under the City Planning Code.*

A Section 309 Determination and Granting of Exceptions (Downtown Project Authorization) for the Project was approved by the Planning Commission on May 23, 2013, and upheld by the Board of Appeals on July 31, 2013, with the period for requesting rehearing by the Board of Appeals expiring on August 12, 2013, with no rehearing requested (the “Section 309 Approval”). A copy of this approval is included in the “Final Approvals” book submitted with this application.

An amendment of the Proposition K Implementing Guidelines was approved by Planning Commission and Recreation and Park Commission on May 23, 2013, and a Planning Code Section 295 shadow significance determination and allocation was approved by Planning Commission (on recommendation of Recreation and Park Commission) on May 23, 2013. Copies of these approvals are included in the "Final Approvals" book submitted with this application.

Section 1333.2(a)(5)(E). *Amendment, repeal or adoption of setbacks.*

The Section 309 Approval grants an exception from Planning Code Section 134(a)'s rear yard requirements.

Section 1333.2(a)(5)(F). *Completion of, or approval by the public entities involved of any vacation of a public street or other conveyance of public property or right-of-way, which is proposed.*

The subdivision does not require the vacation of public streets or conveyance of public rights of way. However, pursuant to a Purchase and Sale Agreement between the Successor Agency and the 706 Mission Street Co. LLC, as part of the Project, the Successor Agency will convey the Conveyance Parcel and Lot 275 to 706 Mission Street Co. LLC. The Purchase and Sale Agreement was approved by the Successor Agency Commission and the Oversight Board to the Successor Agency earlier this year. Copies of those approvals are included in the "Final Approvals" book submitted with this application.

Section 1333.2(a)(5)(G). *Approvals related to Coastal Zone, Bay Conservation and Development Commission, or Certificate of Appropriateness under Planning Code Article 10.*

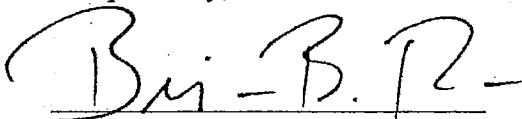
Not applicable. However, a Major Permit to Alter pursuant to Article 11 for the Project was approved by Historic Preservation Commission on May 15, 2013, and upheld by Board of Supervisors on July 23, 2013. A copy of this approval is included in the "Final Approvals" book submitted with this application.

Cortese List Statement.

An executed statement required by Government Code Section 65962.5 is included as part of this application.

The materials outlined above and enclosed herewith, along with the other materials provided by Martin M. Ron Associates, Inc., as part of the application package, constitute the complete Vesting Tentative Final Map application, and comply with all requirements of the San Francisco Subdivision Code and the California Subdivision Map Act. Please let me know if you have any questions or need additional information.

Respectfully,





SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing
- Childcare Requirement
- Jobs Housing Linkage Program
- Downtown Park Fee
- Public Art
- Public Open Space
- First Source Hiring (Admin. Code)
- Transit Impact Development Fee
- Other

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion 18894 Section 309

HEARING DATE: MAY 23, 2013

Date: March 28, 2013

Case No.: 2008.1084EHKXRTZ

Project Address: 706 Mission Street

Project Site Zoning: C-3-R (Downtown, Retail, Commercial)
400-I Height and Bulk District

Block/Lots: 3706/093, 275, portions of 277 (706 Mission Street)
0308/001 (Union Square)

Project Sponsor: 706 Mission Street, LLC
c/o Sean Jeffries of Millennium Partners
735 Market Street, 4th Floor
San Francisco, CA 94107

Staff Contact: Kevin Guy – (415) 558-6163
Kevin.Guy@sfgov.org

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A SECTION 309 DETERMINATION OF COMPLIANCE AND REQUEST FOR EXCEPTIONS FOR "REAR YARD" UNDER SECTION 134, "REDUCTION OF GROUND-LEVEL WIND CURRENTS" UNDER SECTION 148, "OFF-STREET PARKING QUANTITY" UNDER SECTION 151.1, AND "GENERAL STANDARDS FOR OFF-STREET PARKING AND LOADING" UNDER SECTION 155(r), AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, FOR A PROJECT TO REHABILITATE AN EXISTING 10-STORY, 144-FOOT TALL BUILDING (THE ARONSON BUILDING), AND CONSTRUCT A NEW, ADJACENT 43-STORY TOWER, REACHING A ROOF HEIGHT OF 480 FEET WITH A 30-FOOT TALL MECHANICAL PENTHOUSE. THE TWO BUILDINGS WOULD BE CONNECTED AND WOULD CONTAIN UP TO 190 DWELLING UNITS, A "CORE-AND-SHELL" MUSEUM SPACE MEASURING APPROXIMATELY 52,000 SQUARE FEET, AND APPROXIMATELY 4,800 SQUARE FEET OF RETAIL SPACE. THE PROJECT WOULD RECONFIGURE PORTIONS OF THE EXISTING JESSIE SQUARE GARAGE TO INCREASE THE NUMBER OF PARKING SPACES FROM 442 SPACES TO 470 SPACES, ADD LOADING AND SERVICE VEHICLE SPACES, AND WOULD ALLOCATE UP TO 190 PARKING SPACES WITHIN THE GARAGE TO SERVE THE PROPOSED RESIDENTIAL USES. THE PROJECT SITE IS LOCATED AT 706 MISSION STREET (ASSESSOR'S BLOCK 3706, LOTS 093, 275, AND PORTIONS OF LOT 277), WITHIN THE C-3-R (DOWNTOWN OFFICE) DISTRICT AND THE 400-I HEIGHT AND BULK DISTRICT.

PREAMBLE

On June 30, 2008, Sean Jeffries, acting on behalf of Millennium Partners ("Project Sponsor") submitted an Environmental Evaluation Application with the Planning Department ("Department"), Case No. 2008.1084E. The Department issued a Notice of Preparation of Environmental Review on April 13, 2011, to owners of properties within 300 feet, adjacent tenants, and other potentially interested parties.

On October 24, 2012, the Project Sponsor filed an application with the Department for a Determination of Compliance pursuant to Planning Code Section ("Section") 309 with requested Exceptions from Planning Code ("Code") requirements for "Reduction of Ground-Level Wind Currents in C-3 Districts", "Off-Street Parking Quantity", "Rear Yard", and "General Standards for Off-Street Parking and Loading" to allow curb cuts on Third and Mission Streets, for a project to rehabilitate an existing 10-story, 144-foot tall building (the Aronson Building), and construct a new, adjacent 47-story tower, reaching a roof height of 520 feet with a 30-foot tall mechanical penthouse. The two buildings would be connected and would contain up to 215 dwelling units, a "core-and-shell" museum space measuring approximately 52,000 square feet that would house the Mexican Museum, and approximately 4,800 square feet of retail space. The project would reconfigure portions of the existing Jessie Square Garage to increase the number of parking spaces from 442 spaces to 470 spaces, add loading and service vehicle spaces, and would allocate up to 215 parking spaces within the garage to serve the proposed residential uses. The Project Sponsor proposed a "flex option" that would retain approximately 61,000 square feet of office uses within the existing Aronson Building, and would reduce the residential component of the project to 191 dwelling units. On May 20, 2013, the Project Sponsor reduced the height of the proposed tower from 520 feet (with a 30-foot-tall elevator/mechanical penthouse) to 480 feet (with a 30-foot-tall elevator/mechanical penthouse). As a result, the number of dwelling units in the Project was reduced from a maximum of 215 dwelling units to a maximum of 190 dwelling units, the number of residential parking spaces was reduced from a maximum of 215 spaces to a maximum of 190 spaces, and the "flex option" of retaining office space within the project was deleted. The project is located at 706 Mission Street, Lots 093, 275, and portions of Lot 277 within Assessor's Block 3706 ("Project Site"), within the C-3-R District and the 400-I Height and Bulk District (collectively, "Project", Case No. 2008.1084X).

On October 24, 2012, the Project Sponsor submitted a request for a General Plan Referral Case No. 2008.1084R, regarding the changes in use, disposition, and conveyance of publicly-owned land, reconfiguration of the public sidewalk along Mission Street, and subdivision of the property. On May 23, 2013, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting and adopted Motion No. 18878 determining that these actions are consistent with the objectives and policies of the General Plan and the Priority Policies of Section 101.1.

On October 24, 2012, the Project Sponsor submitted a request to amend Height Map HT01 of the Zoning Maps of the San Francisco Planning Code to reclassify a portion of the Project Site from the 400-I Height and Bulk District to the 520-I Height and Bulk District. (Case No. 2008.1084Z). On May 20, 2013, in association with the reduced height of the Project, the Project Sponsor revised the request for a Height Reclassification to reclassify a portion of the Project Site from the 400-I Height and Bulk District to the 480-I Height and Bulk District. On May 23, 2013, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting and adopted Resolution No. 18879, recommending that the Board of Supervisors approve the requested Height Reclassification.

On October 24, 2012, the submitted a request to amend Zoning Map SU01 and the text of the Planning Code to establish the "Yerba Buena Center Mixed-Use Special Use District" (SUD) on the property. The proposed SUD would modify specific Planning Code regulations related to permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations (Case No. 2008.1084T). On May 23, 2013, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting and adopted Resolution No. 18879, recommending that the Board of Supervisors approve the requested Height Reclassification and Planning Code Text Amendment.

On October 26, 2012, the Project Sponsor submitted a request for a Major Permit to Alter for the construction of a new tower and the rehabilitation of the Aronson Building, a Category I (Significant) building under Article 11 of the Planning Code, located within the New Montgomery-Mission-Second Street Conservation District, including the removal of non-historic ground-floor infill materials, fire escapes, landings, and rooftop mechanical penthouse structures (Case No. 2008.1084H). On April 3, 2013, the Historic Preservation Commission conducted a duly noticed public hearing at a regularly scheduled meeting and adopted Motion No. 0197, approving the requested Major Permit to Alter.

On September 25, 2008, the Project Sponsor submitted a request for review of a development exceeding 40 feet in height, pursuant to Section 295, analyzing the potential shadow impacts of the Project to properties under the jurisdiction of the Recreation and Parks Department (Case No. 2008.1084K). Department staff prepared a shadow fan depicting the potential shadow cast by the development and concluded that the Project could have a potential impact to properties subject to Section 295. A technical memorandum, prepared by Turnstone Consulting, was submitted on June 9, 2011, analyzing the potential shadow impacts of the Project (at its originally proposed 520-foot roof height) to properties under the jurisdiction of the Recreation and Parks Department. The memorandum concluded that the Project would cast 337,744 sfh of net new shadow on Union Square on a yearly basis, which would be an increase of about 0.09% of the Theoretically Available Annual Sunlight ("TAAS") on Union Square. On May 21, 2013, a technical memorandum prepared by Turnstone Consulting was submitted analyzing the shadow impacts of the Project on Union Square, based on the reduced 480-foot roof height. The memorandum concluded that the Project would cast 238,788 sfh of net new shadow on Union Square on a yearly basis, which would be an increase of about 0.06% of the Theoretically Available Annual Sunlight ("TAAS") on Union Square

On May 23, 2013, the Planning Commission and the Recreation and Park Commission held a duly advertised joint public hearing and adopted Planning Commission Resolution No. 18876 and Recreation and Park Commission Resolution No. 1305-014, amending the absolute cumulative limit ("ACL") for Union Square to (a) include the approximately 194,293 sfh of shadow (equal to 0.05% of the TAAS) that resulted from a 1996 project modifying the Macy's department store that reduced shadow on Union Square (the "Macy's Adjustment") that had not been previously added back to the ACL for Union Square and (b) increase the ACL by an additional 44,495 sfh of net new shadow (equal to 0.01% of the TAAS). At the same hearing, the Recreation and Park Commission adopted Motion No. 1305-015 recommending that the General Manager of the Recreation & Park Department recommend to the Planning Commission that the shadows cast by the Project on Union Square are not adverse to the use of the park, and that the Planning Commission allocate to the Project allowable shadow from the ACL for Union Square. At the same hearing, the Planning Commission held a duly noticed public hearing and adopted Motion No.

18877, finding that the shadows cast by the Project on Union Square would not be adverse to the use of the park, and allocating ACL to the Project for Union Square.

On June 27, 2012, the Department published a draft Environmental Impact Report (EIR) for public review. The draft EIR was available for public comment until August 13, 2012. On August 2, 2012, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to solicit comments regarding the draft EIR. On March 7, 2013, the Department published a Comments and Responses document, responding to comments made regarding the draft EIR prepared for the Project.

On March 21, 2013, the Commission reviewed and considered the Final EIR and found that the contents of said report and the procedures through which the Final EIR was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA"), 14 California Code of Regulations Sections 15000 et seq. ("the CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31").

The Commission found the Final EIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the draft EIR, and approved the Final EIR for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

The Planning Department, Jonas Ionin, is the custodian of records, and the records for this Project are located in the File for Case No. 2008.1084E, at 1650 Mission Street, Fourth Floor, San Francisco, California.

Three separate appeals of the Commission's certification of the EIR to the Board of Supervisors were filed before the April 10, 2013 deadline. The Board of Supervisors considered these appeals at a duly noticed public hearing on May 7, 2013, and unanimously voted to affirm the Planning Commission's certification of the Final EIR. The Board of Supervisors reviewed and considered the Final EIR and found that the contents of said report and the procedures through which the Final EIR was prepared, publicized, and reviewed complied with CEQA, the CEQA Guidelines and Chapter 31. The Board of Supervisors found the Final EIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Board of Supervisors, and that the summary of comments and responses contained no significant revisions to the draft EIR, and approved the Final EIR in compliance with CEQA, the CEQA Guidelines and Chapter 31.

Department staff prepared a Mitigation Monitoring and Reporting program ("MMRP"), which material was made available to the public and this Commission for this Commission's review, consideration and action.

On May 23, 2013, the Commission adopted Motion No. 18875, adopting CEQA findings, including a Statement of Overriding Considerations, and adopting the MMRP, which findings and adoption of the MMRP are hereby incorporated by reference as though fully set forth herein. The Commission found that the reduction in the height of the Project has resulted in no substantial changes that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR, no new information has become available that was not known

and could not have been known at the time the Final EIR was certified as complete and that would result in new substantially more severe significant environmental impacts not evaluated in the Final EIR, and no mitigation measures or alternatives previously found infeasible would be feasible or mitigation measures or alternatives considerably different than those analyzed in the Final EIR would substantially reduce significant environmental impacts; but the project proponent declines to adopt them.

On May 23, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2008.1084X. The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, the Planning Department staff, and other interested parties.

MOVED, that the Commission hereby approves the Section 309 Determination of Compliance and Request for Exceptions requested in Application No. 2008.1084X for the Project, subject to conditions contained in Exhibit A, based on the following findings:

FINDINGS

Having reviewed the materials identified in the recitals above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and also constitute findings of this Commission.
2. **Site Description and Present Use.** The Project Site measures 72,181 sq. ft. and is comprised of three separate parcels within Assessor's Block 3706. Lot 093 is located at the northwest corner of Third and Mission Streets, and is currently developed with the existing 10-story, 144-foot tall Aronson Building. The Aronson Building is designated as a Category I (Significant) Building in Article 11 of the Planning Code, and is located within the New Montgomery-Mission-Second Street Conservation District. The building contains approximately 96,000 sq. ft. of office uses and approximately 10,600 sq. ft. of ground-floor retail uses.

Lot 275 is improved with an existing vehicular access ramp that leads from Stevenson Street into the subterranean Jessie Square Garage. Lot 277 includes the property located between the Aronson Building parcel and Jessie Square, fronting along Mission Street. This property is the location of the proposed tower, portion of the Project, and is currently unimproved except for a subsurface foundation structure. Lot 277 also includes the subterranean Jessie Square Garage, which is improved with the Jessie Square public plaza on the surface. The Project would reconfigure and utilize a portion of the Jessie Square garage, which is considered a part of the Project Site. However, the Jessie Square plaza located on the surface of a portion of Lot 277 would not be changed by this Project, and is not considered part of the Project Site.

3. **Surrounding Properties and Neighborhood.** The Project Site is situated within the C-3-R Downtown Commercial zoning district, and is within the former Yerba Buena Center Redevelopment Area, a context characterized by intense urban development and a diverse mix of uses. Numerous cultural institutions are clustered in the immediate vicinity, including SFMOMA, the Yerba Buena Center for the Arts, the Museum of the African Diaspora, the Contemporary Jewish Museum, the Cartoon Art Museum, the Children's Creativity

Museum, the California Historical Museum, and others. Multiple hotels and high-rise residential and office buildings are also located in the vicinity, including the W Hotel, the St. Regis Hotel and Residences, the Four Seasons, the Palace Hotel, the Paramount Apartments, One Hawthorne Street, the Westin, the Marriott Marquis, and the Pacific Telephone building. Significant open spaces in the vicinity include Yerba Buena Gardens to the south, and Jessie Square immediately to the west of the Project Site. The Moscone Convention Center facilities are located one block to the southwest, and the edge of the Union Square shopping district is situated two blocks northwest of the site. The Financial District is located in the blocks to the northeast and to the north. The western edge of the recently-adopted Transit Center District Plan area is located one-half block to the east at Annie Street.

4. **Proposed Project.** The Project would rehabilitate the existing 10-story, 144-foot tall Aronson Building, and construct a new, adjacent 43-story tower, reaching a roof height of 480 feet with a 30-foot tall mechanical penthouse. The two buildings would be connected and would contain up to 190 dwelling units, a "core-and-shell" museum space measuring approximately 52,000 square feet that will house the permanent home of the Mexican Museum, and approximately 4,800 square feet of retail space. The project would reconfigure portions of the existing Jessie Square Garage to increase the number of parking spaces from 442 spaces to 470 spaces, add loading and service vehicle spaces, and would allocate up to 190 parking spaces within the garage to serve the proposed residential uses.

The Project includes the reclassification of the subject property from the existing 400-foot height limit to a 480-foot height limit, as well as the adoption of the "Yerba Buena Center Mixed-Use Special Use District" ("SUD"). The proposed SUD would modify specific Planning Code regulations related to permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations.

5. **Public Comment.** As of the date of publication of the staff report, the Department has not received any specific communications related to the requested entitlements. However, numerous written and verbal comments were provided during the public comment period for the draft EIR prepared for the Project. These comments related to a wide variety of topic areas, and were addressed as part of the Comments and Responses document prepared during the environmental review of the Project. Additional written and verbal testimony, both in favor of and in opposition to the Project, was provided at the hearing on May 23, 2013.
6. **Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Floor Area Ratio (Section 124).** Section 124 establishes basic floor area ratios (FAR) for all zoning districts. As set forth in Section 124(a), the FAR for the C-3-R District is 6.0 to 1. Under Sections 123 and 128, the FAR can be increased to a maximum of 9.0 to 1 with the purchase of transferable development rights (TDR).

The Project Site has a lot area of approximately 72,181 square feet. Therefore, up to 433,086 square feet of Gross Floor Area ("GFA") is allowed under the basic FAR limit, and up to

649,629 square feet of GFA is permitted with the purchase of TDR. Certain storage and mechanical spaces, as well as area for accessory parking is excluded from the calculation of GFA. In addition, within C-3 Districts, space devoted to the museum use is also excluded from the calculation of GFA. Subtracting these areas, the Project includes approximately 568,622 sq. ft. of GFA. Therefore, the Project exceeds the maximum FAR limit, unless TDR is purchased. The proposed SUD would exempt the Project from the FAR limitations of Section 124, and the Project would not require the purchase of TDR.

- B. **Use and Dwelling Unit Density.** Section 215(a) allows dwelling units of up to one unit per 125 square feet of lot area within the C-3-R District as a principally permitted use. Section 218 allows retail uses within the C-3-R District as a principally permitted use. Section 221(e) allows recreational uses (such as the proposed museum) within the C-3-R District as a principally permitted use.

The Project Site has a lot area of approximately 72,181 square feet, which would allow up to 577 dwelling units as a principally permitted use. The proposed retail and museum uses are principally permitted. The Project complies with the permitted uses and dwelling unit density allowed by the Code.

- C. **Residential Open Space (Section 135).** Section 135 requires that a minimum of 36 square feet of private usable open space, or 47.9 square feet of common usable open space be provided for dwelling units within C-3 Districts. This Section specifies that the area counting as usable open space must meet minimum requirements for area, horizontal dimensions, and exposure.

Based on the specified ratios, the Project must provide 9,097 square feet of common open space to serve 190 dwelling units. The Project includes a common outdoor terrace on the roof of the Aronson Building that measures 8,625 square feet. In addition, the Project includes a substantial open space area along the frontage of the museum, at the west portion of the ground floor. This area measures approximately 3,500 square feet and would act as a physical and visual extension of Jessie Square. In total, the Project provides approximately 12,125 square feet of common open space that would be usable by residents, and complies with Section 135. In addition, private terraces are provided at the 40th, 42nd, and 43rd floors, in excess of the requirements of Section 135.

- D. **Public Open Space (Section 138).** New buildings in the C-3-R Zoning District must provide public open space at a ratio of one sq. ft. per 100 gross square feet of all uses, except residential uses, institutional uses, and uses in a predominantly retail/personal services building. This public open space must be located on the same site as the building or within 900 feet of it within a C-3 district.

The residential and museum uses in the Project are not subject to the open space requirement of Section 138. While retail and office uses are generally subject to the open space requirements of Section 138, the continuation of the existing retail uses within the Aronson Building would not require the provision of additional open space.

- E. **Streetscape Improvements (Section 138.1).** Section 138.1(b) requires that when a new building is constructed in C-3 Districts, street trees, enhanced paving, and other amenities such as lighting, seating, bicycle racks, or other street furnishings must be provided.

The Project will include appropriate streetscape improvements and will comply with this requirement. The conceptual project plans show the installation of street trees, pervious paving, and street furniture along the Mission and Third Street frontages of the building. The precise location, spacing, and species of the street trees, as well as other streetscape improvements, will be further refined throughout the building permit review process.

- F. **Dwelling Unit Exposure (Section 140).** Section 140 requires that at least one room of all dwelling units face onto a public street, a rear yard, or other open area that meets minimum requirements for dimensions.

Dwelling units on the south side of the Project would have exposure onto Mission Street. Units within the east side of the Aronson Building would have exposure onto Third Street. Units on the east side of the tower at the 15th floor and above would have exposure onto the volume above the Aronson Building, which has a horizontal dimension of approximately 105 feet. This open area meets the minimum dimensions for on-site spaces to provide exposure to the east-facing units in the tower, up to the 20th floor. Above the 20th floor, this space does not meet the minimum required dimensions. Therefore, units that solely have exposure onto this area above the 20th floor, as well as units that have exposure solely to the Westin walkway to the north or to Jessie Square to the west do not meet the requirements for dwelling unit exposure onto on-site open areas.

The proposed SUD would exempt the Project from the exposure requirements of Section 140. It should be noted that Jessie Square and the Westin walkway are open spaces that are unlikely to be developed with structures in the future. Therefore, units that face these areas would continue to enjoy access to light and air. Additionally, units in the Tower that face east would have exposure onto the open area above the Aronson Building, as well as the width of Third Street beyond. Therefore, these units would also continue to enjoy access to light and air.

- G. **Shadows on Public Sidewalks (Section 146).** Section 146(a) establishes design requirements for buildings on certain streets in order to maintain direct sunlight on public sidewalks in certain downtown areas during critical use periods. Section 146(c) requires that other buildings, not located on the specific streets identified in Section 146(a), shall be shaped to reduce substantial shadow impacts on public sidewalks, if it can be done without unduly creating an unattractive design and without unduly restricting development potential.

Section 146(a) does not apply to construction on Mission or Third Streets, and therefore does not apply to the Project.

The Project would add shadows to public sidewalks in the vicinity. The amount of shadow would vary based on time of day, time of year, the height and bulk of intervening existing and proposed development, and climatic conditions (clouds, fog, or sun) on a given day. In certain cases, existing and future development would mask or subsume new shadows from the Project that would otherwise be cast on sidewalks. In addition, because the sun is a disc rather than a single point in the sky, sunlight can "pass around" elements of buildings resulting in a diffuse shadow line (rather than a hard-edged shadow) at points that are distant from the Project.

Given the height of the Project and its location immediately adjacent to certain public sidewalks, it is unavoidable that it would cast new shadows onto sidewalks in the vicinity. However, limiting the Project to avoid casting shadows on sidewalks would contradict a basic premise of the City's Transit First policy and the Downtown Area Plan, which, although not applicable to the Project, offers land use guidance for development at the Project Site. That is, given the proximity of the Project Site to the abundant existing and planned transportation services on Market Street, Mission Street, the future Transit Center, and the future Central Subway, the Project should be developed at a height that creates intense urban development appropriate for a transit-oriented location.

- H. **Shadows on Public Open Spaces (Section 147).** Section 147 seeks to reduce substantial shadow impacts on public plazas and other publicly accessible open spaces other than those protected under Section 295. Consistent with the dictates of good design and without unduly restricting development potential, buildings taller than 50 feet should be shaped to reduce substantial shadow impacts on open spaces subject to Section 147. In determining whether a shadow is substantial, the following factors shall be taken into account: the area shaded, the shadow's duration, and the importance of sunlight to the area in question.

The Project is subject to Section 147, because it would be approximately 510 feet tall to the top of the mechanical screen. In general, the amount of shadow that would be cast by the Project on surrounding open spaces will vary based on time of day, time of year, the height and bulk of intervening existing and proposed development, and climatic conditions (clouds, fog, or sun) on a given day. In certain cases, existing and future development would mask or subsume new shadows from the Project that would otherwise be cast on open spaces.

The Project would cast shadow on two public open spaces that are subject to Section 147. Jessie Square, which is located immediately to the west of the Project, would receive new shadow throughout the year that begins during the early morning hours. The duration and extent of shadow would vary throughout the year, receding by approximately 9:30am during the winter, by approximately 11:00 a.m. in the spring and fall, and by approximately 12:30 pm during the summer. In addition, Yerba Buena Lane would receive new shadow between sunrise and 9:30am during the summer. The new shadowing from the Project is largely unavoidable, given that Jessie Square is located immediately adjacent to the Project Site. A shadow envelope analysis included in the Responses to Comments on the Draft EIR determined that the new shadowing on Jessie Square would be primarily from the base of the building. Furthermore, the shadow envelope analysis determined that the maximum height of a building on the Project Site that would not cast net new shadow on Jessie Square would

vary depending on the building's location on the Project Site. On the western portion of the Project site, which abuts Jessie Square, the maximum height that would not cast net new shadow on Jessie Square would be 20 feet, and the only location on the Project Site where the proposed tower could be constructed without casting net new shadow on Jessie Square would be at the eastern end of the Project Site (above the existing Aronson Building). However, constructing the proposed tower in this location would require the demolition of a portion of the interior of the Aronson Building.

The Project would also cast new shadow on three privately owned, publicly accessible open spaces (POPOS): plaza at 1 Kearny Street, the plaza at 560 Mission Street, and the Westin walkway located immediately north of the Project Site. For the plaza at 1 Kearny Street and the plaza at 560 Mission Streets, the new shadow would be brief in duration and would avoid mid-day shadows when these spaces would be expected to be in heaviest use during lunchtime. The Project would also cast shadow on the Westin walkway. The existing Aronson Building already casts shadow on portions of this walkway at various times throughout the year. The new shadowing from the Project is largely unavoidable, given that the Westin walkway is located immediately adjacent to the Project Site.

Given the height of the Project and its location immediately adjacent to certain public open spaces, it is unavoidable that the Project would cast new shadows onto some open spaces in the vicinity. However, limiting the Project to avoid casting shadows on public open spaces would contradict a basic premise of the City's Transit First policy and the Downtown Area Plan, which, although not applicable to the Project, offers land use guidance for development at the Project Site. That is, given the adjacency of the Project Site to the abundant existing and planned transportation services, the Project should be developed at a height and density that creates intense urban development appropriate for a transit-oriented location. On balance, the Project is not expected to substantially affect the use of open spaces subject to Section 147, and cannot be redesigned to reduce impacts without unduly restricting development potential.

- I. **Off-Street Parking: Non-Residential Uses (Section 151.1).** Pursuant to Section 151.1, non-residential uses in C-3 Districts are not required to provide off-street parking, but may provide a parking area of up to 7% of the gross floor area of the non-residential uses in the Project.

The Project would reconfigure portions of the existing Jessie Square garage to increase the number of parking spaces from 442 spaces to 470 spaces. These additional spaces would be available as general public parking, and would not be assigned to a specific user or tenant. Because the project would not add parking area to the garage that is dedicated to specific non-residential uses in the building, the Project complies with the seven percent maximum allowance for accessory non-residential parking.

- J. **Loading (Section 152.1).** Section 152.1 establishes minimum requirements for off-street loading. In C-3 Districts, the loading requirement is based on the total gross floor area of the structure or use. Table 152.1 requires 3 loading spaces for the residential uses and museum uses on the site. Section 153(a)(6) allows two service

vehicle spaces to be substituted for one freight loading space provided that at least 50% of the total required number of spaces are provided.

With 593,907 square feet residential and museum uses, the Project requires three loading spaces. The Project includes two full-size off-street loading spaces and four service vehicle spaces. The Project complies with the loading requirement.

- K. Bicycle Parking (Section 155.5).** New residential buildings require 25 Class 1 bicycle parking spaces plus one Class 1 bicycle parking space for every four dwelling units over 50.

The Project contains 190 dwelling units, and therefore requires 60 Class 1 bicycle parking spaces. The Project proposes a bicycle storage room with space for 60 bicycles within the subterranean garage, and therefore complies with this requirement. The final number of bicycle parking spaces provided will depend on the final unit count of the Project, but in any event the Project will satisfy bicycle parking requirements.

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- L. Height (Section 260).** Section 260 requires that the height of buildings not exceed the limits specified in the Zoning Map and defines rules for the measurement of height. The Project Site is within the 400-I Height and Bulk District.

The Project would reach a height of 480 feet to the roof, with rooftop mechanical structures and screening reaching a maximum height of approximately 510 feet. Therefore the Project exceeds the existing 400-I Height and Bulk District. The Project Sponsor has proposed to reclassify the Project Site from the 400-I Height and Bulk District to the 480-I Height and Bulk District. Planning Code Section 260(b)(1)(F) currently allows an additional 20 feet of height above the roof to accommodate mechanical structures and screening, and the Project Sponsor has proposed an SUD that would apply to the Project Site that would allow for an additional 30 feet of height above the roof to accommodate mechanical equipment and screening. Should the height reclassification and SUD be adopted by the Board of Supervisors, the Project would comply with the applicable height restrictions.

- M. Bulk (Section 270).** Section 270 establishes bulk controls by district. In the “-I” Bulk District, all portions of the building above a height of 150 feet are limited to a maximum length dimension of 170 feet and a maximum diagonal dimension of 200 feet.

Above a height of 150 feet, the maximum horizontal length of the Project is approximately 123 feet, and the maximum diagonal dimension is approximately 158 feet. Therefore, the Project complies with the bulk controls of the “-I” Bulk District. It should be noted that the SUD proposed for the Project Site would further limit the maximum bulk controls to the maximum horizontal and diagonal dimensions proposed for the Project.

- N. Shadows on Parks (Section 295).** Section 295 requires any project proposing a structure exceeding a height of 40 feet to undergo a shadow analysis in order to determine if the project will result in the net addition of shadow to properties under the jurisdiction of the Recreation and Park Department.

A technical memorandum, prepared by Turnstone Consulting, was submitted on June 9, 2011, analyzing the potential shadow impacts of the Project (at its originally proposed 520-foot roof height) to properties under the jurisdiction of the Recreation and Parks Department (Case No. 2008.1084K). The memorandum concluded that the Project would cast 337,744 sfh of net new shadow on Union Square on a yearly basis, which would be an increase of about 0.09% of the theoretical annual available sunlight ("TAAS") on Union Square. On May 21, 2013, a technical memorandum prepared by Turnstone Consulting was submitted analyzing the shadow impacts of the Project on Union Square, based on the reduced 480-foot roof height. The memorandum concluded that the Project would cast 238,788 sfh of net new shadow on Union Square on a yearly basis, which would be an increase of about 0.06% of the Theoretically Available Annual Sunlight ("TAAS") on Union Square

The Planning Commission and the Recreation and Park Commission held a duly advertised joint public hearing on May 23, 2013 and adopted Resolution No. 18876 and Recreation and Park Commission Resolution No. 1305-014, amending the absolute cumulative limit ("ACL") for Union Square to (a) include the approximately 194,293 sfh of shadow (equal to 0.05% of the TAAS) that resulted from a 1996 project modifying the Macy's department store that reduced shadow on Union Square (the "Macy's Adjustment") that had not been previously added back to the ACL for Union Square and (b) increase the ACL by an additional 44,495 sfh of net new shadow (equal to 0.01% of the TAAS). At the same hearing, the Recreation and Park Commission conducted a duly notice public hearing at regularly scheduled meeting and recommended that the Planning Commission find that the shadows cast by the Project on Union Square will not be adverse to the use of the park. At the same hearing, the Planning Commission adopted Motion No. 18877 finding that the shadow cast by the Project would not be adverse to the use of Union Square, and allocated the cumulative shadow limit to the Project.

- O. **Inclusionary Affordable Housing Program (Section 415).** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, the current percentage requirements apply to projects that consist of ten or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 415.5, the Project must pay the Affordable Housing Fee ("Fee"). This Fee is made payable to the Department of Building Inspection ("DBI") for use by the Mayor's Office of Housing for the purpose of increasing affordable housing citywide.

The Project Sponsor has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program through payment of the Fee, in an amount to be established by the Mayor's Office of Housing at a rate equivalent to an off-site requirement of 20%. The Project Sponsor has not selected an alternative to payment of the Fee. The EE application was submitted on September 11, 2008. It should be noted that, through the transactional documents between the Project Sponsor and the Successor Agency, the project

will contribute an additional affordable housing fee to the Successor Agency equal to 8% of the residential units.

- P. **Public Art (Section 429).** In the case of construction of a new building or addition of floor area in excess of 25,000 square feet to an existing building in a C-3 District, Section 429 requires a project to include works of art costing an amount equal to one percent of the construction cost of the building, or to pay a Public Art Fee.

The Project would comply by dedicating one percent of construction cost to works of art, or through payment of the Public Art Fee.

7. **Exceptions Request Pursuant to Planning Code Section 309.** The Planning Commission has considered the following exceptions to the Planning Code, makes the following findings and grants each exception as further described below:

- A. **Rear Yard (Section 134).** Section 134(a)(1) of the Planning Code requires a rear yard equal to 25 percent of the lot depth to be provided at the first level containing a dwelling unit, and at every subsequent level. Per Section 134(d), exceptions to the rear yard requirements may be granted provided that the building location and configuration assure adequate light and air to the residential units and the open space provided.

The property fronts on both Mission and Third Streets. Therefore, a complying rear yard would be situated toward the interior of the property, either abutting the Westin walkway or Jessie Square. It is unlikely that these open areas on the adjacent properties would be redeveloped in the foreseeable future. Therefore, adequate light and separation will be provided by the open spaces for residential units within the Project. As described in Item #6C above, the Project exceeds the Code requirements for common and private residential open space. In addition, residents would have convenient access to Jessie Plaza, Yerba Buena Gardens, and other large open public open spaces in the vicinity. Therefore, it is appropriate to grant an exception from the rear yard requirements.

- B. **Ground-Level Wind Currents (Section 148).** In C-3 Districts, buildings and additions to existing buildings shall be shaped, or other wind-baffling measures shall be adopted, so that the developments will not cause ground-level wind currents to exceed more than 10 percent of the time year round, between 7:00 a.m. and 6:00 p.m., the comfort level of 11 miles per hour equivalent wind speed in areas of substantial pedestrian use and seven miles per hour equivalent wind speed in public seating areas.

When preexisting ambient wind speeds exceed the comfort level, or when a proposed building or addition may cause ambient wind speeds to exceed the comfort level, the building shall be designed to reduce the ambient wind speeds to meet the requirements. An exception may be granted, in accordance with the provisions of Section 309, allowing the building or addition to add to the amount of time that the comfort level is exceeded by the least practical amount if (1) it can be shown that a

building or addition cannot be shaped and other wind-baffling measures cannot be adopted to meet the foregoing requirements without creating an unattractive and ungainly building form and without unduly restricting the development potential of the building site in question, and (2) it is concluded that, because of the limited amount by which the comfort level is exceeded, the limited location in which the comfort level is exceeded, or the limited time during which the comfort level is exceeded, the addition is insubstantial.

Section 309(a)(2) permits exceptions from the Section 148 ground-level wind current requirements. No exception shall be granted and no building or addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard level of 26 miles per hour for a single hour of the year.

Independent consultants analyzed ground-level wind currents in the vicinity of the Project Site. A wind tunnel analysis, the results of which are included in the EIR, was conducted using a scale model of the Project Site and its immediate vicinity. Measurements were taken at 95 test points. On May 21, 2013, a supplemental wind analysis was submitted by RWDI stating that the reduction in the height of the Project would not change these results.

Comfort Criterion

Without the Project, 67 of the 95 test points currently exceed the comfort criteria. With the Project, wind conditions would change only minimally. The average wind speed would increase from 12.6 to 12.7 mph. Seven of the existing comfort exceedances would be eliminated, and nine new exceedances would be created, for a net increase of two exceedances. An exception under Section 148 (a) is therefore required.

An exception is justified under the circumstances, because the changes in wind speed and frequency due to the Project are slight and unlikely to be noticeable. In the aggregate, the average wind speed across all test points (nine mph) would not change appreciably, nor would the amount of time (17 percent) during which winds exceed the applicable criteria. The Project would not create any new exceedances in areas used for public seating.

The Project incorporates several design features intended to baffle winds and reduce ground-level wind speeds. The third floor of the museum cantilevers over the on-site open space below, shielding this open space and redirecting some wind flows away from Jessie Square. The exterior of this cantilever includes projecting fins that will capture and diffuse winds before reaching the ground. In addition, the exterior of the museum at the first and second floors is chamfered to avoid localized wind eddies that would result from a typical rectilinear exterior. Beyond these measures, the Project cannot be shaped or incorporate additional wind-baffling measures that would reduce the wind speeds to comply with Section 148(a) without creating an unattractive building or unduly restricting the development potential of the Project Site. Construction of the Project would have a negligible affect on wind conditions, which would remain virtually unchanged.

For these reasons, an exception from the comfort criterion is appropriate and hereby granted.

Hazard Criterion

The Project would comply with the wind hazard criterion. The wind tunnel test indicated that four of the 95 test points currently do not meet the wind hazard criterion. At two existing hazard exceedance locations at the intersection of Third and Market Streets, the Project would increase wind speeds by approximately 1 mph, with increased duration of approximately three to four hours per year. The Project would reduce wind speeds at the two other existing hazard exceedance locations. At a test point near the entrance to Yerba Buena Gardens on the south side of Mission Street, wind speeds would decrease by approximately 1 mph, with a decreased duration of approximately five hours per year. At a test point at Yerba Buena Lane, wind speeds would decrease by approximately 8 mph, with a decreased duration of approximately 92 hours per year. The Project would not create new hazard exceedances, and on balance, would improve wind conditions at the locations of existing hazard exceedances.

- C. **Off-Street Parking – Residential Use (Section 151.1).** Pursuant to Section 151.1, residential uses in C-3 Districts are not required to provide off-street parking, but may provide up to .25 cars per dwelling unit as-of-right. Residential uses may provide up to .75 cars per dwelling unit (or up to one car for each dwelling unit with at least two bedrooms and at 1,000 square feet of floor area), if the Commission makes findings in accordance with Section 151.1(f).

With 190 dwelling units, the project may provide 48 off-street parking spaces as of right. The total number of spaces allowed as-of-right will depending on the final unit count. All dwelling units in the project have at least two bedrooms and exceed 1,000 square feet of floor area. Therefore, based on the ratios specified in Section 151.1, up to 190 spaces would be allowed to serve the Project if the Commission makes the findings specified in Section 151.1(f). These findings are as follows:

- a. For projects with 50 units or more, all residential accessory parking in excess of 0.5 parking spaces for each dwelling unit shall be stored and accessed by mechanical stackers or lifts, valet, or other space-efficient means that allows more space above-ground for housing, maximizes space efficiency and discourages use of vehicles for commuting or daily errands. The Planning Commission may authorize the request for additional parking notwithstanding that the project sponsor cannot fully satisfy this requirement provided that the project sponsor demonstrates hardship or practical infeasibility (such as for retrofit of existing buildings) in the use of space-efficient parking given the configuration of the parking floors within the building and the number of independently accessible spaces above 0.5 spaces per unit is de minimus and subsequent valet operation or other form of parking space management could not significantly increase the capacity of the parking space above the maximums in Table 151.1.

Residential parking spaces would be provided in an existing underground garage accessible to Project residents via a car elevator managed by a valet operation.

- b. For any project with residential accessory parking in excess of 0.375 parking spaces for each dwelling unit, the project complies with the housing requirements of Sections 415 through 415.9 of this Code except as follows: the

inclusionary housing requirements that apply to projects seeking conditional use authorization as designated in Section 415.3(a)(2) shall apply to the project.

The Project does not require Conditional Use authorization.

- c. Vehicle movement on or around the project site associated with the excess accessory parking does not unduly impact pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in the district.

While the parking is being provided at the maximum possible 1:1 ratio, the relatively small number of 190 off-street parking spaces is not expected to generate substantial traffic that would adversely impact pedestrian, transit, or bicycle movement. Given the proximity of the Project Site to the employment opportunities and retail services of the Downtown Core, it is expected that residents will opt to prioritize walking, bicycle travel, or transit use over private automobile travel. In addition, the proposed residential spaces are being reallocated from spaces within the existing garage that are currently used for general public parking. Residential uses generally generate fewer daily trips than the uses that are served by the existing public parking. Therefore, the conversion of spaces for residential use would not create new vehicular movement compared with existing conditions.

The Project also proposes to utilize an existing curb cut on Third Street for ingress-only vehicular access for residents. This curb-cut would access a driveway leading to two valet-operated car elevators, which would move vehicles into the Jessie Square garage. This curb cut was previously used to access a loading dock for the Aronson Building. This loading dock would be demolished as part of the Project. The EIR concludes that the Project, including the use of the existing curb-cuts on Third Street and Mission Street, would not result in any significant pedestrian impacts, such as overcrowding on public sidewalks or creating potentially hazardous conditions. Given the limitations on the use of the curb cut (for inbound, valet service only), and given that the use of the curb cut would not cause any significant pedestrian impacts, the exception to allow the Project to utilize the Third Street curb cut is appropriate. However, because there could be improvements that might enhance pedestrian comfort and/or provide pedestrian amenities at the Project Site and in the vicinity, a condition of approval has been added requiring that the Project Sponsor collaborate with the Planning Department, DPW, and SFMTA to conduct a study to assess the existing pedestrian environment on the subject block, and to make recommendations for improvements that could be implemented to enhance pedestrian comfort and provide pedestrian amenities.

- d. Accommodating excess accessory parking does not degrade the overall urban design quality of the project proposal.
- e. All parking in the project is set back from facades facing streets and alleys and lined with active uses, and that the project sponsor is not requesting any exceptions or variances requiring such treatments elsewhere in this Code.

- f. Excess accessory parking does not diminish the quality and viability of existing or planned streetscape enhancements.

All parking for the Project is located within an existing subterranean garage and would not be visible from the public right-of-way. The Project will improve the streetscape by planting street trees and complying with similar streetscape requirements. Furthermore, improvement measures been imposed to improve the streetscape and pedestrian conditions by eliminating pole clutter and reducing pedestrian obstructions along Third Street. Thus, access to the accessory parking via Third Street would not degrade the overall urban design quality of the Project or the quality or viability of existing or planned street enhancements.

- g. In granting approval for such accessory parking above that permitted by right, the Commission may require the property owner to pay the annual membership fee to a certified car-share organization, as defined in Section 166(b)(2), for any resident of the project who so requests and who otherwise qualifies for such membership, provided that such requirement shall be limited to one membership per dwelling unit, when the following findings are made by the Commission:

(i) That the project encourages additional private-automobile use, thereby creating localized transportation impacts for the neighborhood.

(ii) That these localized transportation impacts may be lessened for the neighborhood by the provision of car-share memberships to residents.

Conditions of approval have been added requiring that the property owner provide membership to a certified car-share organization to any resident who so requests, limited to one membership per household.

- D. **Standards for Off-Street Parking and Loading (Section 155).** Section 155 regulates the design of parking and loading facilities. Section 155(r)(4) specifies that no curb cuts may be permitted on the segment of Third Street abutting the Project. Within the C-3 Districts, the Planning Commission may grant an exception for this curb cut through the Section 309 Review process. Section 155(r)(3) specifies that no curb cuts may be permitted on the segment of Mission Street abutting the Project, except through Conditional Use authorization.

The SUD proposed for the Project would modify the regulations of Section 155 to allow a curb cut on Mission Street through an exception granted through the Section 309 review process, rather than through Conditional Use authorization. Currently, the Jessie Square garage is accessed for ingress and egress via a driveway from Stevenson Street, as well as an egress-only driveway that exits onto Mission Street. The Project would retain the Mission Street curb cut, but would relocate it slightly, approximately 2.5 feet to the east, and would remain for egress only from Jessie Square Garage. The exception for Mission Street is appropriate given that the existing curb cut would only be relocated slightly and would remain for egress only from Jessie Square Garage. This curb cut would continue its present function to provide egress from the

Jessie Street garage, helping to divide vehicular travel between the Stevenson Street and Mission Street driveways.

The Project also proposes to utilize an existing curb cut on Third Street for ingress-only vehicular access for residents. This curb-cut would access a driveway leading to two valet-operated car elevators, which would move vehicles into the Jessie Square garage. This curb cut was previously used to access a loading dock for the Aronson Building. This loading dock would be demolished as part of the Project. The EIR concludes that the Project, including the use of the existing curb-cuts on Third Street and Mission Street, would not result any significant pedestrian impacts, such as overcrowding on public sidewalks or creating potentially hazardous conditions. Given the limitations on the use of the curb cut (for inbound, valet service only), and given that the use of the curb cut would not cause any significant pedestrian impacts, the exception to allow the Project to utilize the Third Street curb cut is appropriate. However, because there could be improvements that might enhance pedestrian comfort and/or provide pedestrian amenities at the Project Site and in the vicinity, a condition of approval has been added requiring that the Project Sponsor collaborate with the Planning Department, DPW, and SFMTA to conduct a study to assess the existing pedestrian environment on the subject block, and to make recommendations for improvements that could be implemented to enhance pedestrian comfort and provide pedestrian amenities.

8. **General Plan Conformity.** The Project would affirmatively promote the following objectives and policies of the General Plan:

**HOUSING ELEMENT:
Objectives and Policies**

OBJECTIVE 1

TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.

Policy 1.1:

Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households.

Policy 1.3

Identify opportunities for housing and mixed-use districts near downtown and former industrial portions of the City.

Policy 1.4:

Locate in-fill housing on appropriate sites in established residential neighborhoods.

The Project would add residential units to an area that is well-served by transit, services, and shopping opportunities. The Project Site is suited for dense residential development, where residents can commute and satisfy convenience needs without frequent use of a private automobile. The Project Site is located immediately adjacent to employment opportunities within the Downtown Core, and is in an area with abundant local- and region-serving transit options, including the future Transit Center.

URBAN DESIGN ELEMENT: Objectives and Policies

The Urban Design Element of the General Plan contains the following relevant objectives and policies:

OBJECTIVE 3:

MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

Policy 3.1:

Promote harmony in the visual relationships and transitions between new and older buildings.

Policy 3.6:

Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction.

Most buildings in the immediate area are high-rises. The Project would not dominate or otherwise overwhelm the area, as many existing and proposed buildings are substantially taller than the proposed Project. The Project's contemporary design would complement existing and planned development in the area. Furthermore, the Project would promote a varied and visually appealing skyline by contributing to the wide range of existing and proposed building heights in the Downtown / South of Market area.

The tower is designed to be compatible with the historic Aronson Building, and the proposed massing and articulation of the tower differentiate the two buildings, allowing each to maintain a related but distinct character and physical presence.

COMMERCE AND INDUSTRY ELEMENT: Objectives and Policies

The Commerce and Industry Element of the General Plan contains the following relevant objectives and policies:

OBJECTIVE 1:

Manage economic growth and change to ensure enhancement of the total city living and working environment.

Policy 1.1:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

OBJECTIVE 2:

Maintain and enhance a sound and diverse economic base and fiscal structure for the city.

Policy 2.3:

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The Project Site is located in an area already characterized by a significant cluster of arts, culture, and entertainment destinations. The proposed Project will add substantial economic benefits to the City, and will contribute to the vitality of this district, in an area well served by hotels, shopping and dining opportunities, public transit, and other key amenities and infrastructure to support tourism.

ARTS ELEMENT:

Objectives and Policies

The Arts Element of the General Plan contains the following relevant objectives and policies:

OBJECTIVE I-1:

RECOGNIZE THE ARTS AS NECESSARY TO THE QUALITY OF LIFE FOR ALL SEGMENTS OF SAN FRANCISCO.

Policy I-1.2:

Officially recognize on a regular basis the contributions arts make to the quality of life in San Francisco.

OBJECTIVE I-2:

Increase the contribution of the arts to the economy of San Francisco.

Policy I-2.1:

Encourage and promote opportunities for the arts and artists to contribute to the economic development 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.

OBJECTIVE VI-1:

Support the continued development and preservation of artists' and arts organizations' spaces.

Policy VI-1.11:

Identify, recognize, and support existing arts clusters and, wherever possible, encourage the development of clusters of arts facilities and arts related businesses throughout the city.

The Project will result in the creation of a permanent home for the Mexican Museum, strengthening the recognition and reputation of San Francisco as a city that is supportive of the arts. Such activities enhance the recreational and cultural vitality of San Francisco, bolster tourism, and support the local economy by drawing regional, national, and international patrons.

**TRANSPORTATION ELEMENT:
Objectives and Policies**

~~The Transportation Element of the General Plan contains the following relevant objectives and policies:~~

OBJECTIVE 2:

USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

Policy 2.1:

Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development.

The Project is located within an existing high-density urban context. The Downtown Core has a multitude of transportation options, and the Project Site is within walking distance of the Market Street transit spine, the future Transit Center, and the future Central Subway, and thus would make good use of the existing and planned transit services available in this area and would assist in maintaining the desirable urban characteristics and services of the area. The walkable and transit-rich location of the Project will encourage residents and visitors to seek transportation options other than private automobile use.

9. **Priority Policy Findings.** Section 101.1(b) establishes eight priority planning policies and requires the review of permits for consistency with said policies. The Project complies with these policies, on balance, as follows:

- A. That existing neighborhood-serving retail/personal services uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

The Project would include approximately 4,800 sq. ft. of retail uses at the ground-floor. These uses would provide goods and services to downtown workers, residents, and visitors, while creating ownership and employment opportunities for San Francisco residents. The addition of residents and museum visitors will strengthen the customer base of businesses in the area.

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

The Project will not displace any existing housing, and will add new residential units, retail spaces, and a museum to enhance the character of a district already characterized by intense, walkable urban development. The Project would be compatible with the character of the downtown area.

- C. That the City's supply of affordable housing be preserved and enhanced.
The Project would enhance the City's supply of affordable housing by participating in the Inclusionary Affordable Housing Program. Specifically, the Project Sponsor will pay an in-lieu fee at a rate equivalent to an off-site requirement of 20%. It should be noted that, through the transactional documents between the Project Sponsor and the Successor Agency, the project will contribute an additional affordable housing fee to the Successor Agency equal to 8% of the residential units.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The Project Site is situated in the downtown core and is well served by public transit, and is located within walking distance of abundant retail goods and services. The Project Site is located just one block from Market Street, a major transit corridor that provides access to various Muni and BART lines. In addition, the Project Site is within two blocks of the future Transbay Terminal (currently under construction) providing convenient access to other transportation services. Parking for the residential uses will occupy spaces within the existing Jessie Square garage. Neighborhood parking would not be overburdened.

- E. 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 Site does not contain any industrial uses. Retail space will be retained within the ground-floor of the Aronson Building, and the establishment of the Mexican Museum will provide additional employment opportunities.

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

The rehabilitation of the Aronson Building, as well as the construction of the new tower will comply with all current structural and seismic requirements under the San Francisco Building Code.

- G. That landmarks and historic buildings be preserved.

The Project includes the rehabilitation of the Aronson Building, a Category I (Significant) building under Article 11 of the Planning Code, located within the New Montgomery-Mission-Second Street Conservation District. The Project would not negatively affect any historic resources.

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

A technical memorandum, prepared by Turnstone Consulting, was submitted on June 9, 2011, analyzing the potential shadow impacts of the Project to properties under the jurisdiction of the Recreation and Parks Department (Case No. 2008.1084K). The memorandum concluded that the Project would cast 337,744 sft of net new shadow on Union Square on a yearly basis, which would be an increase of about 0.09% of the theoretical annual available sunlight ("TAAS") on Union Square. On May 21, 2013, a technical memorandum prepared by Turnstone Consulting was submitted analyzing the shadow impacts of the Project on Union Square, based on the reduced 480-foot roof height. The memorandum concluded that the Project would cast 238,788 sft of net new shadow on Union Square on a yearly basis, which would be an increase of about 0.06% of the Theoretically Available Annual Sunlight ("TAAS") on Union Square.

The Planning Commission and the Recreation and Park Commission held a duly advertised joint public hearing on May 23, 2013 and adopted Resolution No. 18876 and Recreation and Park Commission Resolution No. 1305-014, amending the absolute cumulative limit ("ACL") for Union Square to (a) include the approximately 194,293 sft of shadow (equal to 0.05% of the TAAS) that resulted from a 1996 project modifying the Macy's department store that reduced shadow on Union Square (the "Macy's Adjustment") that had not been previously added back to the ACL for Union Square and (b) increase the ACL by an additional 44,495 sft of net new shadow (equal to 0.01% of the TAAS). At the same hearing, the Planning Commission adopted Motion No. 18877 finding that the shadow cast by the Project would not be adverse to the use of Union Square, and allocated the cumulative shadow limit to the Project.

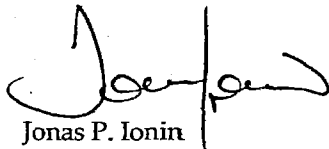
10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Section 309 Determination of Compliance and Request for Exceptions would promote the health, safety, and welfare of the City.

DECISION

Based upon the whole record, the submissions by the Project Sponsor, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, in accordance with the standards specified in the Code, the Commission hereby **APPROVES Application No. 2008.1084X** and grants exceptions to Sections 134, 148, 151.1, and 155 pursuant to Section 309, subject to the following conditions attached hereto as Exhibit A which are incorporated herein by reference as though fully set forth, in general conformance with the plans stamped Exhibit B and on file in Case Docket No. 2008.1084X.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Determination of Compliance and Request for Exceptions to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals in person at 1650 Mission Street, Room 304 or call (415) 575-6880.

I hereby certify that the foregoing Motion was **ADOPTED** by the Planning Commission at its regular meeting on May 23, 2013



Jonas P. Ionin
Acting Commission Secretary

AYES: Fong, Antonini, Hillis, Borden

NOES: Moore, Sugaya, Wu

ABSENT:

ADOPTED: May 23, 2013

EXHIBIT A

AUTHORIZATION

This authorization is to grant a Planning Code Section 309 Determination of Compliance and Request for Exceptions, in connection with a project to rehabilitate an existing 10-story, 144-foot tall building (the Aronson Building), and construct a new, adjacent 43-story tower, reaching a roof height of 480 feet with a 30-foot tall mechanical penthouse. The two buildings would be connected and would contain up to 190 dwelling units, a "core-and-shell" museum space measuring approximately 52,000 square feet, and approximately 4,800 square feet of retail space. The project would reconfigure portions of the existing Jessie Square Garage to increase the number of parking spaces from 442 spaces to 470 spaces, add loading and service vehicle spaces, and would allocate up to 190 parking spaces within the garage to serve the proposed residential uses. The project is located at 706 Mission Street, Lots 093, 275, and portions of Lot 277 within Assessor's Block 3706 ("Project Site"), within the C-3-R District and the 400-I Height and Bulk District. The Project shall be completed in general conformance with plans dated May 23, 2013 and stamped "EXHIBIT B" included in the docket for Case No. 2008.1084X and subject to conditions of approval reviewed and approved by the Commission on May 23, 2013 under Motion No. 18894. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on May 23, 2013 under Motion No 18894.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18894 shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference to the Section 309 Determination of Compliance and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Section 309 Determination of Compliance.

Conditions of approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. Validity and Expiration for Rezoning and Text Map Amendment Applications. The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. The construction of the approved Project shall commence within three (3) years from the date that the Planning Code text amendment(s) and/or Zoning Map amendment(s) become effective, or this authorization shall no longer be valid. A building permit from the Department of Building Inspection to construct the project and commence the approved use must be issued as this Section 309 Determination of Compliance is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

2. Extension. This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

3. Additional Project Authorization. The Project Sponsor must obtain a height reclassification from the 400-I Height and Bulk District to the 480-I Height and Bulk District, along with Zoning Text Amendment and Zoning Map Amendment to adopt the "Yerba Buena Center Mixed-Use Special Use District" associated with the Project for the subject property. The Project also requires findings under Section 295 to raise the absolute cumulative shadow limit for Union Square, and to determine that the shadow cast by the project on Union Square would not be adverse to the use of the park. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

4. Shadow Analysis. Prior to the issuance of a site permit, the Project Sponsor shall submit an updated technical shadow analysis for the Project which reflects the final building envelope authorized by this approval. The content of the technical shadow analysis shall be subject to review and approval by the Planning Department, and shall quantify the amount of net new shadow that would be cast by the Project on Union Square.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

5. Mitigation Measures. Mitigation measures and improvement measures described in the MMRP attached as Exhibit A to Motion No. 18875 are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN – COMPLIANCE AT PLAN STAGE

6. Final Materials. The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance. In particular, the Project may be further refined to provide a unique identity for the Mexican Museum, with particular attention given to

- Color and texture of exterior materials.
- Amount, location, and transparency of glazing
- Signage

Further design development of the Project, including the Mexican Museum, may be approved administratively by the Planning Department provided that such design development substantially conforms to the Architectural Design Intent Statement contained in the Environmental Impact Report for the project, and that the design development does not result in any new or substantially more severe environmental impacts than disclosed in the Environmental Impact Report for the Project.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

7. Garbage, composting and recycling storage. Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

8. Rooftop Mechanical Equipment. Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

9. Streetscape Plan. Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan generally meets the standards of the Better Streets Plan and all applicable City standards. The Project Sponsor shall complete final design of all required street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda, and shall complete construction of all required street improvements prior to issuance of first temporary certificate of occupancy.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

10. Signage. The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff before submitting any building permits for construction of the Project. All subsequent sign permits shall conform to the approved signage program. Once approved by the Department, the signage program/plan information shall be submitted and approved as part of the site permit for the Project. All exterior signage shall be designed to compliment, not compete with, the existing architectural character and architectural features of the building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

11. Transformer Vault. The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:

1. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
2. On-site, in a driveway, underground;
3. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
4. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
5. Public right-of-way, underground; and based on Better Streets Plan guidelines;
6. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
7. On-site, in a ground floor façade (the least desirable location).

Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

12. Overhead Wiring. The Property owner will allow MUNI to install eyebolts in the building adjacent to its electric streetcar line to support its overhead wire system if requested by MUNI or MTA.

For information about compliance, contact San Francisco Municipal Railway (Muni), San Francisco Municipal Transit Agency (SFMTA), at 415-701-4500, www.sfmta.org

13. Noise, Ambient. Interior occupiable spaces shall be insulated from ambient noise levels. Specifically, in areas identified by the Environmental Protection Element, Map1, "Background Noise Levels," of the General Plan that exceed the thresholds of Article 29 in the Police Code, new developments shall install and maintain glazing rated to a level that insulate interior occupiable areas from Background Noise and comply with Title 24.

For information about compliance, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org

14. Street Trees. Pursuant to Planning Code Section 138.1 (formerly 143), the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that street trees, at a ratio of one street tree of an approved species for every 20 feet of street frontage along public or private streets bounding the Project, with any remaining fraction of 10 feet or more of frontage requiring an extra tree, shall be provided. The street trees shall be evenly spaced along the street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements may be modified or waived by the Zoning Administrator to the extent necessary.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

PARKING AND TRAFFIC

15. Pedestrian Conditions Analysis. Prior to the issuance of site permit, the Project Sponsor shall collaborate with the Planning Department, DPW, and SFMTA to conduct a study of pedestrian conditions on Block 3706. The scope of the study shall be determined by the Planning Department, and shall be subject to review and approval by the Planning Director. The study shall evaluate the feasibility and desirability of measures and treatments to enhance pedestrian comfort and accessibility in the area, and, in particular, shall make recommendations for improving the pedestrian realm along the western side of Third Street between Market Street and Mission Street. Measures and amenities that would enhance pedestrian comfort and accessibility to be assessed for feasibility include the construction of bulb-outs at the intersection of Third and Mission Streets, additional signage, alternative pavement treatment for sidewalks at driveways, audible signals at driveways, the reconfiguration of the porte-cochere at the Westin Hotel to eliminate one of its two existing curb cuts, and the potential for reconfiguration of other parking and loading strategies in the area. The Project Sponsor shall cooperate with the City in seeking the consent to participating in such measures by other property owners on Third Street between Mission and Market Streets, provided that such measures shall not be required for the project where such consent or participation cannot be secured in a reasonable, timely, and economic manner.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

16. Car Share. Pursuant to Planning Code Section 166, no fewer than two car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services

for its service subscribers. A reduction in the number of dwelling units may result in a proportionate reduction in the required number of car share parking spaces, consistent with the ratios specified in Section 166.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

17. Car Share Memberships. Pursuant to Section 151.1(1)(f)(2), the Project Sponsor or successor property owners shall pay the annual membership fee to a certified car-share organization for any resident of the project who so requests and otherwise qualifies for such membership, provided that such requirement shall be limited to one membership per dwelling unit.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

18. Bicycle Parking. The Project shall provide no fewer than 60 Class 1 bicycle parking spaces as required by Planning Code Sections 155.1 and 155.5. A reduction in the number of dwelling units may result in a proportionate reduction in the required number of bicycle parking spaces, consistent with the ratios specified in Section 155.5.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

19. Parking Maximum. Pursuant to Planning Code Section 151.1, the Project shall provide no more than 190 off-street parking spaces to serve the residential units, at a ratio of one space per dwelling unit. Any reduction in the number of dwelling units shall require a proportionate reduction in the maximum number of allowable parking spaces

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

20. Off-street Loading. Pursuant to Planning Code Section 152, the Project will provide two full-sized off-street loading spaces, and four service vehicle spaces.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

21. Managing Traffic During Construction. The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PROVISIONS

22. First Source Hiring. The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator,

pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org

23. Transit Impact Development Fee. Pursuant to Planning Code Section 411 (formerly Chapter 38 of the Administrative Code), the Project Sponsor shall pay the Transit Impact Development Fee (TIDF) as required by and based on drawings submitted with the Building Permit Application. Prior to the issuance of a temporary certificate of occupancy, the Project Sponsor shall provide the Planning Director with certification that the fee has been paid.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

24. Inclusionary Affordable Housing Program.

a. **Requirement.** Pursuant to Planning Code 415.5, the Project Sponsor must pay an Affordable Housing Fee at a rate equivalent to the applicable percentage of the number of units in an off-site project needed to satisfy the Inclusionary Affordable Housing Program Requirement for the principal project. The applicable percentage for this project is twenty percent (20%).

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

b. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and the terms of the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing ("MOH") at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at: <http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale or rent.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

i. The Project Sponsor must pay the Fee in full sum to the Development Fee Collection Unit at the DBI for use by MOH prior to the issuance of the first construction document, with an option for the Project Sponsor to defer a portion of the payment prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be deposited into the Citywide Inclusionary Affordable Housing Fund in accordance with Section 107A.13.3 of the San Francisco Building Code.

- ii. Prior to the issuance of the first construction permit by the DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOH or its successor.
- iii. If project applicant fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Sections 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all other remedies at law.

25. Art - C-3 District. Pursuant to Planning Code Section 429 (formerly 149), the Project shall either include work(s) of art valued at an amount equal to one percent of the hard construction costs for the Project as determined by the Director of the Department of Building Inspection, or shall comply with the requirements of Section 429 through the payment of the Public Art Fee. The Project Sponsor shall provide to the Director necessary information to make the determination of construction cost hereunder.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

26. Art Plaques - C-3 District. Pursuant to Planning Code Section 429(b) (formerly 149(b)), if the Project Sponsor elects to satisfy the requirements of Section 429 by providing works of art on-site, the Project Sponsor shall provide a plaque or cornerstone identifying the architect, the artwork creator and the Project completion date in a publicly conspicuous location on the Project Site. The design and content of the plaque shall be approved by Department staff prior to its installation.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

27. Art - C-3 District. Pursuant to Planning Code Section 429 (formerly 149), if the Project Sponsor elects to satisfy the requirements of Section 429 by providing works of art on-site, the Project Sponsor and the Project artist shall consult with the Planning Department during design development regarding the height, size, and final type of the art. The final art concept shall be submitted for review for consistency with this Motion by, and shall be satisfactory to, the Director of the Planning Department in consultation with the Commission. The Project Sponsor and the Director shall report to the Commission on the progress of the development and design of the art concept prior to the submittal of the first building or site permit application

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

28. Art - C-3 District. Pursuant to Planning Code Section 429 (formerly 149), if the Project Sponsor elects to satisfy the requirements of Section 429 by providing works of art on-site, prior to issuance of any certificate of occupancy, the Project Sponsor shall install the public art generally as described in this Motion and make it available to the public. If the Zoning Administrator concludes that it is not feasible to install the work(s) of art within the time herein specified and the Project Sponsor provides adequate

assurances that such works will be installed in a timely manner, the Zoning Administrator may extend the time for installation for a period of not more than twelve (12) months.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

29. Enforcement. Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

30. Revocation due to Violation of Conditions. Should implementation of this Project result in ~~complaints from interested property owners, residents, or commercial lessees which are not resolved by~~ the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

31. Garbage, Recycling, and Composting Receptacles. Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

32. Sidewalk Maintenance. The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

33. Community Liaison. Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made

aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

34. Lighting. All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org



Department of Public Works
Office of the City and County Surveyor
1155 Market Street, 3rd Floor
San Francisco, CA 94103

Bruce R. Storrs, City and County Surveyor

Edwin M. Lee, Mayor
Mohammed Nuru, Director
Fuad S. Sweiss, PE, PLS,
City Engineer & Deputy Director of Engineering

Martin M. Ron & Associates, Inc.
859 Harrison Street, Suite 200
San Francisco, CA 94107

Vesting Tentative Map Approval
PID: 7970
Assessor's Block No. 3706 Lot(s) 093, 275, 277
Address: 700, 706, 738 Mission Street 86 Third Street
Project type: 5 Lot Airspace 190 Unit Mixed-Use New Construction
Date: April 28, 2014 <i>Updated to clarify this is a Vesting Map Approval on May 1, 2014</i>

Dear Mr. Ben Ron, PLS:

The Vesting Tentative Map which you submitted to this Agency for review is approved, subject to compliance with the following:

The C.C.S.F. Planning Code and all Planning Department conditions outlined in the attached Planning Department memo dated January 6, 2014.

Copy of Planning Department approval/conditions (check if attached)

The C.C.S.F. Building Code and all Department of Building Inspection conditions outlined in the attached D.B.I. memo dated

Copy of D.B.I. approval/conditions (check if attached)

The C.C.S.F. Office of Community Investment and Infrastructure - San Francisco Redevelopment Agency, Successor Agency conditions outlined in the attached S.F.R.A. memo received January 9, 2014.

Copy of O.C.I.I. - S.F.R.A. approval/conditions (check if attached)

The C.C.S.F. Subdivision Code and the California State Map Act

Additionally, please submit:

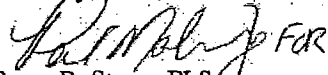
One (1) Check Print in PDF format of the final version of this map

One (1) copy of C.F.C. (Certificate of Final Completion)

One (1) copy of the Map Checklist (found at our website under: "Information for Mapping Professionals")

Do not submit check prints without complying with ALL of the above.
Incomplete submittals will be returned and subject to additional handling charges.

Sincerely,


Bruce R. Storrs, PLS
City and County Surveyor

Tentative approval valid for 36 months:

This Tentative Map Approval is valid for 36 months, unless a written request for an extension is received prior to the expiration date. When the approved time frame expires, the project is terminated. A completely new application packet together with new fees must then be submitted to DPW/BSM to reopen or reactivate the project.

Contesting this decision:

If you wish to contest this decision, you may do so by filing an appeal (together with an appeal fee check for \$284) with the Clerk of the Board of Supervisors at 1 Dr. Carlton B. Goodlett Place, City Hall, Room 244, within ten (10) days of the date of this letter per Section 1314 of the San Francisco Subdivision Code.



Edwin M. Lee, Mayor
Mohammed Nuru, Director
Fuad S. Sweiss, PE, PLS,
City Engineer & Deputy Director of Engineering



Phone: (415) 554-5827
Fax: (415) 554-5324
www.sfdpw.org
Subdivision.Mapping@sfdpw.org

Department of Public Works
Office of the City and County Surveyor
1155 Market Street, 3rd Floor
San Francisco, CA 94103

Bruce R. Storrs, City and County Surveyor

April 28, 2014

Ben Ron
Martin M. Ron Associates, Inc.
859 Harrison Street, Ste. 200
San Francisco, CA 94107

**Re: 86 Third Street and 700, 706 738 Mission Street
San Francisco, California
Assessor's Block 3706 Lots 093, 275 & prtn. of 277**

PID 7970

The Department of Public Works hereby states that the Vesting Tentative Map for 86 Third Street and 700, 706 738 Mission Street, San Francisco, Ca, prepared on behalf of 706 Mission Street Co. LLC by Martin M. Ron Associates submitted on December 4, 2013, to the Department of Public Works/Bureau of Street Use and Mapping (DPW/BSM), and deemed complete on January 4, 2014, is hereby approved subject to compliance with, but not necessarily limited to, the following findings and conditions:

FINDINGS

The Parcel Map 7969 has been submitted to the Office of the City and County Surveyor for the purpose of subdividing the existing APN lot 277. A portion of lot 277 will be conveyed and incorporated into the proposed subdivision that is the subject of these conditions of approval. However, the proposed subdivision contemplated by this Vesting Tentative Map is also dependent upon and assumes the approval of the Parcel Map 7969.

This Application requests approval to *Merge and Subdivide* Assessor's Block-3706 and Lot(s) 093, 275 and a portion 277 resulting in: A merger and five lot airspace subdivision, and 190 Unit mixed-use condominium project. Proposed Parcel "A" will contain up to 165 maximum Residential Condominium Units, and proposed Parcel "B" will contain up to 25 maximum Residential Condominium Units.

None of the conditions described in Government Code Sections 66474(a) through (g), inclusive, exist with respect to this subdivision.

The Subdivision meets and performs the requirements or conditions imposed by the California Subdivision Map Act and the City and County of San Francisco (CCSF) Subdivision Code and Regulations.

The Vesting Tentative Map approval shall be effective upon execution by the Director of DPW.

Decision: The Tentative Map, which you submitted for review, is approved subject to the following conditions:

DEPARTMENT OF CITY PLANNING

In a letter dated January 6, 2014 the Planning Department confirmed that:

The project is consistent with the General Plan and the Priority Policies of Planning Code Section 101.1(b).

Further comments regarding approval: Per the conditions of approval for Case No. 2008.1084EHKXRTZ adopted on May 23, 2013 by the Planning Commission of the City and County of San Francisco as set forth in Planning Commission Motion No. 18894, for the rehabilitation of the existing 10-story, 144 foot tall Aronson Building, construction of a new, adjacent 43-story tower with up to 190 dwelling units, an approximately 52,000 square foot "core-and-shell" museum space that will house the permanent home of the Mexican Museum, and approximately 4,800 square feet of retail space. Additionally, the project would reconfigure portions of the existing Jessie Square Garage to increase the number of parking spaces from 442 to 470 spaces, add loading and service vehicle spaces and allocate up to 190 parking spaces within the garage for the new residential units.

This project was the subject of an Environmental Impact Report and the Planning Commission's certification of the EIR and adoption of environmental findings is incorporated herein by reference.

SFPUC WATER ENTERPRISE

Water Fixture Efficiency

This project is required to comply with the San Francisco Commercial or Residential Water Conservation Ordinance (San Francisco Building Code Chapter 13A and San Francisco Housing Code Chapters 12 and 12A). Additionally, please refer to Chapter 4 of the San Francisco Plumbing Code which sets maximum flow rates for plumbing fixtures such as water closets, urinals, showerheads and faucet aerators.

Landscape Irrigation

If the project will install or modify 1,000 square feet or more of landscape area, then the project is required to comply with San Francisco's Water Efficient Irrigation Ordinance, adopted as Chapter 63 of the San Francisco Administrative Code and the SFPUC Rules & Regulations Regarding Water Service to Customers. The project's landscape and irrigation plans shall be reviewed and approved by the SFPUC prior to installation.

Recycled Water Use

This project is required to comply with San Francisco's Recycled (or Reclaimed) Water Use Ordinance, adopted as Article 22 of the San Francisco Public Works Code. The project shall include all necessary plumbing for the future use of recycled water for non-potable applications including, but not limited to, toilet flushing and irrigation. The SFPUC's City Distribution Division and the Department of Building Inspection's Plumbing Division shall review all technical aspects of the water and recycled water infrastructure (mains, piping, valves, etc.) in the project designs.

Non-potable Water Use for Soil Compaction and Dust Control

This project is required to comply with San Francisco's Restriction of Use of Potable Water for Soil Compaction and Dust Control Activities, adopted as Article 21 of the San Francisco Public Works Code. Non-potable water must be used for soil compaction and dust control activities during project construction or demolition. The SFPUC operates a recycled water truck-fill station at the Southeast Water Pollution Control Plant that provides recycled water for these activities at no charge. For more information please contact (415) 695-7358.

Protection of Existing Water Facilities

- 1) To ensure the potable water and fire-fighting Auxiliary Water Supply System (AWSS) facilities are not compromised or damaged during construction, if the project work is within five (5) feet, horizontally or vertically, of a water facility, please contact the San Francisco Public Utilities Commission, City Distribution Division, Attention: Engineering Section, 1990 Newcomb Avenue, San Francisco, CA 94103 with a minimum of four (4) weeks' notice prior to the start of construction and/or excavation. For information regarding the requirements for the protection and relocation of water facilities, please refer to "Protection of Existing Water Facilities" and "CCSF Standards for the Water Facilities and Street Improvements" (see attached).
- 2) A hydraulic analysis will be required to confirm adequacy of water supply for both potable, non-potable and fire use. If current distribution system pressures and flows are inadequate to project's demands, the project sponsor will be responsible for any capital improvements required to meet the water demands. Depending upon the size and complexity of the project, the project sponsor may be required to pay for the hydraulic analysis. Additionally, a capacity fee shall be assessed, and shall be presented for the entire project rather than on a sub-parcel or individual building basis.

SFPUC Wastewater Enterprise Comments

Wastewater Collections

- 1) Vibration due to construction activities (pile driving, compaction, etc.) will need to be monitored during construction to protect the utilities. A monitoring plan shall be submitted to SFPUC for review and approval prior to start of construction work.
- 2) Excavation may affect utilities. An excavation plan shall be submitted to SFPUC for review and approval prior to start of construction work.
- 3) Any changes to street flow, such as moving/changing catch basins and bulb-outs, will require a street flow analysis to be prepared by the project proponent. The street flow analysis shall be reviewed and approved by SFPUC prior to start of construction work.
- 4) Proposed wastewater flows from the buildings shall be provided, including designating which sewers the buildings connect to. A wastewater capacity analysis shall be prepared by the project proponent and provided to SFPUC to determine if existing wastewater facilities have sufficient capacity to serve the project.
- 5) If the project is planning to reuse the existing sewer laterals, the project proponent will need to show that they have been checked for capacity and condition. Additionally, the project proponent needs to have the laterals videoed to determine if they are usable. A copy of the video shall be sent to SFPUC Collection System Division (CSD), Attention: Kent Eickman, for review and approval.

Stormwater Management

If development of the subject parcel or parcels disturbs 5,000 square feet or more of ground surface, that development will be subject to the current SFPUC stormwater management

regulations and the subdivider must submit a Stormwater Control Plan in compliance with those regulations to the SFPUC for review and approval.

SFPUC Real Estate Services Comments

At this time, SFPUC's Real Estate Services Division does not identify any conflicts with the proposal as it relates to the SFPUC's property rights. However, the SFPUC is not waiving any rights or interests in the subject property that may exist by law.

IDC: INFRASTRUCTURE DESIGN AND CONSTRUCTION

Hydraulics

1. Provide calculated storm and sanitary flows. Provide size and locations of all side sewer lateral connections.
2. The first floor finished grade elevation shall be at or higher than the official grade elevation of the street to minimize the potential of street storm waters from entering the property.
3. Provide design drawings if sidewalk alignment changed.

Streets and Highways Infrastructures Division

No conditions

DPW: BUREAU OF STREET USE AND MAPPING-PERMITS SECTION

A future street improvement permit and associated permits will be required for the construction and improvement of the surrounding infrastructure.

SFFD: SAN FRANCISCO FIRE DEPARTMENT/SF DBI: DEPARTMENT OF BUILDING INSPECTION

Any necessary easements for ingress/egress to a public ways, Fire Department access, or other Fire Code or Building Code compliance matters shall be in a form acceptable to the Fire Department, Department of Building Inspection, and City Attorney's Office prior to recordation of the final map. Prior to submission of final map checkprint, the Subdivider shall obtain from the Department of Building Inspection any Building Code equivalency approvals that may be necessary to address the proposed parcelization, including lot line issues, emergency ingress/egress, or other Building Code compliance matters.

BUF: BUREAU OF URBAN FORESTRY

All trees required for the development of Lot 93 must conform to DPW street tree planting guidelines (refer to DPW Order 178,631), as currently shown on tentative map they do not meet guidelines. Any trees that cannot be planted in accordance with guidelines will require payment of in-lieu fee. Please contact DPW Urban Forestry at 554-6700 to submit necessary tree planting permit application and verify placement and possible quantity of street trees.

All other parcels with frontage on the public right of way may require street trees planted in accordance with Planning Code 138.1. Please review and submit Tree Planting and Protection Checklist (available from San Francisco Planning Department) to DPW urban forestry for review. If street trees are required, they will be subject to DPW order 178,631 and in-lieu fees will be required for any trees that cannot be planted.

MOH: MAYORS OFFICE OF HOUSING

The affordable units in this building will be governed by the San Francisco Inclusionary Housing Program through Planning Code Section 415 and the City and County of San Francisco

Inclusionary Affordable Housing Program Monitoring and Procedures Manual, as amended from time to time. Buildings that initially rent their units then convert the units to ownership units will be subject to the rules of Planning Code Section 415 and the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual.

OCII: OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE

No Conditions

DPW – MAPPING AND SUBDIVISION (BSM):

The Final Map 7970 title block shall indicate this project as: A Merger and Five Lot Airspace Subdivision, and 190 Residential Unit Mixed Use Condominium project. Parcel "A" will contain up to 165 maximum Residential Condominium Units, and Parcel "B" will contain up to 25 Residential Condominium Units. Being a merger and subdivision of Parcel "A" of Parcel Map 7969, and those certain lands described in Grant Deed J063 OR 512 and Quitclaim Deed I750 OR 060.

The recording information of all the Notice of Special Restrictions affecting the property shall be referenced on Final Map 7970, and noting that the subdivision shown thereon being subject to the terms and condition of said recorded document.


The exterior Subdivision boundary shall be monumented to the satisfaction of the City and County Surveyor. Along right of way lines, provide monumentation on a six (6) foot offset line at each property corner extended. Reference set monumentation on the Final Map as appropriate or show monumentation "TO BE SET" at each location noted above. All provisions of the Subdivision Map Act and Professional Land Surveyors Act shall be complied with.

As part of the final Parcel Map Checkprint submission, Subdivider shall provide a written response documenting how each of these tentative map conditions has or will be satisfied.

Sincerely,

Mohammed Nuru

Director of Public Works



Bruce R. Storrs, LS 6914

City and County Surveyor

City and County of San Francisco

cc: Lynn Fong, BSM-Permits
John Malamut, CCSF City Attorney

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

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

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

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

Sponsor(s):

Clerk of the Board


Subject:

Public Hearing - Appeal of Vesting Tentative Map - 86-3rd Street, 700 Mission Street, 706 Mission Street, and 738 Mission Street

The text is listed below or attached:

Hearing of persons interested in or objecting to the decision of the Department of Public Works dated April 28, 2014, approving a Vesting Tentative Map for a 190 Unit Mixed-Use Condominium Project located at 86-3rd Street, 700 Mission Street, 706 Mission Street, and 738 Mission Street, Assessor's Block No. 3706, Lot Nos. 093, 275, and 277. (District 6) (Appellants: Thomas N. Lippe, on behalf of 765 Market Street Residential Owners Association, the Friends of Yerba Buena, Paul Sedway, Ron Wornick, Matthew Schoenberg, Joe Fang, and Margaret Collins) (Filed April 30, 2014).

Signature of Sponsoring Supervisor: _____

A handwritten signature in black ink, appearing to read "Paul H.", written over a horizontal line.

For Clerk's Use Only: