



SAN FRANCISCO PLANNING DEPARTMENT

APPEAL OF ENVIRONMENTAL IMPACT REPORT San Francisco Museum of Modern Art / Fire Station No. 1 Relocation and Housing Project

DATE: December 22, 2011

TO: President David Chiu and Members of the Board of Supervisors

FROM: Bill Wycko, Environmental Review Officer – (415) 575-9048
Michael Jacinto, Environmental Planner – (415) 575-9033

RE: File No. 111293, Planning Department Case Nos. 2009.0291E and 2010.0275E – Appeal of Environmental Impact Report Certification for San Francisco Museum of Modern Art / Fire Station No. 1 Relocation and Housing Project;
151 Third, 670 Howard, 676 Howard and 935 Folsom Streets

PROJECT SPONSORS: San Francisco Museum of Modern Art

APPELLANT: **Christine Griffith, SSL Law Firm on behalf of KSSF Enterprises, owner, W Hotel San Francisco**

HEARING DATE: January 10, 2012

ATTACHMENTS: Attachment A – Appeal Letter
Attachment B – Planning Commission EIR Certification Motion No. 18484
Attachment C – Mitigation Monitoring & Reporting Program
Attachment D – Agreement to Implement Mitigation Measures

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INTRODUCTION

This memorandum (“Appeal Response”) is a response to a letter of appeal (“Appeal Letter”) to the Board of Supervisors (“the Board”) regarding the certification of a Final Environmental Impact Report (“FEIR”) under the California Environmental Quality Act (“CEQA”) for the San Francisco Museum of Modern Art (“SFMOMA”) Expansion/Fire Station No. 1 Relocation and Housing Project (“the proposed project”). The FEIR was certified by the Planning Commission (“the Commission”) on November 10, 2011. The appeal to the Board was filed on November 30, 2011 by Ms. Christine Griffith, SSL Law Firm on behalf of KSSF Enterprises, Ltd., owner of the W Hotel at 181 Third Street (“Appellant”), which is located directly adjacent to the proposed SFMOMA project site.

The Appeal Letter is included with this Memorandum as Attachment A. The FEIR, which consists of the Initial Study, the Draft Environmental Impact Report (“DEIR”) and the Comments and Responses document (“C&R”), are being provided via separate transmittal to the Clerk of the Board on December 22, 2011.

The decision before the Board is whether to uphold the Planning Commission's certification of the FEIR and deny the appeal, or to overturn the Commission's decision to certify the FEIR and return the project to the Planning Department for additional review.

ENVIRONMENTAL REVIEW PROCESS FOR THE PROJECT

SFMOMA ("the project sponsor") submitted an environmental review application on April 9, 2009. The Planning Department, lead agency under CEQA, prepared a Notice of Preparation ("NOP") of an Environmental Impact Report and an Initial Study on October 27, 2010, analyzing the potential environmental impacts of the proposed project. The NOP/Initial Study was circulated for 30 days for public comment and review. Based on the analysis in the Initial Study, as well as detailed reports prepared in support of the analysis, the Planning Department found that the proposed project could have a significant effect on the environment, and a DEIR was issued on July 11, 2011. Written public comment on the DEIR was received during the 45-day public comment period between July 11 and August 25, 2011, and a public hearing on the DEIR was held before the Planning Commission on August 11, 2011, at which time public testimony was received. The Planning Department then prepared a C&R document to address environmental issues raised by written comments received during the public comment period and oral comments at the public hearing for the DEIR. The Planning Department prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected minor errors in the DEIR. The Planning Commission certified the FEIR on November 10, 2011.

It should be noted that the motion provided to the Clerk of the Board as part of the Appeal Letter, Planning Commission Motion No. 18486, reflects the Planning Commission's action to adopt environmental findings in approving the proposed project. These CEQA approval findings are not the subject of this appeal because they are part of the Planning Commission's substantive approval of the proposed project. The subject of this appeal is the Commission's certification of the Final Environmental Impact Report as "adequate, accurate and complete." This action is reflected in Motion No. 18484 (attached hereto as Attachment B).

PROJECT DESCRIPTION

SFMOMA proposes to expand the existing San Francisco Museum of Modern Art located at 151 Third Street (Assessor Block 3722, Lot 78) and relocate Fire Station No. 1 from its existing 676 Howard Street location (Assessor Block 3722, Lot 28) to 935 Folsom Street (Assessor Block 3753, Lot 140). The sponsor proposes demolition of the existing 7,620-square-foot, 4-story-over-basement building at 670 Howard Street (Assessor Block 3727, Lot 027), and demolition of the existing 4,400-square-foot, 2-story Fire Station No. 1 at 676 Howard Street as well as vacation of a 115-by-30-foot land-locked portion of Hunt Street located between 151 Third and 670 and 676 Howard Street to accommodate the museum expansion. SFMOMA would construct an approximately 200-foot-tall, 230,000-square-foot building addition at the rear of the 151 Third Street building and on the 670-676 Howard Street parcels and the vacated Hunt Street right-of-way, extending from Minna Street to Howard Street, in order to display the museum's existing and future art collections, including the Doris and Donald Fisher Collection of Contemporary Art, and to consolidate its support functions on site.

The proposed expansion wing would connect to the existing museum and accommodate expanded gallery, public and support spaces. Portions of the existing museum would be renovated, including an expanded restaurant. The ticketing lobby now located in the atrium would be relocated to the second floor, so that the ground floor of the museum, including the Third Street atrium and new ground floor gallery on Howard Street would be publicly accessible without charge.

The existing building at 935 Folsom Street (formerly used for apparel manufacturing and commercial laundry, currently vacant) would be demolished, the site subdivided, and a new 15,000-square-foot, 2-story-plus-mezzanine, approximately 34-foot-tall replacement fire station would be constructed on the northern portion of the parcel fronting Folsom Street. At-grade parking would be provided for 15-vehicles on the site. On the southern portion of the 935 Folsom Street site, a 4-story, approximately 43-foot-tall future residential building would be constructed comprising up to 13 residential units and 10 off-street parking spaces in the building's basement level.

The 151 Third Street site is located in a C-3-O (Downtown Office) Use District and a 500-I Height and Bulk District. 670 Howard Street is located in a C-3-S (Downtown Support) Use District and a 320-I Height and Bulk District. 676 Howard Street is located in a P (Public) and the 320-I Height and Bulk District. The 935 Folsom Street parcel is located in a MUR (Mixed-Use Residential) District and an 85-X/45-X Height and Bulk District. As part of project approvals, the Planning Commission recommended that the Board of Supervisors approve legislation to rezone 676 Howard Street from P to C-3-S to accommodate the proposed museum expansion and to rezone the northern portion of 935 Folsom Street from MUR to P, consistent with the proposed fire station use. No amendments to existing height districts are proposed. The Planning Commission also recommended, and the Board will consider, amending Map 2 of the Community Facilities Element of the General Plan to indicate relocation of Fire Station No. 1 to 935 Folsom Street.

CONCERNS RAISED AND PLANNING DEPARTMENT RESPONSES

The Planning Department has grouped Appellant concerns into the following seven categories: 1) Project Description; 2) Land Use Effects Related to the Vacation of Hunt Street; 3) Aesthetic Effects; 4) Traffic Effects, including site access and circulation during both construction and project conditions; 5) Air and Noise Construction Effects; 6) Adequacy of the FEIR's Mitigation Measures, and 7) Recirculation of the Draft EIR. The Appellant's concerns are summary excerpts from the Appeal Letter, and each concern is followed by the Department's response to that concern as enumerated above. It should be noted that the Appellant letter dated November 30, 2011 is a cover letter to a previous letter submitted to the Planning Department on August 25, 2011. Issues raised in both letters are addressed herein.

The Department's summary responses to Appellant issues are as follows:

1. The EIR contains a thorough and stable project description. This description of the project meets CEQA's informational reporting requirements. The EIR provides sufficient information about the project to assess the project's environmental effects. The EIR also describes baseline physical conditions in the vicinity of the project sites ("environmental setting") that existed at the time the Planning Department issued the Notice of Preparation of the EIR.

2. The EIR's evaluation of land use effects is sufficient to understand the scope of changes to the built environment and land uses surrounding the SFMOMA and the fire station relocation sites. The EIR's land use analysis found that expanding the SFMOMA onto adjacent parcels, including on a vacated portion of Hunt Street would not physically divide an established community, disrupt or divide the neighborhood, or have a substantial impact upon the existing character of the community. The EIR makes similar land use findings for the proposed fire station at 935 Folsom Street.
3. The EIR's aesthetic analysis considers the project's changes to publicly accessible views, the project's potential to adversely affect scenic resources, the potential for the project to result in demonstrable negative effects on visual character of the sites and their respective surroundings, and to generate substantial light and glare, as required by CEQA. The EIR considers both construction-period and operational (i.e., final project) effects on the respective aesthetic settings and appropriately concludes that aesthetic impacts would be less than significant.
4. The EIR presents accurate baseline (i.e., existing) transportation conditions around the existing SFMOMA and Fire Station Relocation sites, including loading and valet parking conditions associated with the operations of the W Hotel. The EIR's transportation analysis considers traffic and circulation effects to the SFMOMA, W Hotel and other nearby uses related to the vacation of a portion of Hunt Street located in the middle of the proposed SFMOMA expansion block; the potential for additional museum square-footage and associated uses to generate and contribute traffic to surrounding roadways; circulation and access effects to the W Hotel during construction of the museum expansion and under future project conditions; as well as potential changes to emergency response times to illustrative high-volume call locations associated with the relocation of Fire Station No. 1 from 676 Howard Street to 935 Folsom Street. The EIR includes Improvement Measures to lessen less-than-significant transportation impacts, including an Improvement Measure to manage loading and valet parking operations for the W Hotel to provide the hotel with twenty-four hour a day/seven day a week access. The Planning Commission found the transportation analysis sufficient and complete for it to understand the project's area-wide transportation and circulation effects.
5. The EIR appropriately and sufficiently analyzes the projects' construction-period air quality and noise effects including effects to the W Hotel, and identifies mitigation measures as well as other standard conditions that are required to be carried out as part of construction projects in San Francisco to reduce construction period air quality and noise effects.
6. The EIR identifies feasible mitigation for potentially significant impacts to reduce, avoid or eliminate adverse physical environmental effects. In accordance with CEQA, mitigation is not required for effects that an EIR determines to be less than significant. The response to this appeal issue cites the Mitigation Monitoring and Reporting Programs (MMRP, Attachment C), and elaborates on why these measures are sufficient for reducing the severity of identified potentially adverse impacts to less-than-significant levels. The EIR's identification of "improvement measures" are also discussed and included in the MMRP.

7. Contrary to Appellant assertion, the EIR does not need to be re-circulated for public review and comment. Appellant's contention that the EIR's project description and analysis of environmental impacts is fundamentally flawed is without merit. As discussed in the response to this concern, none of the recirculation triggers in CEQA Guidelines Section 15088.5(a)(1)-(4) are met. Therefore, recirculation of the EIR is not required.

With respect to the issues above, the Department finds that the concerns stated by the Appellant do not raise any issues not already addressed in the Initial Study, DEIR and C&R. The Department's responses include summary text from the full CEQA record, which includes the Initial Study, DEIR, C&R and other background studies, as appropriate.

Project Description

Concern 1: The DEIR project description is incomplete. There is no way to discern from the description in the DEIR what the proposed SFMOMA expansion may actually look like; there is no detail beyond maximum exterior dimensions.... The DEIR descriptions approximate potential dimensions for the expanded building, but beyond that, no detail is provided. With the information provided, the City could approve a windowless stucco box or could approve an ornate, richly-textured, classical space, or a glass-curtained airy building. There is no way to know because there is no substantial or detailed description of the design, its specific dimensions, materials, colors, etc., included in the Project description or figures. (SSL Law Firm, concern 1.a, Nov. 30 letter; concern II, Nov. 7 letter; concern II.A, August 25 letter).

Response 1: The EIR contains a thorough and stable description of the SFMOMA Expansion, Fire Station Relocation and Housing projects that provides the public and decision-makers objective facts and information at a sufficient level of detail to evaluate the projects' potential to cause environmental effects. The EIR generally, and Project Description specifically, does not contain omissions or "fundamental analytical flaws that mandate revision and recirculation."

CEQA Guidelines Section 15124, Project Description, states, "The description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.

- (a) The precise location of and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map.
- (b) A statement of the objectives sought by the proposed project
- (c) A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.
- (d) A statement briefly describing the intended uses of the EIR."

Detailed design features of a project are not required to be included in an EIR by CEQA Guidelines Section 15124. The Initial Study and EIR contain all of the project description informational items enumerated in CEQA Guidelines Section

15124, above. In particular, the EIR includes an Introduction (DEIR pp. 1-7) that describes the environmental review process, the intended uses of the EIR, the organization of the EIR, and approvals that are required. The EIR's project description also includes the precise location and boundaries of the projects, including detailed maps (DEIR, pp. 11-12) and a statement of project objectives, which were developed by the project sponsor (DEIR, pp. 17-22).

In addition to the narrative text describing the aspects of the project, the EIR's Project Description contains 29 figures (DEIR, Figures II-1 through II-29, pp. 11-53) that graphically depict the project site locations and regional vicinities; site photographs; use and height districts; SFMOMA ground floor and upper level floor plans; conceptual SFMOMA elevations from Third Street, Minna Street and Howard Street; pedestrian flow and loading diagrams. The EIR also contains eight photomontages from publicly accessible viewpoints surrounding the museum site to illustrate the degree of potential change to the visual setting (Figures IV.B-2 through IV.B-8b).

As discussed in C&R Response PD-2 (C&R, pp. 11-13), CEQA does not require an EIR to include the final design of a project, and furthermore, discourages the inclusion of detail that is not necessary to understanding the environmental impacts of the project. Per CEQA Guidelines Section 15124, a Project Description "should not supply extensive detail beyond that needed for evaluation and review of the environmental impact." The façade details mentioned in the Appeal letter would have no bearing on the determination of significance of visual impacts. Under CEQA, this analysis considers demonstrable adverse impacts on views, scenic resources, light and glare and visual character of the site's surroundings. The EIR contains sufficient detail to consider these and other issues.

The spatial dimensions of the project are described on DEIR pp. 23 to 41, and depicted (as elevations) in Figures II-13 through II-15 (pp. 30 through 32). The preliminary design of the project – including its height, massing, and shape – is described on in the Draft EIR. As described on page 23, the project would extend along a north/south axis from Minna Street to Howard Street (a length of 347 feet) and would rise to a maximum height of approximately 200 feet (plus rooftop mechanical, elevator, and stair penthouse up to 20 feet high), containing approximately 230,000 square feet of new construction. Table II-1 on page 33 of the DEIR sets forth the approximate square feet of the various uses (public, gallery and support) proposed within the expansion project. As described on page 41 of the DEIR, the building is anticipated to be "clad in glass fiber reinforced concrete, which is known for its load-bearing properties and resistance to weathering elements."

In addition, pedestrian access into and out of the building (and the associated promenade between Natoma and Howard Streets), the design for the frontage of the building along Howard Street ("designed to allow for the viewing of larger works of art from the street"), all of which influence the look and feel of the project from the street, are described and graphically portrayed on DEIR pp. 35 through 41. Although Appellant may consider the proposed design

unattractive when viewed from the interior of the W Hotel, this is a matter of opinion and therefore not considered significant under CEQA. The DEIR also included and graphically depicted the loading and valet parking access area designed for use by the W Hotel (C&R, pp. 47-53).

On December 15, 2011 agents for the SFMOMA submitted an updated Planning Code Section 309 application. This application includes plans that reflect the project the applicant intends to present to the Planning Commission for consideration of project approval. The height and mass of the final design is the same as or less than the height and mass used to prepare visual simulations in the FEIR. Based on a review of this application, the Planning Department has determined that the final design is consistent with the concept design presented and analyzed in the FEIR. The updated design shows the expansion project extending 345 feet from Minna to Howard Street, at a height of approximately 200 feet (including a rooftop mechanical, elevator, and stair penthouse), and containing approximately 200,000 net new square feet, divided between public, gallery and support spaces. The exterior materials of the final design are glass fiber reinforced concrete panels and glass, and the frontage of the building along Howard Street includes a promenade between Natoma and Howard Street and allows viewing of larger works of art from the street. The final design does not result in any changes to the EIR's analysis of the aesthetic impacts of the project. The EIR concludes the preliminary design would result in less-than-significant visual impacts (DEIR, pp. 129-160). That conclusion also applies to the final design (see Concern 2, below, for more detail).

For purposes of environmental analysis, the project description meets the content requirements as set forth by CEQA Guidelines Section 15124 and is appropriate in its breadth of description of all aspects of the project for an understanding of potential project and cumulative impacts associated with the project's construction and operational characteristics at both the SFMOMA and proposed Fire Station Relocation sites. Appellant does not provide any substantial evidence to support the claims that the EIR is deficient with regard to the content or accuracy of the project description.

Land Use Effects Related to the Vacation of Hunt Street

Concern 2: The City cannot make the findings necessary to vacate Hunt Street and the Natoma parking pad. The DEIR fails to identify measures that may minimize land use impacts on neighboring properties. (SSL Law Firm, concern II, Nov. 7 letter; concern III, August 25 letter).

Response 2: The EIR's evaluation of land use effects is sufficient to understand the scope of physical changes to the built environment. The vacation of Hunt Street was analyzed as one of the changes that would occur as part of project implementation. The EIR found, based on evidence in the record, that vacation of Hunt Street would not result in significant land use impacts and no mitigation is required.

The concern primarily addresses the vacation by the City of property necessary for the implementation of the project, which is only pertinent to CEQA as it relates to the potential for physical impacts. As described on DEIR pg. 17, Hunt

Street is an approximately 3,500-square-foot landlocked City-owned right-of-way that is located between 151 Third Street and 676 and 670 Howard Street. The dimensions of Hunt Street within the site are approximately 115 feet by 30 feet. A portion of Hunt Street extending west to Third Street was previously vacated by the City on August 6, 1979, and conveyed to the developer of the W Hotel, such that the right-of-way does not connect to any other public street (Board of Supervisors Resolution No. 755-79). The City would vacate the remaining 3,500-square-foot portion of Hunt Street and convey the land to SFMOMA, also in exchange for a portion of the 935 Folsom Street property and a newly constructed fire station on that site.

The DEIR, pg. 69, and C&R, pp. 19-21, found the vacation of Hunt Street would not conflict with Policies 2.8, 2.9 and 2.10 of the Urban Design Element of the General Plan or any other policy adopted for the purpose of mitigating or avoiding an environmental effect because Hunt Street is of little use as a pedestrian alley or for vehicular circulation. Hunt Street is landlocked and is subject to low pedestrian and vehicular usage, and would be replaced by an 18-foot wide pedestrian promenade connecting Natoma and Howard Streets and by SFMOMA providing the W Hotel with ground floor vehicular access between the hotel's porte cochere and Natoma Street. All properties that front Hunt Street, including the W Hotel, have alternative public street access from Third, Howard or Natoma Street. The DEIR, pg. 113, found that because Hunt Street is primarily used by firefighters at Fire Station No. 1 for surface parking and is infrequently used by pedestrians, the vacation would not pose access constraints to pedestrians in the vicinity of the project site and vacation would not disrupt or divide the surrounding neighborhood, particularly since the fire station use would be discontinued. In terms of land use, this finding is based on the SFMOMA's proposed publicly-accessible promenade connecting Natoma Street to Howard Street being greater in area than the space vacated on Hunt Street (3,735-square feet versus 3,500-square feet) and on the fact that the promenade would enhance pedestrian travel around the periphery of the site as well as promote the vision for Natoma Street outlined in the Transit Center District Plan. This second point of access, which could connect to a publicly-accessible lobby, would not disrupt or divide the surrounding neighborhood.

As described in C&R Responses LU-2, LU-3 and LU-4 (C&R, pp. 17-21), the vacation of Hunt Street and termination of any public street easement would be considered by the Board of Supervisors as part of project approvals, and would necessarily comply with all requirements of State and local law, including Section 787 of the City's Public Works Code, which sets forth procedures for street and right-of-way vacations.

The Appeal letter also discusses the W Hotel's use of a small portion of Hunt Street, in conjunction with a public street easement encumbering a portion of the existing SFMOMA property, for vehicles to access its porte cochere valet parking operations and loading dock from Natoma Street. As described in Response 3, below, the Conditional Land Disposition and Acquisition Agreement (CLDAA) between the City and SFMOMA executed in October 2010 contains a condition of

closing, requiring SFMOMA to provide continuous access to the W Hotel through the mid-block area for the hotel's valet parking and loading requirements before the City transfers Hunt Street and the Fire Station property to SFMOMA. SFMOMA has indicated it intends to comply with this condition. Thus, any use by the W Hotel of Hunt Street for vehicular circulation purposes would also be replaced.

On November 10, 2011, the Planning Commission adopted its Motion No. 18487 determining that the vacation of Hunt Street is, on balance, consistent with the Objectives and Policies of the General Plan, including with Urban Design Element Policies 2.8-2.10. The Board would consider the Commission's General Plan findings and its action on the vacation of Hunt Street would necessarily comply with all other requirements of state and local law. It is noted here that General Plan policies concerning the vacation of streets are not "plans, policies or regulations adopted for the purpose of mitigating or avoiding an environmental effect," which are the only types of general plan policies typically analyzed under CEQA. The EIR sufficiently and appropriately reviewed the physical changes associated with vacating Hunt Street and using the space to expand the SFMOMA based on the land use criteria discussed above and found no adverse effects.

Aesthetic Effects

Concern 3: The EIR fails to adequately analyze aesthetic impacts. The EIR understates the aesthetic impacts of the SFMOMA expansion and the analysis of aesthetic impacts is not supported by substantial evidence. The EIR is deficient in analyzing whether setbacks or other building limitations may be appropriate to minimize impacts on neighboring properties. The EIR fails to identify or analyze construction-related aesthetic impacts and fails to identify measures that may minimize aesthetic impacts on neighboring properties. (SSL Law Firm, concerns 1.b-d, Nov. 30 letter; concerns II.A, II.B, and II.C, August 25 letter).

Response 3: The EIR's evaluation of aesthetic effects is sufficient to understand the scope of changes to scenic vistas and the visual setting surrounding the SFMOMA and the Fire Station No. 1 Relocation sites. The EIR evaluated potential changes to visual character and publicly accessible views around the SFMOMA from public vantage points. The EIR acknowledges that the project would obstruct views from private properties, such as from the St. Regis hotel and residences as well as the W Hotel, however obstruction to private views are not considered to be significant impacts within the scope of CEQA. Imposing setbacks or height reductions are not required as mitigation because the project would not result in significant aesthetic impacts.

As discussed in Concern 1, the DEIR's Project Description is adequate to understand the potential impacts of the SFMOMA Expansion on scenic vistas and the visual character and quality of the vicinity (the functions of the visual environment that are governed by the City's significance criteria) because it identifies the maximum build-out dimensions of the project, conceptual building elevations, building height and scale, and general principles that underlie the design of the project. The City's CEQA thresholds of significance for aesthetic impacts do not consider impact to private views significant.

The DEIR includes eight visual simulations of the preliminary project design from various publicly accessible viewpoints in the vicinity of the SFMOMA Expansion site (Figures IV.B-2 through IV.B-8, DEIR pp. 140-146 and Figure IV.B-8b, C&R p. 92). These visual simulations provide the public and decision-makers with an understanding of the project's potential effects on public views in the vicinity of the project site and the potential effects of the project on the visual character of the area, and supplement the description of the project found in Chapter II, Project Description. As described on DEIR pp. 138 to 160, the SFMOMA Expansion would not result in significant effects to scenic vistas or the visual character/quality of the vicinity. The description of the final project design in the Planning Code Section 309 Downtown Project Authorization revised application, submitted December 15, 2011, is substantively similar to and well within the scope of the project description analyzed in the EIR. The analysis of aesthetic impacts (DEIR, pp. 129-160) is based on this preliminary design. As noted above, the final design does not alter this analysis and does not cause new visual impacts not previously considered by the DEIR, substantially increase the severity of aesthetic impacts analyzed in the EIR, require the consideration of new or different mitigation measures or alternatives, or otherwise alter the EIR's less-than-significant findings related to views and visual character.

Similarly, the project would not degrade the urban design qualities of streets surrounding the site, as identified in the Urban Design Element of the General Plan (and described on Initial Study pg. 54, included as Appendix A of the DEIR). The side property line façade of the project facing the eastern side of the W Hotel would not be readily visible to the public, such that the exact color, materials, and texture of that façade would not have a significant bearing on any scenic vistas or the visual character/quality of the vicinity.

Appellant in its August 25, 2011 letter states:

"Because the DEIR presents an inadequate project description and ignores the public aspects of visitor-serving spaces, the DEIR ignores the potential impacts that the specific design may cause to the public aspects of the visitor-serving spaces, the DEIR ignores potential impacts that the specific design may cause to a significant segment of the viewing public. Impacts related to the height of the proposed expansion and the materials, color and design of the expansion wall adjacent to the W Hotel are ignored.

For example, at the W Hotel, views from 112 rooms will be impacted by the MOMA expansion... The east-facing rooms currently have a view of the cityscape and San Francisco Bay Bridge. If the MOMA expansion is approved as proposed (i.e., a box fulfilling a maximum building envelope, DEIR Figures II-13 to II-15 and Figures IV.B-2 to IV.B-8) many of these rooms will eventually have a view of a massive wall.... Lowering the maximum height of the expansion would mitigate this impact to some extent, *though it will remain significant and unavoidable if the expansion exceeds the height of the existing fire station.*" [emphasis added]

Appellant's citation to the number and location of views from private rooms at the W Hotel is noted. C&R Response AE-4 (C&R p. 25) states: Page 129 of the Draft EIR notes that "certain private viewpoints, such as those from the W Hotel and Pacific Telephone Building (134-40 New Montgomery Street) also provide views of the [SFMOMA Expansion] site," but that the focus of the impact evaluation in the Draft EIR is on publicly-accessible viewpoints, such as those available from City streets, sidewalks, and parks.

A proposed project may affect views from private property, but the City does not consider such effects to be significant environmental effects under CEQA. The fact that rooms in the W Hotel (and other local hotels) are accessible to paying visitors does not make them publicly accessible. Visitors stay in these rooms for one to several days at a time, such that even if the view experience for these visitors is impeded to a certain extent, the impact is temporary. Moreover, private views are not protected in San Francisco, as alterations to such views are common and expected in a dense urban setting characterized by downtown high-rises. Therefore, while the alteration in views might be undesirable to the hotel management and some guests, changes to views of the site from rooms at the W Hotel and St. Regis Hotel and Residences are not considered significant adverse impacts on the environment.

Further, contrary to Appellant assertion, the project as proposed would extend to a height of about 200 feet. This is not the maximum building envelope – the expansion site is located on parcels where the Planning Code permits heights up to 320 and 500 feet, which is 120 to 300 feet taller than the proposed expansion building. In an urban area, it is expected that adjacent sites may develop to heights greater than currently exist particularly when those sites are in height districts permitting a larger maximum permissible building envelope. As explained in C&R Response AE-6 (C&R, pp. 29-31), the height and massing of the proposed expansion, effect on private views, and building treatment along Minna and Howard Streets would not result in adverse aesthetic impacts to the area, which is characterized by a mix of urban uses and building types and some buildings substantially taller than the proposed museum expansion project, including the W Hotel itself, which at 320 feet is 120 feet taller than the project. Because the expansion would not result in a substantial effect on a scenic vista, substantially degrade the visual character/quality of the site and its surroundings or substantially increase light and glare, the EIR appropriately found the project's aesthetic impacts less than significant. As such, Appellant's claim that "lowering the maximum height of the expansion would mitigate this impact to some extent, though it will remain significant and unavoidable if the expansion exceeds the height of the existing fire station." This statement is an expression of Appellant's opinion. However, mitigation would not be warranted because the project's aesthetic effects are not significant.

Finally, Appellant asserts that the EIR fails to consider the temporary aesthetic impacts of construction. DEIR pp. 159-160 states that "construction activities that could have temporary effects on visual quality include ground disturbance, the use of heavy machinery and installation of safety-fencing... Such changes to the

visual environment are an unavoidable temporary outcome of development projects....” In an urban setting such as San Francisco, the appearance of construction machinery, onsite construction workers, and sites and buildings as they are constructed do not constitute significant adverse aesthetic impacts. The DEIR, p. 160 therefore appropriately finds that “because construction-related changes to visual character would be short-lived, they would not be considered significant.”

Site Access, Loading, Circulation, Construction-period Effects

Concern 4: The EIR fails to include accurate baseline traffic conditions in and around the Project site. The EIR fails to adequately analyze impacts that Project construction will have on traffic conditions at and around the Project site. These impacts will arise from the Project's elimination of the mid-block area that the W Hotel relies upon for loading/unloading and valet activities. These activities will be moved to Third Street, Howard Street and New Montgomery Street, exacerbating an already congested area. The EIR fails to analyze key constraints impacting traffic during Project operation, including truck loading and unloading patterns and the W Hotel. (SSL Law Firm, concerns 1.e-.f, .h, Nov. 30 letter; concerns II.A, II.B, Nov. 7 letter; concerns II.D, II.E, II.F and II.G, August 25 letter).

Response 4: The EIR incorporates an adequate analysis, prepared in accordance with the Planning Department's *Transportation Impact Analysis Guidelines for Environmental Review*, that presents existing baseline traffic information, and an analysis of level of service effects to nearby study intersections during the construction period as well as project operations and foreseeable future cumulative conditions, and evaluates potential effects to traffic, transit, pedestrians, bicycles, loading and emergency access associated with the SFMOMA expansion project and the relocation of Fire Station No. 1. The EIR sufficiently reviews loading and unloading patterns during construction and future conditions, demonstrates how loading to adjacent land uses would be accommodated during construction, and how the W Hotel's vehicular access between its porte cochere and Natoma Street would be replaced and operate under project conditions. The EIR's less-than-significant traffic conclusions are appropriate, illustrated by graphics depicting access routes and turning movements, and are sufficient evidence to substantiate the EIR's findings.

Baseline Conditions

Appellant states that baseline traffic information, particularly related to the use of the SFMOMA's Natoma Street parking pad for existing SFMOMA and W Hotel loading operations is not accurate. DEIR pg. 231 provides an adequate and factual description of existing loading conditions for both the SFMOMA and W Hotel that discusses the number of daily deliveries/average number of vehicle loading and where deliveries occur. The number of deliveries, level of loading activities and passenger drop-offs described by Appellant on pp. 7-10 of its August 25, 2011 letter are noted and are were assumed as a part of the baseline level of activity at the site. As described on DEIR pp. 36 and 276-278, under project conditions, a ground floor vehicle passage area connecting Natoma Street and the W Hotel's porte-cochere would be maintained for the benefit of the W Hotel. The first floor of the SFMOMA Expansion would be elevated a minimum

of 14.5 feet above street level to allow both trucks and valet parkers bound for the W Hotel's porte cochere and loading dock to drive in both directions between Natoma Street (where the 147-151 Minna garage entrance used by the W Hotel is located) and the W Hotel's porte-cochere (where the hotel's passenger loading and truck loading dock are located).

Construction Conditions

Effects associated with the construction of the SFMOMA Expansion are detailed in the EIR under Impact TR-8 (DEIR, pp. 289-293) and Response to Comment TR-5 (C&R, pp. 57-59). Construction-related transportation impacts are described on DEIR pp. 289 to 293, and were determined to be less than significant. It should be noted that under construction-period conditions, the transportation analysis also assumes that fire station operations would cease.

As described in the EIR, prior to construction, as part of the construction application phase, the project sponsor and construction contractor(s) would meet with the Department of Public Works (DPW) and Municipal Transportation Authority (MTA) staff to develop and review truck routing plans for demolition, disposal of excavated materials, materials delivery and storage, and staging for construction vehicles (e.g., during the concrete pour). The construction contractor would be required to meet the requirements in the City of San Francisco's Regulations for Working in San Francisco Streets (the Blue Book), including those regarding sidewalk and lane closures, and would meet with MTA staff to determine if any special traffic permits would be required. In addition to the regulations in the Blue Book, the contractor would be responsible for complying with all City, State, and federal codes, rules and regulations.

All construction activities affecting city streets would be coordinated, reviewed and subject to approval by DPW and MTA's Special Projects and Street Use section. Prior to construction, the project contractor would coordinate with Muni's Street Operations and Special Events Office to coordinate construction activities and reduce any impacts to transit operations. Construction-related activities would typically occur Monday through Saturday, between 7:00 a.m. and 8:00 p.m. Construction is not anticipated to occur on Sundays or major legal holidays, but may occur during these periods on an as-needed basis. The hours of construction would be stipulated by the Department of Building Inspection, and the contractor would need to comply with the San Francisco Noise Ordinance (Police Code Art. 29).

As noted on DEIR pg. 290, loading and valet parking operations associated with the W Hotel that currently utilize the Natoma parking pad would be temporarily displaced during the project's anticipated two-year construction period. The EIR appropriately addresses this temporary impact as discussed below.

The location of on-site and off-site construction staging areas (if required) would be determined after the construction contractor is retained. Construction staging may occur within the project site and the adjacent sidewalks. Construction activities would primarily be conducted from Minna Street, Natoma Street, and Howard Street. Construction activities are not expected to affect Third Street.

- On Howard Street, it is not currently known if construction activities would require closure of only a portion or the entire sidewalk (the sidewalk is 12 feet wide). If the entire sidewalk is closed, the curb lane would be used to provide a temporary pedestrian walkway. The curb lane closure would affect one metered parking space, as the remaining curb adjacent to the project site is currently a driveway for the fire station or a red curb. The temporary unavailability of one metered parking space, should it occur, is not considered a significant impact on the physical environment.
- On Minna Street, there is a 7-foot wide sidewalk adjacent to the project site, which provides access to the 147-151 Minna Street garage. On-street parking is not permitted adjacent to the project site. Closure of the sidewalk would affect access between Third Street and the 147-151 Minna Street garage. Pedestrians would be directed to use the north sidewalk and would cross Minna Street midblock to access the garage. The temporary redirection of pedestrians is not considered a significant impact on the physical environment.
- Natoma Street near the project site would be used for construction activities; however, it is not anticipated that sidewalks on Natoma Street would be affected. Construction activities would affect access to the existing off-street loading areas on Minna and Natoma Streets, and therefore the project sponsor would need to make arrangements to accommodate the loading demand associated with the existing SFMOMA and W Hotel operations during construction. In addition, pedestrian and vehicular access between the W Hotel's porte cochere and the 147-151 Minna Street garage across the SFMOMA property would be temporarily eliminated, and all valet operations and truck loading activities would likely occur within the hotel white zone on Howard Street or on Third Street. When selected, the construction contractor would be requested to develop staging, laydown, and sequencing plans that would include maintenance of access and operations for the W Hotel. The temporary alteration of off-street loading operations at the W Hotel is not considered a significant impact on the physical environment.

During the construction period, there would be a flow of construction-related trucks into and out of the site. The impact of construction truck traffic would be a temporary lessening of the capacities of streets due to the slower movement and larger turning radii of trucks, which may affect both traffic and Muni operations, particularly on Third Street. Since primary access to the construction site would be from Howard Street and Minna Street, construction truck activity would need to be monitored to ensure that construction activities do not block Minna Street and vehicular access to the 147-151 Minna Street garage, as well as access for commercial vehicle deliveries to establishments on Minna Street, Natoma Street and Howard Street, including the W Hotel.

There would be up to about 265 construction workers per day at the project site, with the greatest number during the superstructure construction (210 to 217 workers) and interior finishes (190 to 265 workers) phases. The trip distribution and mode split of construction workers are not known. In San Francisco, most construction workers use transit or carpool to the site to reduce traffic and parking problems during construction. However, it is anticipated that the addition of the worker-related vehicle- or transit-trips would not substantially affect transportation conditions.

Although no mitigation is required under CEQA, the following improvement measures (DEIR pp. 309-310) address the need to develop a traffic control plan to accommodate the W Hotel operations during construction. Planning Department staff will recommend that the Planning Commission impose these measures on the SFMOMA Expansion as conditions of approval:

- Traffic Control Plan for Construction – As an improvement measure to reduce potential conflicts between construction activities and pedestrians, transit and autos at the SFMOMA Expansion site, the contractor shall prepare a traffic control plan for project construction. The Project Sponsor and construction contractor(s) would meet with DPW, MTA, the Fire Department, Muni Operations and other City agencies to coordinate feasible measures to reduce traffic congestion, including temporary transit stop relocations (not anticipated, but if determined necessary) and other measures to reduce potential traffic and transit disruption and pedestrian circulation effects during construction of the Proposed Project. The contractor would be required to comply with the City of San Francisco’s Regulations for Working in San Francisco Streets, which establish rules and permit requirements so that construction activities can be done safely and with the least possible interference with pedestrians, bicyclists, transit and vehicular traffic. The traffic control plan would address how passenger loading/ unloading, and deliveries and service vehicles would be accommodated at the W Hotel during project construction.
- Carpool and Transit Access for Construction Workers – As an improvement measure to minimize parking demand and vehicle trips associated with construction workers, the construction contractor should include methods to encourage carpooling and transit access to the project sites by construction workers in the Construction Management Plan.
- Construction Truck Traffic – As an improvement measure to minimize construction traffic impacts on Third Street, Minna Street, and Howard Street, and on pedestrian, transit and traffic operations, the construction contractor could be required to retain San Francisco Police Department traffic control officers during peak construction periods.
- Project Construction Updates for Adjacent Businesses and Residents – As an improvement measure to minimize construction impacts on access

for nearby institutions and businesses, SFDPW could require the project sponsor to provide nearby residences and adjacent businesses with regularly-updated information regarding project construction, including construction activities, peak construction vehicle activities (e.g., concrete pours), travel lane closures, and lane closures. A web site could be created by project sponsor that would provide current construction information of interest to neighbors, as well as contact information for specific construction inquiries or concerns.

As noted above, the construction contractor hired by SFMOMA would be required to meet the City of San Francisco's Regulations for Working in San Francisco Streets (the Blue Book), including those regarding sidewalk and lane closures, and would meet with MTA staff to determine if any special traffic permits would be required. A street space permit would be required from DPW to occupy the parking lane in front of 670 Howard and 676 Howard Streets (between the property limits of the buildings only), and therefore would not affect the W Hotel's porte-cochere or the white passenger loading/taxi zone adjacent to the W Hotel on Howard Street. SFMOMA and its construction contractor are currently meeting with the W Hotel operations team on accommodating the needs of the W Hotel related to loading and valet parking operations during construction. Since the W Hotel has frontage on both Howard and Third Streets, options for accommodating the existing truck, service vehicle, valet parking, and passenger loading/unloading demand exist. The special permit process ensures that construction activities would not substantially affect peak period traffic flow, and would stipulate the days and hours during which certain construction activities are permitted.

The C&R (Response TR-5, C&R pg. 57-59) describes two potential temporary routing alternatives that are under consideration which conceptualizes construction period loading activities for the W Hotel to occur from a temporary new truck loading zone on Third Street adjacent to the hotel or from the W Hotel's porte-cochere, with the white passenger loading/taxi zone adjacent to the W Hotel on Howard Street for valet parking and passenger loading operations. Both options feasibly demonstrate how deliveries, passenger loading and valet parking access to the 147-151 Minna Street parking garage could be retained during construction. The volume of valet parking vehicles and trucks that would utilize these alternative routes during construction would be relatively small in the context of overall traffic volumes in the area (approximately 90 to 100 valet vehicles per day and approximately 20 trucks per day). This small number of trips would not significantly alter current traffic volumes or intersection operations, and neither routing alternative would change the analysis or conclusions of the Draft EIR in regard to construction-period impacts on the transportation system.

Because Natoma Street terminates at the SFMOMA property line, it is not a through street between New Montgomery and Third Streets. Therefore, construction activities within the vacated Hunt Street and Natoma parking pad would not result in any displacement of through traffic to New Montgomery,

Howard, or Third Streets, as suggested in the comments. Only valet parking and loading activities associated with the W Hotel would need to use Howard, Third, Minna and/or New Montgomery Street as alternative routes during construction.

Project Conditions

As described in the EIR and in Response TR-4 in the C&R (pp. 46-55), the W Hotel would continue to have access to Natoma Street during project operations following construction, and its loading operations would not be displaced onto neighboring streets, and therefore no adverse loading or access impacts would occur. C&R Figures 2-6 (C&R pp. 47-53) illustrate delivery truck and valet movements to the W Hotel and the SFMOMA under project conditions.

- Figure 2 shows the existing conditions within Hunt Street and the Natoma parking pad and it indicates how existing passenger vehicle parking for the SFFD often impedes truck access into the W Hotel loading dock. Since the fire station is staffed 24 hours a day, the existing parking spaces are typically fully occupied.
- Figure 3 shows the proposed ground floor design for the SFMOMA Expansion. The current long-term parking by SFFD personnel that currently occurs on Hunt Street and that interferes with truck access to the W Hotel's loading dock would be eliminated upon relocation of Fire Station No. 1, improving access to the loading dock. This figure also shows the truck turning path for a 30-foot medium size truck. It should be noted that in some instances, when multiple trucks are using the loading area, additional turns may be required to access the W Hotel loading dock.
- Figure 4 shows the proposed valet route that would be used through the proposed SFMOMA Expansion loading area. Access between the W Hotel and the 147-151 Minna Garage would remain unchanged, and two vehicles would be able to pass each other in the porte-cochere.
- Figure 5 shows a potential turnaround for vehicles accessing Natoma Street.
- Figure 6 shows the anticipated loading maneuvers at the SFMOMA Expansion.
- With the SFMOMA Expansion, the W Hotel's valet operations, garbage removal, and deliveries from Natoma Street would continue to occur, although the loading area would need to be appropriately managed. The C&R, pg. 55 identifies Improvement Measure TR-7 to minimize the potential for conflicts within the Natoma loading area and to ensure that deliveries for SFMOMA and W Hotel are adequately accommodated.

Additionally, Section 7.1(d) on page 18 of the Conditional Land Disposition and Acquisition Agreement (CLDAA) between the City and SFMOMA executed in October 2010 contains a condition of closing, requiring SFMOMA to provide

access to the W Hotel through the mid-block area for the hotel's valet parking and loading requirements before the City transfers Hunt Street and the Fire Station property to SFMOMA. Accordingly, permanent access for the W Hotel over the mid-block area is assured. The EIR is not required to analyze a theoretical condition where access is cut off, because the CLDAA condition of closing will assure that does not occur.

The Planning Commission found that the analysis of baseline conditions, construction-period access and loading effects, measures to reduce the severity of those anticipated effects as well as project access, circulation and loading analyses are adequate for purposes of environmental review; Appellant has not provided substantial evidence to establish otherwise.

Air Quality and Noise Construction-Period Effects

Concern 5: The EIR fails to adequately analyze construction-related impacts on air quality, noise and vibration. The EIR fails to assess air quality impacts associated with indoor vehicle movements. (SSL Law Firm, concerns 1.h-j, Nov. 30 letter; concerns II.B, II.H, II.I, August 25 letter).

Response 5: The EIR appropriately and sufficiently analyzes the projects' construction-period air quality, noise and vibration effects and identifies mitigation measures and describes other standard conditions that are required to be carried out as part of construction projects in San Francisco to reduce air quality and noise impacts.

Construction Air Quality

The EIR reviews the projects' air quality impacts (EIR, Ch. IV.F), including those related to construction. The analysis of construction-period air quality effects was undertaken consistent with the Bay Area Air Quality Management District's recently adopted CEQA Guidelines (adopted June, 2010, updated May 2011).

As stated on EIR, pg. 369, demolition of existing buildings and site clearing and excavation would generate fugitive dust (PM₁₀ and PM_{2.5}), and construction emissions were estimated using the California Emission Estimator Model (CalEEMod) taking into account implementation of all PM₁₀ control measures recommended by the BAAQMD and as required under the San Francisco Health Code Article 22B. Anticipated construction emissions were analyzed and presented in Impact AQ-2. As shown in the table below, modeling indicates that the project's anticipated construction emissions would not exceed the BAAQMD thresholds for reactive organic gasses (ROG), nitrogen oxide (NO_x) and particulate matter (PM 2.5 and PM 10). EIR Table IV.F-4 is repeated below.

Another potential effect of construction would be locally elevated levels of particulate matter (PM₁₀ and PM_{2.5}), or fugitive dust emissions that could be carried downwind of construction activity. Construction dust could be generated at levels that would create an annoyance to occupants of nearby properties. The EIR, pp. 375-376 also discusses the San Francisco Construction Dust Ordinance (Ordinance 176-08, effective July 30, 2008) that would reduce the quantity of dust generated during site preparation, demolition, and construction work in order to protect the health of the general public and of onsite workers, and to minimize

public nuisance complaints. This ordinance requires all measures that are demonstrated to effectively minimize dust. The City has not received evidence indicating that the provisions of the ordinance would not be adequate to reduce fugitive dust to a less-than-significant level and reduce impacts to nearby receptors, including guests and employees of the W Hotel.

Table IV.F-4: Project Construction Emissions in Pounds Per Day

Project Construction	ROG	NO _x	Exhaust	Exhaust
			PM _{2.5}	PM ₁₀
SFMOMA Expansion	30.0	39.0	1.9	1.9
Fire Station Relocation and Housing Project	6.4	13.0	0.9	0.9
Total Construction Emissions	36.4	52.0	2.8	2.8
BAAQMD Thresholds	54.0	54.0	54.0	82.0
Exceed Threshold? (Yes/No)	No	No	No	No

Notes:

OFFROAD emission estimates include a 33 percent load factor reduction.

NA = Not Applicable, the BAAQMD does not have threshold.

BMP = Best Management Practices

Source: LSA Associates, 2011.

With respect to indoor air quality, Response AQ-1 C&R, pp. 84-85 states that neither the Bay Area Air Quality Management District (BAAQMD) nor the City requires a health risk assessment to evaluate indoor air pollution associated with loading and parking areas. Instead, the San Francisco Building Code requires adequate ventilation in all enclosed areas in which vehicles are used and federal law requires signage to notify the public of the presence of toxic air contaminants. The SFMOMA Expansion would adhere to the Building Code and all applicable federal regulations. Therefore, adequate ventilation would be incorporated into the loading areas that would be used by SFMOMA and the W Hotel as a matter of building design. The City has not received evidence indicating that adherence to these requirements would be inadequate. In addition, employee safety related to indoor air quality would be monitored by the California Department of Occupational Safety and Health Administration (Cal-OSHA) and SFMOMA would be required to comply with all applicable Cal-OSHA regulations to protect employee safety.

Appellant has not provided evidence that the above analysis is flawed or that the measures required by the ordinances cited above would be insufficient to address the project's dust-related effects.

Construction Noise

The Initial Study, pp. 89-92, describes how construction noise is regulated in San Francisco. Impact NO-2a describes that the construction of the SFMOMA expansion would be subject to the San Francisco Noise Ordinance (Article 29 of the Police Code).

The analysis finds that no noise-sensitive uses such as schools or hospitals are located adjacent to the SFMOMA expansion site, but that surrounding hotel, office, retail, residential and cultural uses would be expected to be adversely affected by construction noise without additional mitigation above and beyond implementing the provisions in the Noise Ordinance. The Initial Study indicates that the noisiest phases of the approximately two-year construction period would occur between the demolition and foundation phases, comprising a total of approximately 8 months; later phases would include installation of plumbing and electrical systems, and interior finishes are expected to be less noisy. Maximum instantaneous noise levels (Lmax) resulting from the noisiest construction activities proposed as part of the project (e.g., use of hoe rams) would range up to 84 dBA at 100 feet and would be considered significant without mitigation.

The Initial Study also indicates that demolition and construction activities would also generate perceptible groundborne vibration levels when heavy equipment or impact tools (e.g., hoe rams and excavators) are used.

Given the potential for significant construction noise effects, the Initial Study identifies Mitigation Measure NO-2a. The project sponsor has agreed to implement this measure. This mitigation would reduce daytime construction-noise through the following measures: notification of occupants within 100 feet of the project site 10 days prior to the commencement of construction; use of best available noise control techniques for construction equipment and trucks; use of hydraulic or electrically powered tools, rather than pneumatically powered tools whenever feasible; use of exhaust mufflers when pneumatically powered tool use is unavoidable; locating stationary noise sources as far as feasible from sensitive receptors and installation of noise barriers to the extent feasible; limiting the hours for ground clearing, excavation, foundation pouring, frame construction and exterior finishing between 7:00 a.m. to 8:00 p.m.; and preparation of a vibration assessment of construction activities prescribing methods to reduce groundborne vibration effects to less than 90 VdB.

The above mitigation measures, in conjunction with the mandatory provisions of the San Francisco Noise Ordinance are sufficient to mitigate temporary construction noise effects related to the construction of the SFMOMA Expansion to a less-than-significant level. Appellant provides no evidence suggesting that the mitigation is inadequate or that temporary noise impacts would be significant.

Adequacy of EIR Mitigation Measures

Concern 6: The EIR fails to include adequate mitigation to address the above impacts. The EIR's improvement measures do not comply with CEQA and are inadequate to address impacts of the project. The Mitigation Monitoring and Reporting Program is inadequate and does not include all measures required by CEQA. (SSL Law Firm, concerns 2, 3, 6, Nov. 30 letter).

Response 6: The Initial Study and EIR identified mitigation measures for potentially significant environmental effects in accordance with CEQA and are adequate to reduce those

effects to insignificant levels. Additional measures (“Improvement Measures”) that would reduce the severity of effects found less than significant are included in the EIR for the Planning Commission to consider for adoption as conditions of project approval. The Planning Department prepared a thorough and complete MMRP also in compliance with CEQA requirements. SFMOMA has agreed to implement all Mitigation Measures.

CEQA defines a significant effect on the environment as a “substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.... (CEQA Guidelines Section 15382). CEQA also states that “No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are: (1) Changes or alterations [mitigation measures] have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR” (CEQA Guidelines Section 15091(a)).

As detailed in the Initial Study and EIR, the potentially significant impacts of the SFMOMA Expansion project that will be addressed through implementation of mitigation measures include impacts related to: construction noise; construction air quality; hazards from hauling and disposal of lead-contaminated soil and PCBs; and archeological resources. The Planning Commission found the measures to be feasible and the sponsor has agreed to implement the mitigations. These measures are fully enforceable and will be included as conditions of approval by the Planning Commission and by other City decision-makers. Appellant does not provide evidence that the mitigation measures included in the EIR would be insufficient to address and ameliorate these effects.

The Planning Commission has determined that the following significant impacts on the environment, as reflected in the Final EIR, are unavoidable. These effects include those related to: the demolition of the industrial building at 935 Folsom Street, a potential historic resource; and construction air quality due to exposure of sensitive receptors to particulate matter near 935 Folsom Street. The EIR identified mitigation measures to reduce the severity of these impacts, though not to an insignificant level; these effects could only be fully eliminated by selection of a No Project Alternative. Under Public Resources Code Section 21081(a)(3) and (b), and CEQA Guidelines Section 15091(a)(3), 15092(b)(2)(B) and 15093, the Commission determined that these impacts are acceptable due to overriding considerations adopted for the project.

In accordance with CEQA Guidelines Section 15097, the Planning Department prepared a Mitigation Monitoring and Reporting Program (“MMRP,” included as Exhibit C to this Appeal Response). The MMRP includes all mitigation measures identified in the EIR. It lists the entity responsible for implementing the mitigation, the specific timing when the measure(s) need to be carried out,

and the party responsible for the monitoring or reporting when the measure(s) are considered complete. The MMRP is consistent with the CEQA Guidelines, includes all measures required by CEQA, reflects standard San Francisco practices and is fully sufficient in addressing potential significant adverse effects except for those effects of the 935 Folsom replacement fire station project that were determined significant and unavoidable (historic resources impacts and construction air quality impacts). On October 24, 2011, SFMOMA executed an Agreement to Implement Mitigation Measures identified in the EIR (Attachment D).

In some instances, the EIR determined that a number of effects would be less than significant under CEQA, but identified measures that the Planning Commission may consider as conditions of approval to further reduce the magnitude of these effects. The EIR's improvement measures include those related to: pedestrian circulation (Measure TR-1); bicycle circulation and loading at 935 Folsom Street (Measures TR-2 and TR-3); a transportation demand management plan for SFMOMA employees (Measure TR-4); preparation of a construction management plan for SFMOMA and 935 Folsom Street (Measure TR-5); move-in materials related to transit service for new tenants at the residential project at 935 Folsom Street (Measure TR-6); loading management for SFMOMA and W Hotel operations (Measure TR-7); signage prohibiting right turns onto Folsom Street from Sixth Street when emergency vehicles are exiting the Fire Station (Measure TR-8); and fire department staff training and meetings to address noise concerns surrounding the future fire station at 935 Folsom (NO-1a and NO-1b). The EIR includes substantial evidence to conclude that the effects these measures address would not be significant and that these measures would further reduce less-than-significant project effects.

CEQA Guidelines Section 15151 contains the standards used to determine whether an EIR is adequate: "An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information, which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure." By certifying the EIR, the Planning Commission determined that the EIR meets this standard for adequacy.

Recirculation of the Draft EIR

Concern 7: The EIR needs to be revised and recirculated for public comment to address the address substantive deficiencies. (SSL Law Firm, concern II, Nov. 7 letter, concern 4, Nov. 30 letter).

Response 7: The Planning Commission certified the EIR as adequate, accurate and complete. None of the conditions outlined in the CEQA Guidelines require the Planning Department to recirculate the EIR for review and public comment.

Per CEQA Guidelines 15088.5, recirculation of a Draft EIR prior to certification is required only when “significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification.” “Significant new information” is defined as:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it.
- (4) The draft EIR was so fundamentally and basically flawed inadequate or conclusory in nature that meaningful public review and comment were precluded.

No significant new information as defined by the CEQA Guidelines 15088.5, including new impacts, mitigation measures or project alternatives has been added to the EIR. The information included in the EIR is adequate and sufficient to apprise the public and decision-makers of potential environmental impacts associated with the projects. The EIR was not so fundamentally inadequate or conclusory so as to have precluded meaningful public comment or participation. The responses to comments on the DEIR contained in the C&R adequately addressed all DEIR comments but did not contain significant new information as defined in CEQA Guidelines Section 15088.5. Revision and recirculation of the EIR is therefore not required.

CONCLUSION

The EIR’s project description is thorough and accurate and enabled the EIR to accurately disclose project impacts and identify mitigation measures. Appellant does not provide substantial evidence that the project description or impact analyses are insufficient for an understanding of environmental effects. Moreover, Appellant does not provide evidence that the responses to EIR comments were inadequate. In all cases, the C&R document provided detailed responses to the W Hotel comments on the adequacy of the analyses in the DEIR and explained the basis for all the conclusions reached in the EIR.

For all of the reasons provided in the C&R document and in this Appeal Response, the Planning Department believes that the Final EIR complies with the requirements of CEQA and the CEQA Guidelines, and provides an adequate, accurate, and objective analysis of the potential impacts of the proposed project. Therefore, the Planning Department respectfully recommends that the Board uphold the Planning Commission’s certification of the Final EIR.

ATTACHMENT A: APPEAL LETTER

SSL



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November 30, 2011

VIA HAND DELIVERY AND EMAIL

Ms. Angela Cavillo
Clerk of the Board of Supervisors
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***Re: San Francisco Museum of Modern Art Expansion (Case No. 2010.0275E) and
Fire Station Relocation and Housing Project (Case No. 2009.0291E)
Final Environmental Impact Report – SCH Number 2010102047***

Dear Ms. Cavillo:

On behalf of KSSF Enterprises Ltd., owner of the W Hotel San Francisco (“the W”), we hereby appeal the San Francisco Planning Commission’s certification of the above referenced Final Environmental Impact Report (“FEIR”) pursuant to the California Environmental Quality Act (“CEQA”).

As required by San Francisco Administrative Code section 31.16, we have submitted comments to the Planning Commission and the Environmental Review Officer on the draft EIR, both in writing during the public review period and orally at the two hearings on the EIR. We attach and incorporate herein our comment letters on the EIR dated August 25, 2011 and November 7, 2011. Enclosed with the hard copy of this letter is our check in the amount of \$510.00 in accordance with the requirements of San Francisco Administrative Code section 31.22. Also enclosed with this appeal is a copy of Planning Commission Motion 18486, adopted November 10, 2011.

KSSF hereby appeals the Planning Commission’s certification of the EIR on the following specific grounds:

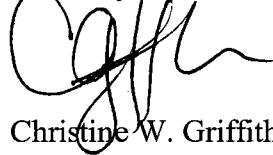
1. The EIR contains fundamental analytical flaws that mandate revision and recirculation, including:
 - a. The Project description is incomplete for failing to fully and consistently describe the proposed SFMOMA expansion.

- b. The EIR fails to adequately analyze aesthetic impacts. The EIR understates the aesthetic impacts of the SFMOMA expansion and the analysis of aesthetic impacts in the EIR is not supported by substantial evidence.
 - c. The EIR fails to identify or analyze construction-related aesthetic impacts.
 - d. The EIR fails to identify measures that may minimize aesthetic impacts on neighboring properties.
 - e. The EIR fails to include an accurate baseline of traffic conditions at and around the Project site.
 - f. The EIR fails to adequately analyze the significant impacts that Project construction will have on traffic conditions at and around the Project site. These impacts arise from the Project's closure of the mid-block area that the W Hotel relies upon for loading/unloading and valet activities. These activities will be moved onto 3rd Street, Howard Street and New Montgomery, exacerbating an already congested area.
 - g. Mitigation for construction-related traffic impacts is inadequate and/or improperly deferred.
 - h. The EIR fails to analyze key constraints impacting traffic during Project operation, including truck loading and unloading patterns at SFMOMA and the W Hotel.
 - i. The EIR fails to adequately analyze construction-related impacts on air quality, noise and vibration.
 - j. The EIR fails to assess air quality impacts associated with indoor vehicle movements.
 2. The EIR fails to include adequate mitigation measure to address the above stated impacts.
 3. The EIR's inclusion of "Improvement Measures" does not comply with CEQA and is inadequate to address impacts of the project.
 4. The EIR needs to be revised and recirculated for public comment to address the above substantive deficiencies.
 5. The Response to Comments fails to properly respond to comments on the Draft EIR and fails to address the above listed inadequacies of the EIR.

6. The Mitigation Monitoring and Reporting Plan is inadequate and does not include all mitigation measures as required by CEQA.
7. The Planning Commission's findings on certification of the EIR are not supported by substantial evidence.
8. The Planning Commission's findings do not "bridge the gap" between the analysis in the EIR and the Commission's decision as required for the findings to be sufficient.

Thank you for your consideration of this appeal. Please notify me of any hearing, formal or informal, any proposed and/or final action, and any other action whatsoever regarding this matter. Please contact me at (415) 814-6400 with any questions.

Sincerely,



Christine W. Griffith

Enclosures

cc: Bill Wycko, Environmental Review Officer, San Francisco Planning Department
Michael Jacinto, San Francisco Planning Department
Peter Wong, KSSF Enterprises Ltd.
Ivan Lee, KSSF Enterprises Ltd.
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August 25, 2011

VIA HAND DELIVERY AND EMAIL

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**Re: San Francisco Museum of Modern Art Expansion (Case No. 2010.0275E)
and Fire Station Relocation and Housing Project (Case No. 2009.0291E)
Draft Environmental Impact Report – SCH Number 2010102047**

Dear Mr. Wycko:

On behalf of KSSF Enterprises Ltd., owner of the W Hotel San Francisco (“the W”), we submit the following comments on the above referenced Draft Environmental Impact Report (“DEIR”) pursuant to the California Environmental Quality Act (“CEQA”). According to the DEIR, the proposed projects entail an expansion of the San Francisco Museum of Modern Art (“MOMA”) as well as the relocation of a fire station and construction of housing (together “the Project”). The W is an immediately adjacent neighbor to MOMA, and the MOMA expansion will “wrap around” the hotel; thus, the W is very interested in the details of the Project and its environmental review.

We would like to start by expressing our support for the Project. MOMA is a prominent cultural institution in San Francisco and an important element of the local and tourist experience. The City’s residents and visitors will benefit significantly from greater access to MOMA’s collections. In addition, the Project will advance the area by supporting and growing the local tourist industry. We believe that this Project will ultimately support the neighborhood, and we hope that it will be a vehicle for strengthening the already positive relationship the W and MOMA share.

We are concerned, however, that the DEIR does not fully apprise the City and the public of the true environmental impacts of this important Project. Without careful design, analysis and mitigation, the Project has the potential to significantly, negatively impact the functioning of this vibrant neighborhood affecting both locals and tourists. We ask that the City take the steps necessary to fully understand the impacts of the MOMA expansion and ensure that significant negative impacts be fully analyzed and mitigated, as required by CEQA.

I. Summary of Major Issues of Concern

- As proposed, the design of the MOMA expansion—in particular, its height and lack of setback from the property line—will significantly, negatively impact the views, light and air available to thousands of visitors to the W Hotel each year.
- As proposed, the MOMA expansion will sever the W's right to access Natoma Street. This will cause traffic nightmares as existing loading and through traffic is relocated to surrounding streets and will disable the W's operations. Traffic impacts both during and after construction are inadequately addressed in the EIR.
- As proposed, the MOMA expansion will cause significant negative impacts to the W Hotel and its guests during construction because of noise, dust and debris. No assurances that these impacts will be mitigated have been provided in the DEIR or by MOMA.

II. The DEIR Contains Fundamental Analytical Flaws That Mandate Revision and Recirculation

One of CEQA's primary functions is to ensure that decision makers and the public are provided with a sufficient degree of analysis and information to make intelligent judgments concerning a project's environmental impacts. 14 Cal. Code Regs § 15151; *Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 256. To that end, the DEIR must identify and analyze the significant environmental effects of the Project, and identify all feasible measures to avoid or mitigate those impacts.

Where an EIR fails to adequately address the project's environmental impacts, it must be revised, supplemented in order to address its deficiencies, and recirculated so that the public and decision makers have a meaningful opportunity to analyze the new information and comment on it. *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 448; Pub. Resources Code § 21092.1; 14 Cal. Code Regs § 15088.5.

Unfortunately, the DEIR fails to meet the standard for a sufficient document under CEQA. While we recognize the importance of the Project, and are supportive of it, it is critical that the DEIR accurately assess and analyze the environmental impacts that will flow from Project. CEQA applies equally to all discretionary projects that the City approves, whether they are important or lowly, beloved or loathed. Pub. Resources Code §21065. Accordingly, we submit the following comments on the DEIR, and hereby request that the DEIR be revised to address the inadequacies detailed herein, and re-circulated for meaningful public comment.

A. An Inadequate Project Description Means Aesthetic Impacts Are Ignored

CEQA requires that an EIR contain an accurate and stable project description that provides "enough information to ascertain the project's environmentally significant effects, assess ways of mitigating them, and consider project alternatives." *Sierra Club v. City of Orange*

(2008) 163 Cal.App.4th 523. Failure to include a component in the project description leads to a flawed impact analysis. *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645; *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 27; *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818.

The DEIR project description is incomplete. There is no way to discern from the description in the DEIR what the proposed MOMA expansion may actually look like; there is no detail beyond the maximum exterior dimensions. As described, the design of the MOMA expansion is "intended to meet the additional space needs of the museum while responding to the irregular shape of the site and the existing Botta-designed structure." DEIR, p.23. The design is "in preliminary form." DEIR, p.23. The DEIR describes approximate potential dimensions for the expanded building,¹ but beyond that, no detail is provided. With the information provided, the City could approve a windowless stucco box (see, e.g., DEIR Figures II-13 to II-13 and Figures IV.B-2 to IV.B-8) or could approve an ornate, richly-textured, classical space, or a glass-curtained airy building. There is no way to know because there is no substantial or detailed description of the design, its specific dimensions, materials, colors, etc., included in the Project description or figures.

As described further below, these elements will have a significant aesthetic impact. A project description that merely presents blocks of potential development does not serve the purpose intended by CEQA and does little to inform the interested community or the decision makers. The EIR must provide a detailed project description as "[A]n accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 199. "A curtailed, enigmatic or unstable project description draws a red herring across the path of public input." *Id.* at 198. A detailed project description is especially important where, as here, it is those details that will inform the degree of environmental impact. *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1213.

The City's own planning documents emphasize the importance that design details have in the cityscape. As the General Plan's Urban Design Element states:

The fitting in of new development is, in a broad sense, a matter of scale. It requires a careful assessment of each building site in terms of the size and texture of its surroundings, and a very conscious effort to achieve balance and compatibility in the design of the new building. Good scale depends upon a height that is consistent with the total pattern of the land and of the skyline, a bulk that is not overwhelming, and an overall appearance that is complementary to the

¹ E.g., "[t]he expanded portion of the museum would extend along a north-south axis from Minna Street to Howard Street (a length of 347 feet), and would rise to a maximum height of approximately 200 feet..." DEIR, p. 23. And, "The total square footage of new construction that could occur within the maximum zoning envelope [] is approximately 340,000 square feet. However, SFMOMA proposes approximately 230,000 square feet of new construction." DEIR, p.23.

building forms and other elements of the city. (General Plan, Urban Design Element, Major New Development section).

The General Plan further cautions that “the relationships of building forms to one another and to other elements of the city pattern should be moderated so that the effects will be complementary and harmonious.” General Plan, Urban Design Element, Policy 1.3. An incomplete description of the proposed expansion fails to meet these goals because there is no way to discern whether the expansion will be “complementary and harmonious” or whether the City may be approving a massive austere box.

In addition to providing an incomplete description of the MOMA expansion, the DEIR mischaracterizes viewing sites from nearby hotels, including the St. Regis and the W Hotel, as non-public viewing areas with “private views [for] a small number of persons.” DEIR, p. 138. This is inaccurate. Nearby hotels are public accommodations serving thousands of visitors to the City each year. The W Hotel alone provides accommodation for approximately 180,000 unique visitors each year. While fewer people may view the Project from nearby hotel rooms than from street level, the number of visitors to the City that will experience the MOMA expansion from the vantage of a nearby hotel room is not insignificant.

Because the DEIR presents an inadequate project description and ignores the public aspects of the visitor serving spaces, the DEIR ignores potential impacts that the specific design may cause to a significant segment of the viewing public. Impacts related to the height of the proposed expansion and the materials, color and design of the expansion wall adjacent to the W Hotel are ignored.

For example, at the W Hotel, views from 112 rooms will be impacted by the MOMA expansion. That constitutes 28% of the total room inventory. These east-facing rooms currently have a view of the cityscape and San Francisco Bay Bridge. If the MOMA expansion is approved as proposed (i.e., a box fulfilling a maximum building envelope, DEIR Figures II-13 to II-15 and Figures IV.B-2 to IV.B-8.) many of these rooms will eventually have a view of a massive wall. We are attaching to this letter visual simulations of the views from rooms on the 5th, 9th, and 15th floors of the hotel with the proposed expansion. (See Exhibit A) As these simulations demonstrate, this dramatic change will substantially and negatively impact the view for thousands of visitors to the City each year.

Lowering the maximum height of the expansion would mitigate this impact to some extent, though it will remain significant and unavoidable if the expansion exceeds the height of the existing fire station.

Another ignored impact is from the design of the wall of the expansion adjacent to the W. Because the Project description wholly omits design as an element, there is no way to evaluate the color, materials, texture or other elements that could make up an aesthetically pleasing visual space. Since this wall will be only approximately twenty feet from the existing hotel windows, for many rooms on the lower floors, it will make up the sole and complete visual experience for

visitors looking out from their rooms. The design of this wall needs to be disclosed in order for the City to accurately assess its true aesthetic impact to these visitors.

The DEIR's failure to include a full project description and its failure to accurately characterize visitors from viewing locations within public accommodations means that the public and the decision makers lack the information necessary to make an informed decision about the aesthetic impacts of the MOMA expansion.

B. Construction-Related Aesthetic Impacts Are Not Identified

The EIR should also, but fails to, consider the temporary aesthetic impacts of construction. While the EIR addresses impacts relating to project construction in other areas (*see, e.g.,* DEIR Impact AO-2, p. 374 [construction-related air quality impacts]), it passes off impacts to aesthetics caused during the lengthy two-year construction period with little more than a couple sentences. The DEIR states in relation to aesthetic impacts that could be caused by construction-related "ground disturbance, the use of heavy machinery, and the installation of safety fencing," that "such changes to the visual environment are an unavoidable temporary outcome of development projects. However, such conditions would exist only for a limited duration." DEIR p. 159.

Whether or not an impact is unavoidable or temporary, it must still be analyzed and understood by the community and decision makers. CEQA requires the analysis of *all* impacts, not just those that may be mitigated or avoided. Pub. Resources Code §21100. Indeed, CEQA recognizes that unavoidable impacts fall in a special category and require specific attention. CEQA provides special procedures for dealing with unavoidable impacts that remain significant even after mitigation or when mitigation is unfeasible—such impacts must be justified by decision makers with a finding that "specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment." Pub. Resources Code §21081(b). A heightened awareness and analysis of unavoidable impacts makes sense: the community and decision makers should make an affirmative decision to accept those negative results of the project that cannot be mitigated to less than significant. In order to have the full understanding of impacts that are unavoidable, they cannot be brushed off in the Draft EIR, as here.

Further, though the DEIR minimizes the aesthetic impacts due to construction by stating that "such conditions would exist only for a limited duration," it still fails to actually analyze the impact. DEIR p. 159. The qualification of the impact as only for a limited duration speaks to the degree and intensity of the impact, but does not describe what the impact *is* or why duration would make the impacts less than significant. This fails to meet CEQA's requirement that an EIR must identify and describe the Project's significant environmental effects, including direct, indirect and long-term effects. Pub. Resources Code §21100(b)(1); 14 Cal. Code Regs §15126.2(a).

In other impact areas (e.g., air quality, noise, etc.), construction-related duration alone does not make a significant impact less than significant. At a minimum, the EIR must identify the aesthetic impacts related to construction and set forth the reasons that those impacts are less than significant. Pub. Resources Code §21100(c). A bare assertion that an impact will last less than the Project's lifetime does not satisfy the requirements of CEQA. *See, e.g., Chawanakee Unified School District v. County of Madera* (2011) 196 Cal.App.4th 1016 (holding that temporary and indirect impacts from construction activity related to school facilities must be analyzed in an EIR).

Once fully identified and analyzed, aesthetic impacts related to construction should be mitigated. Pub. Resources Code §21081(a). Options to consider may include appropriate fencing of construction areas to minimize views from public vantage points, requiring the proper storage of equipment within fenced areas when equipment is not in use, and other measures that could minimize the visual impact of construction-related activities.

C. The DEIR Fails to Identify Measures That May Minimize Land Use Impacts on Neighboring Properties

As with the aesthetic impacts related to the height of the building, the DEIR is deficient in analyzing whether setbacks or other building limitations may be appropriate to minimize impacts on neighboring properties. These potential mitigations are ignored because no detailed design is included in the Project description, and so the impacts which they would mitigate are also ignored.

As discussed above, the MOMA expansion is described in the DEIR by its maximum potential dimensions, and could be approved by the City to be a massive undefined box. DEIR Figures II-13 to II-15 and Figures IV.B-2 to IV.B-8. But despite that the DEIR describes a massive box of a project, it fails to identify the impacts that such a box would have on neighboring properties. For example, the W sits immediately adjacent to the proposed expansion on its southwest side. If the expansion is built as described in the DEIR a flat wall will rise up only twenty feet from 112 east-facing hotel rooms. See attached Exhibit A, with visual simulations from W Hotel rooms on the 5th, 9th and 15th floors. This wall will certainly block light and air from reaching those 112 hotel rooms, and from reaching the thousands of visitors that stay in those rooms each year.

The DEIR's only mention of building form as it relates to the existing character of the Project's vicinity is the following statement:

Expansion of the existing museum would introduce a taller and more massive building than currently exists to the site, but the building form would be compliant with applicable height limit provisions of the Planning Code, would be similar in scale to many structures in the vicinity of the site, and would not be considered and incompatible building type in terms of overall design. DEIR, Impact LU-3, p. 116.

It is impossible to evaluate the "overall design", its compatibility with structures in the vicinity, and its impacts on neighboring properties without a more detailed description than a maximum building envelope.

The W suggests that this impact be reevaluated once a final Project design is proposed by MOMA. Until then, building massing, setbacks, and other appropriate design modifications cannot be properly assessed. Specifically as it relates to the W's hotel rooms that will abut the MOMA expansion, a setback or stepped-back massing should be considered in order to preserve access to light and air for visitors to the City staying at the hotel.

D. The DEIR Ignores the Relationship Between the MOMA Expansion and the W Hotel's Vehicle Traffic, and Therefore Fails to Present an Accurate Baseline

The DEIR devotes little space to discussing the relationship between MOMA and the W Hotel and the areas that the two properties currently make common use of. Specifically, the DEIR is deficient in describing how the two properties utilize Natoma Street, the Natoma parking pad area and Hunt Street for loading, unloading and vehicle through traffic.

MOMA is immediately adjacent to the W Hotel on the hotel's northwest side. On the hotel's northeast side lies 676 Howard Street (the existing fire station) and Hunt Street. DEIR Figure II-2. The MOMA expansion will be constructed so that MOMA will "wrap around" the W hotel to take advantage of the fire station location and a vacated Hunt Street. DEIR, Figures 11-10 to 11-12.

The W's operations rely heavily on the access provided across Natoma Street, Hunt Street and the Natoma parking pad (together, the "Natoma Access Area"). See Exhibit B, attached. The W's porte cochere is on the northeast side of the hotel closest to 676 Howard Street. The porte cochere is used for ingress and egress by the W's valet traffic, moving cars off of Howard Street to the entrance of the hotel, through the Natoma Street parking pad to the valet parking garage spaces, and back again. The W's loading dock sits at the back of the porte cochere, facing Hunt Street. The hotel's loading is currently done by trucks entering the area on Natoma Street, crossing the Natoma parking pad and Hunt Street and reaching the W's loading dock.

Typical loading activities for the W Hotel, utilizing the space described above, include the following:

- Approximately 10-15 daily truck deliveries, plus 2 deliveries daily by FedEx and UPS, and 2-4 additional weekly deliveries. Each delivery truck/vehicle is parked in the loading area or Natoma parking pad area for approximately 15-30 minutes. The peak delivery time is from 7 a.m. to 10 a.m., but deliveries may arrive at anytime throughout the day. Often, up to four trucks may arrive and seek use of the Natoma Access Area at the same time.

- In addition to deliveries for hotel operations noted above, large convention bookings with scheduled in-house meetings and events add another 2-5 deliveries per week for furniture, lighting, audio-visual, etc.
- On average 90-100 guest cars move through the porte cochere and Natoma Access Area daily, and have continuous in and out needs.
- Garbage is collected daily from the loading dock area, and recycling is compacted and collected weekly. The truck that retrieves recycling from the compactor maneuvers within 10-12 inches of the existing buildings. Any changes to these structures that inhibit this truck's movements will prevent garbage and recycling from being collected.

The DEIR fails to accurately describe the above truck and vehicle movements, thereby minimizing the crucial relationship between the W's ability to use the Natoma Access Area and the ability for the W to continue operating in a reasonably productive fashion. The operations of the hotel are dependent on the ability of visitors to get in and out, on deliveries to be made to supply the hotel and its restaurant, and on the quick and regular removal of garbage and recycling. By failing to accurately describe these movements through the Natoma Access Area, all of which are existing baseline conditions at the Project site, the DEIR fails to paint an accurate picture of the uses it will displace and the direct and indirect impacts the MOMA expansion will have.

For example, the DEIR states that:

Access to the on-site loading facility for the W hotel is also provided via the Natoma parking pad. Because existing passenger car parking within the Hunt Street easement area constrains full use of the on-site loading facility, loading for the W Hotel occurs within the Natoma parking pad, and deliveries are carted to the hotel. Deliveries for the W Hotel also occur at the curb on Third Street in the early morning hours, and are carted to the service entrance on Hunt Street.
DEIR p. 231.

This description is inaccurate and misleading (for example, no deliveries occur at the curb on Third Street). The inaccuracies are not surprising though since the City never approached the W Hotel to determine the actual usage of the relevant areas by the hotel. The description in the DEIR further fails to include sufficient detail about truck or vehicle movements attributable to hotel operations. There is no description of the number of trucks or time of day that deliveries are typically made.

Thus, the DEIR contains an inaccurate description of the environmental setting and baseline in its description of the site area for the MOMA expansion, particularly as it relates to the vehicle movements by the W hotel. "The baseline is critical to a meaningful assessment of the environmental impacts of a project." Kostka & Zische, *Practice Under the California Environmental Quality Act*, (2d, 2011), §12.16; *Save Our Peninsula Committee v. Monterey*

County Bd. of Supervisors (2001) 87 Cal.App.4th 99, 119; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 955.

Where, as here, an EIR misstates the environmental setting, the EIR must be revised and re-circulated in order to account for an accurate analysis. Failure to do so will require the document be set aside. *Galante Vineyards v. Monterey Peninsula Water Management District* (1988) 60 Cal.App.4th 1109, 1122 (“Due to the inadequate description of the environmental setting for the project, a proper analysis of project impacts was impossible.”). *Id.*

E. The DEIR Ignores Traffic Impacts During Construction Arising From Blocking the W Hotel Access to Loading and Valet Areas

The DEIR fails to assess the impacts associated with traffic movements during project construction. In fact, the DEIR wholly ignores traffic issues during construction, stating only that “[c]onstruction activities would affect access to the existing off-street loading areas on Minna and Natoma Streets, and therefore the project sponsor would need to make arrangements to accommodate the loading demand associated with the existing SFMOMA and W Hotel operations during construction.” DEIR, p. 290. This is not an analysis, or even an identification of impacts; it is an abdication of the issue.

In addition to effects on operations, the impacts to vehicle loading and unloading will affect traffic on City streets. For two years, during the construction of the MOMA expansion, through traffic for valet movements will be completely blocked off and the Natoma Access Area will be inaccessible for truck loading and unloading. All of this traffic will be pushed onto neighboring streets, which, as identified in the EIR are already congested. For example, the DEIR identifies that the intersections that would be most directly impacted all currently operate at a level of LOS D or E. DEIR, p. 217. During weekday PM and Saturday midday peak hours the intersection at Third/Market is at LOS E, the intersection at Third/Howard is at LOS D, the intersection at New Montgomery/Minna is at LOS E, and the intersection at New Montgomery/Howard is at LOS E. DEIR, p. 217.

Furthermore, the displaced through traffic is not traffic that will simply be moving onto and through the adjacent streets. Instead, because it is loading and unloading traffic, unless there is sufficient appropriate space made to accommodate it, this displaced traffic will be blocking through traffic moving in the area by parking in lanes of traffic. The DEIR fails to analyze whether sufficient appropriate space can be made to accommodate the displaced movements. Rather, the DEIR concludes, without any analysis or evidence that “all valet operations and truck loading activities would likely occur within the hotel white zone on Howard Street.” DEIR, p. 290. It is impossible to assess from this statement whether valet operations plus truck loading, plus the existing loading and unloading that occurs already can be accommodated within the existing white zone. From the hotel’s operational experience, it appears unlikely that the existing white zone is sufficient for these additional demands. See photos of existing conditions attached as Exhibit C. Impacts to local circulation for the duration of the two-year construction period are significant and should be fully identified, assessed and mitigated.

F. Mitigation for Construction-Related Traffic Impacts Is Improperly Deferred

Because construction-related traffic impacts are inadequately identified and analyzed, sufficient mitigation also remains unidentified and improperly deferred. The DEIR simply states that “the construction contractor would be requested to develop staging, laydown, and sequencing plans that would include maintenance of access and operations for the W Hotel.” DEIR, p. 290. There is no further discussion as to the degree of access contemplated in this statement (e.g., does it mean as long as the entrance to the porte cochere is not blocked, there is sufficient access?) or the minimum duration access contemplated (e.g., would 6 months of fully blocking W’s operations be acceptable? 1 year? 2 full years?).

Mitigation for this significant impact cannot be deferred in this manner; CEQA prohibits the deferral of mitigation measures. Guideline 15126.4(a)(1)(B) states, “formulation of mitigation measures should not be deferred until some future time.” “Impermissible deferral of mitigation measures occurs when an EIR puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described in the EIR.” *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 915.

This concept is further explained in *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, where the court rejected mitigation measures in the form of a “generalized goal” because “no specific criteria or standard of performance is committed to in the EIR.” *Id.* at 670. There, as here, the EIR “leaves the reader in the dark about what ... steps will be taken, or what specific criteria or performance standard will be met...the success or failure of mitigation efforts...may largely depend upon management plans that have not yet been formulated, and have not been subject to analysis and review within the EIR.” *Id.*

This DEIR falls far short of the mark: it has no specific criteria, no plan in place, no commitment to implement any particular course of action, no enforcement mechanism to ensure that mitigation will be provided, and no performance standard. Nor does the DEIR articulate any rationale for deferring mitigation. Such an approach violates CEQA.

G. The DEIR Fails to Analyze Key Constraints Impacting Traffic During Project Operations

Because the DEIR fails to include an accurate baseline in regard to traffic movements on and around the site for the MOMA expansion, the DEIR’s analysis of traffic impacts during Project operation is similarly deficient. The DEIR takes a cursory look at some of the potential movement patterns for truck loading and unloading for both MOMA and the W Hotel and through movements associated with the hotel’s valet service. However, this cursory look is unsupported by substantial evidence.

For example, the Project description includes “loading diagrams” for the SFMOMA expansion and for the W Hotel once the expansion is built. DEIR, Figures II-17 and II-18.

However, the movements reflected in these diagrams are not supported by any evidence—either in the DEIR or in the Transportation Study prepared by LCW Consulting in conjunction with the DIER.

Specifically, and at a minimum, the City should prepare truck turning templates for the various MOMA loading spaces identified in the DEIR along Natoma Street. These templates should identify whether any trucks entering and exiting the desired MOMA loading spaces would require multiple maneuvers, which could result in blockage of Natoma Street for MOMA or W trucks and for valet operations to and from the hotel.

The City should also prepare a truck turning template for the access to the W loading dock to confirm that trucks can make all required moves. Sufficient space must be identified to allow trucks to turn around, to allow multiple truck access at one time, and to allow garbage trucks to maneuver enough to load and unload the trash compactor at the loading dock located at the back of the W. See photos of existing conditions attached as Exhibit C.

The DEIR includes two unsubstantiated diagrams depicting expected loading movements for MOMA and the W after construction of the expansion. DEIR, Figures II-17 and II-18. These diagrams do not include truck turning templates and it is impossible to assess from them whether the truck movements depicted are feasible and sufficient for the purposes of loading and unloading. There is simply not enough detail to make that determination.

From its operational experience, the W takes specific issue with Figure II-18, which ostensibly diagrams loading movements for the W Hotel after construction. This diagram does not reflect feasible or operationally satisfactory accommodations for truck and vehicle movements. For example, the diagram indicates that both truck movements and vehicle movements could proceed through the porte cochere at the same time (in fact, the diagram shows a truck parked in the porte cochere and routes for both trucks and valet along side). This is physically impossible. We are attaching photographs showing the room available in the porte cochere for vehicular movements with Exhibit C. A truck and a car cannot occupy the same space in the porte cochere at the same time.

Figure II-18 in the DEIR also shows trucks completing a maneuver by which they swing into Howard Street and then back into the porte cochere—a move that would block at least two, and likely all, lanes of traffic for several minutes (for each delivery) if it can be accomplished at all. See Exhibit C. Currently, the majority of the hotel's truck deliveries occur between 7 a.m. and 10 a.m., corresponding closely to the peak morning commute traffic. Given these conditions, if loading occurs as described in the DEIR, several lanes of traffic will be held at a standstill for significant portions of the weekday morning peak hours. This would undoubtedly lower nearby intersection operations from LOS E to LOS F, which is considered unacceptable in the DEIR (DEIR, p. 212.), and would certainly be unacceptable to drivers trying to make their way across the City.

The W is willing to work with the City to provide additional information (e.g., regarding the dimensions of trucks making deliveries, more detail on their typical schedule, etc.) so that a rigorous analysis of the traffic impacts associated with the proposed MOMA expansion is fully and accurately disclosed to the community and the City.

H. Potentially Significant Construction Impacts Are Not Fully Assessed in the DEIR; Further Mitigation is Warranted

Despite having identified that construction-related activity for the MOMA expansion will cause noise impacts and mitigation must be applied, the DEIR fails to include any further analysis of those impacts. The analysis in the Initial Study is insufficient to accurately describe the potential impacts: it fails to describe the types of heavy-equipment that will be used during construction, the hours that the equipment will be in use and fails to quantify the incremental increase in noise resulting from the use of heavy equipment and other construction activities. Initial Study, p. 89-92. The DEIR fails to indicate whether noise monitoring will be conducted on-site during project construction. Mitigation should include assurances that construction noise will not exceed levels required by law.

Furthermore, the Initial Study (and therefore the DEIR), glosses over impacts caused by vibration associated with construction activities. Although the Initial Study recognizes that “[d]emolition and construction activities proposed as part of the SFMOMA Expansion would also generate perceptible groundborne vibration levels when heavy equipment or impact tools (e.g., hoe rams and excavators) are used,” there is no description of the activities that will actually occur on site and the timing of those activities relative to other noisy construction activities. Initial Study, p. 90. Will a vibration monitoring device be installed on-site? Mitigation should include assurances that vibration from construction will not exceed specified appropriate levels.

For example, there is no description of whether the MOMA expansion will require excavation for additional basement space, or whether pile driving will be used during construction, an activity that can be damaging to structures as well as impactful to people because of noise. These types of activities, and when they are likely to occur, must be spelled out in the DEIR in order to provide the community a full view of the noise and vibration that it will be subjected to during the two-year construction period. Furthermore, the W would like assurances that any ground excavating work will be undertaken in a manner that will not adversely impact or damage the W Hotel structure. The W requests that only bore piling be permitted, if this type of activity is required for construction. With any type of excavation or foundation work proposed for the site, mitigation should be incorporated into the project to ensure impacts to surrounding structures are avoided (e.g., installation of settlement markers, retaining walls where appropriate, etc). These details should be fully articulated and addressed in the EIR.

Additionally, there is no description in the DEIR of measures that will be taken to prevent construction debris from migrating out of the construction site. The W is concerned that debris

may fall on its roof terrace, and could potentially injure guests to the hotel. Mitigation should be incorporated into the project to avoid this potential impact, including protective fencing around the construction site.

As identified in the Initial Study and DEIR, construction-related impacts from the MOMA expansion must be mitigated to ensure that they remain less than significant. Initial Study, p. 89-92; DEIR, p. 374-376. While some mitigation has been identified in the Initial Study and DEIR for noise and air quality impacts, once the full impact of construction-related activities are analyzed, we urge the City to consider further mitigation, including placing limits on the days and hours of construction. These limits would further assure that visitors to the W hotel, and residents and visitors to other neighboring properties, are able to have the quiet enjoyment of their accommodations and residences. Additionally, given the location of the MOMA expansion to a significant number of residences and hotels, we urge the City to disallow extended construction hours for any of the Project construction and to consider imposing further restrictions. SF Police Code §2900 *et seq.*

I. The DEIR Fails to Assess Air Quality Impacts Associated with Indoor Vehicle Movements

The MOMA expansion is proposed to be built, in large part, over the existing Natoma Access Area. As proposed, the ground floor will remain accessible for truck and vehicle movements, including loading, unloading and the W Hotel's valet activities. DEIR, Figures II-17 and II-18. Once the expansion is built, this activity will effectively take place indoors, as the expansion will surround what remains of the Natoma Access Area. Nonetheless, the Air Quality section in the DEIR fails to assess the air quality impacts of this change.

Criteria air pollutants, including ozone, carbon monoxide, particulate matter, nitrogen dioxide, and sulfur dioxide, are all byproducts of motor vehicle use. DEIR, p. 353-355. Enclosing motor vehicle use indoors, without appropriate ventilation systems, could pose a significant human health risk for employees and visitors to the museum and the W's loading areas. As such, adequate ventilation systems need to be designed and described in the DEIR so that an adequate evaluation may be completed.

This evaluation should include a Health Risk Assessment to evaluate the toxic air contaminant (TAC) loads associated with moving this significant vehicular traffic indoors. The DEIR identifies that "pollutants emitted primarily from motor vehicles (1,3-butadiene and benzene) account for slightly over one half of the average calculated cancer risk from ambient air in the Bay Area." DEIR, p.357. The risk posed to employees working in the museum and W hotel loading areas may be significant without appropriate mitigation. The DEIR must be revised to incorporate this analysis.

III. The City Cannot Make the Findings Necessary to Vacate Hunt Street and the Natoma Parking Pad

In order for the MOMA expansion to be built, MOMA must be able to exclude the public from those areas in which it seeks to construct its expansion. MOMA cannot, without City action, exclude the public from areas of the Project site that the public has the right to pass through, including City streets. Thus, the City must vacate certain portions of the Project site that are City streets in order for the MOMA expansion to be built. However, as described in the DEIR, although the City has contemplated that it will have to vacate one area (Hunt Street), it failed to contemplate vacating the whole of the public street areas over which the expansion will be built; furthermore, even if the City attempts to vacate all of the existing public streets necessary to construct the Project, the City will violate state law and City policy in its attempt to make the necessary findings.

“The streets of a city belong to the people of the state, and every citizen of the state has a right to the use thereof...” *Rumford v. City of Berkeley* (1982) 31 Cal.3d 545, 549. The MOMA expansion site is proposed to extend over two distinct areas on which citizens have a current right to pass: a portion of Hunt Street and an unnamed public right-of-way between the existing museum and Hunt Street (the “Easement Area”). See Exhibit B. The Easement Area is described in the DEIR as “[a] vehicular and pedestrian access easement encumber[ing] a portion of the Natoma Street parking pad up to a minimum clear height of 14.5 feet above the parking pad grade.” DEIR, p. 10.

As the DEIR explains, the City is planning to vacate the relevant portion of Hunt Street:

[T]he short (115-foot by 30-foot) segment of Hunt Street that is located between the museum and the 670 and 676 Howard Street buildings would be vacated and conveyed by the City to SFMOMA. This segment of Hunt Street is “landlocked” and does not connect to any other public street because the westerly extension of Hunt Street to Third Street was vacated by the City in 1979 and the land conveyed to the developer of the W Hotel. DEIR, p. 113.

But the DEIR never mentions that what the City plans to do about the Easement Area. The Easement Area is a street²; it was granted to the City for “public street purposes” and was accepted by the Board of Supervisors through the adoption of Resolution No. 198-92 at its meeting on March 9, 1992.

The only way to rescind the right of the people to use a street is to follow state-mandated procedures to vacate that street. *Id.* at 548 (explaining that because the state has preempted the field of traffic control, the authority to close streets is provided solely by state law); Vehicle Code §21101; Streets and Highways Code §§8300 *et seq.* In short, the City cannot allow MOMA

² For purposes of State regulation, streets are referred to as “highways”. See CA Vehicle Code §360, “‘Highway’ is a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.”

to build on—and therefore block the public’s access to—Hunt Street and the Easement Area without first vacating those areas for public street purposes.³

State law provides the sole authority for the City to vacate a public street. *Rumford v. City of Berkeley* (1982) 31 Cal.3d 545, 550; Vehicle Code §21 (“[n]o local authority shall enact or enforce any ordinance on the matters covered by this code unless expressly authorized therein.”). State law governs both the standard by which street closure or vacation may be accomplished (Vehicle Code §21101) and the process for effectuating a vacation (Streets and Highways Code §§8300 *et seq.*). No street may be vacated unless the legislative body can make a finding that the street is “[n]o longer needed for vehicular traffic.” Vehicle Code §21101(a)(1). “The necessary corollary [to this standard] is a legislative determination that the road may *not* be closed *if needed* for vehicular traffic.” *City of Lafayette v. County of Contra Costa* (1979) 91 Cal.App.3d 749, 756 (holding that city may not partially close a street to some vehicular traffic, even though it was needed for other traffic).

The City cannot make the required finding of non-necessity with respect to Hunt Street and the Easement Area. As described in Section D, above, these streets are currently used to provide access to the W Hotel loading docks. They are necessary for the hotel’s operations as the ingress and egress from the hotel’s loading docks and porte cochere; further, they are necessary to avoid significant traffic impacts that will occur if the hotel’s loading is displaced onto New Montgomery, Howard and Third Streets. See Sections E, F, and G, above.

Case law supports that a City may not vacate a street for the exclusive private use of one party or a small number of citizens. *Constantine v. City of Sunnyvale* (1949) 91 Cal.App.2d 278, 282 (“A street may not be vacated for exclusive private use.”). If the City vacates Hunt Street and the Easement Area, it will be violating this principle because it will be vacating these areas for the exclusive private use of MOMA. This violates state law.

Furthermore, vacating Hunt Street and the Easement Area violates the City’s own policies on street vacation. General Plan, Urban Design Element, Policies 2.8-2.10. This issue is identified in the DEIR as it relates to the vacation of Hunt Street, but the full impacts of vacating that street are not explained or supported. DEIR, p. 69. The DEIR states, “the project would require the City to give up an existing street segment and could conflict with Policy 2.8. However, the Hunt Street segment is of little use as a pedestrian alley because it is landlocked....” This statement wholly ignores that Hunt Street is used for truck loading, unloading and valet operations for the W and MOMA, and for parking and through movements for individual drivers. DEIR, p. 113.

³ The Grant of Easement and Agreement by which MOMA granted the easement area to the City states that “if the portion of either Hunt Street or Natoma Street adjacent to [the museum parcel] is ever vacated or closed to the public by governmental action, these easements shall terminate except for rights, if any of owners of property abutting [the easement area]...” Grant of Easement and Agreement, recorded as Document F090285, at Reel F591, Image 0321, in the records of the City and County of San Francisco on March 25, 1992. To the extent that this provision circumvents the State law requirement that vacation of public streets requires an express finding of non-necessity (Vehicle Code §21101), the provision is void. Civil Code §§1596, 1599, 1667.

The General Plan policies are clear: the City must “[m]aintain a strong presumption against the giving up of street areas for private ownership or use...” General Plan, Urban Design Element, Policy 2.8. To that end, the General Plan states that “[n]o release of a street area shall be recommended which would result in:

1. Detriment to vehicular or pedestrian circulation;
2. Interference with the rights of access to any private property;
[...]
4. Obstruction or diminishing of a significant view, or elimination of a viewpoint;
[...]
9. Reduction of street space in areas of high building intensity, without provision of new open space in the same area of equivalent amount and quality and reasonably accessible for public enjoyment; [or, ...]
11. Adverse effect upon any element of the General Plan or upon an area plan or other plan of the Department of City Planning.

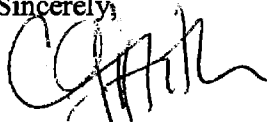
Vacation of the Hunt Street and Easement Areas will result in the adverse affects that the General Plan seeks to avoid. These impacts are discussed in more detail in Sections E, F, and G of this letter, above.

Finally, the General Plan suggests that “[i]n order to avoid the unnecessary permanent loss of streets as public assets, methods of release short of total vacation should be considered...” General Plan, Urban Design Element, Policy 2.10. In this case, the City should consider less than a full vacation for at least the Easement Area. As designed and described in the DEIR, the MOMA expansion will be built above the Easement Area, but the building itself will not fully occupy the space. At ground level, the proposed expansion is open, and the Easement Area only extends from the street and sidewalk surface to 14.5 feet above that plane. The easement could be maintained in large part even with the MOMA expansion constructed above it. As an alternative to vacation of this area, the City should consider temporary authorization for MOMA’s use during the construction period and maintenance of the Easement Area as a street once construction is complete.

IV. Conclusion

Thank you for your consideration of our comments on this noteworthy proposed Project. As we have identified above, the environmental review of this Project is not complete. The DEIR should be revised, supplemented and recirculated so that it meets the requirements of CEQA and so that the public and decision makers are fully apprised of the Project's impacts. We look forward to working with both the City and the applicant in order to ensure the ultimate development of a project that results in benefits to the community and is compatible with the neighborhood.

Sincerely,



Christine W. Griffith

cc: Peter Wong, KSSF Enterprises Ltd.
Ivan Lee, KSSF Enterprises Ltd.
Derek Sasano, KSSF Enterprises Ltd.
Michael Pace, W San Francisco

Attachments: Exhibit A: Visual Simulations
Exhibit B: Diagram of Natoma Access Area
Exhibit C: Photographs of Existing Vehicular Conditions

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November 7, 2011

VIA HAND DELIVERY AND EMAIL

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

**Re: San Francisco Museum of Modern Art Expansion (Case No. 2010.0275E)
and Fire Station Relocation and Housing Project (Case No. 2009.0291E)
Final Environmental Impact Report – SCH Number 2010102047**

Dear Mr. Wycko:

On behalf of KSSF Enterprises Ltd., owner of the W Hotel San Francisco (“the W”), we submit the following comments on the above referenced Final Environmental Impact Report (“FEIR”) pursuant to the California Environmental Quality Act (“CEQA”).

We remain in support of this Project. The benefits of an expanded San Francisco Museum of Modern Art (“MOMA”) for the neighborhood and the City are easy to see. However, the potential negative impacts from the construction and operation of this Project may not be as evident to the public and to decision makers. And it is the balance of the benefits and burdens of the Project that the City must weigh in deciding whether to approve this project and in deciding what mitigation measures to impose to reduce its impacts. The City’s residents and public are entitled to a full and thorough accounting of the Project’s impacts, as required by CEQA.

As we raised in our August 25, 2011 letter to you, the City’s Draft EIR did not fully apprise the public and the decision makers of the environmental impacts of the Project. While the City has prepared responses to those comments, those responses do not fully address our concerns.

I. Major Issues of Concern

As articulated in our August 25, 2011 letter, we have three primary areas of concern: design of the Project, traffic during and after construction, and health and safety related construction impacts. Those issues remain outstanding.

- **Design:** The design of the MOMA expansion remains undefined and difficult to understand. As proposed, the design of the MOMA expansion—in particular, its height and lack of setback from the property line—will significantly, negatively impact the views, light and air available to thousands of visitors to the W Hotel each year.
- **Traffic:** During construction, the MOMA expansion will shut down the mid-block area between MOMA and the W, forcing all large truck deliveries and automobile movements onto already congested surrounding streets and causing traffic nightmares for at least two years. After construction, the City has not imposed a permanent, irrevocable solution to enable the W to operate as it does now—without impacting surrounding streets with loading trucks, trash and recycling vehicles and valet services.
- **Construction Related Impacts:** The noise, dust and debris generated during construction will significantly impact the health and safety of the W's guests and employees. The City still has not made adequate assurances that these impacts will be mitigated.

II. The Response to Comments Fails to Address the Inadequacies of the DEIR

One of CEQA's primary functions is to provide sufficient information about a project's environmental impacts to support informed government decision making. 14 Cal. Code Regs § 15151; *Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 256. To that end, EIR must present a full and thorough analysis of the significant environmental effects of the Project and must identify all feasible measures to avoid or mitigate those impacts.

The City's response to comments received on the Draft EIR is an essential step in meeting the disclosure requirements of CEQA. The environmental issues raised in the comments "must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be a good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice." 14 Cal. Code Regs § 15088. "The requirement of a detailed analysis in response ensures that stubborn problems or serious criticism are not 'swept under the rug.'" *Santa Clarita Org. for Planning v. County of L.A.* (2003) 106 Cal. App. 4th 715, 723.

Merely reiterating what is in the EIR does not meet this standard. For example, in responding to comments that the Project description is incomplete because the draft EIR did not include sufficient detail about the design to adequately assess its aesthetic impacts, the response

lists all the places in the draft EIR that the Project is described. Comments and Responses Document, p. 11-12. However, we are still left with the same "curtailed, enigmatic [and] unstable project description" as before. *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 198. No additional detail is added and no further assessment of the issue has been completed.

Furthermore, the response recognizes that the design of the Project is ever-changing: "As additional design detail is available, it will be released to the public and be provided to decision-makers for their consideration prior to any design approval decisions, but such detail is not necessary to understand the potential impacts of the SFMOMA Expansion on the visual environment." Comments and Responses Document, p. 12. That design detail is required prior to any design approval decisions demonstrates that the design detail goes to the heart of potential impacts on the visual environment. CEQA requires analysis of aesthetic impacts. Those impacts cannot be analyzed without more design detail.

We have been advised by MOMA representatives that the Project design is currently undergoing revisions. It is unclear how significant or insignificant those changes are. MOMA representatives have promised to disclose facade material and lighting details that will significantly impact the viewing experience from locations at the W Hotel as well as from street level. This is important information impacting the visual experience for the neighborhood; it should be fully vetted, included in the Project description and circulated for public comment.

Another example of a cursory response to comments is Response LU-4, regarding whether the vacation of Hunt Street would violate City policy. In this response, the EIR states that "[t]his comment, which is noted, does not pertain to the accuracy or adequacy of the Draft EIR. The decision-makers will consider consistency with the General Plan, including the Urban Design Element, as part of project approvals." Comments and Responses Document, p. 19. This response ignores that one of the impact areas the EIR explicitly purports to analyze is compliance with City plans and policies: Impact LU-2 ("The proposed SFMOMA Expansion and Fire Station Relocation and Housing Project would not conflict with any applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect."). See also, CEQA Appendix G: Environmental Checklist Form.

The General Plan is the central planning document for the City. It guides how the City's environment will grow and change and is to be relied upon for this purpose by both the decision-makers and the public. Deviations from the plan should be disclosed and analyzed in the appropriate environmental document. That has not been done here. The City is planning to vacate Hunt Street and violate several policies that are set forth in the General Plan, and that street vacation has the potential to cause significant traffic impacts due to displaced vehicle movements. The EIR simply says "the decision-makers will look at it later." That is not good enough to satisfy CEQA.

In our August 25, 2011 letter, we identified a number of additional deficiencies in the City's Draft EIR. The Comments and Responses Document does not fill all those holes.

Accordingly, we submit the following additional comments on the EIR, and hereby request that the EIR be revised to address the inadequacies detailed herein and in our August 25, 2011 letter, and recirculated for meaningful public comment. *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 448; Pub. Resources Code § 21092.1; 14 Cal. Code Regs § 15088.5.

A. The FEIR's Assessment of Operational Traffic Impacts Is Based on Incomplete Facts

In responding to concerns about traffic impacts after construction of the Project, the Comments and Responses Document states that

...the description of loading at the W Hotel on page 231 of the Draft EIR is accurate; field observations of some W Hotel deliveries occurring from Third Street were confirmed with W Hotel operations personnel.¹ (Comments and Responses Document, p. 54.)

While a limited field observation may provide a truncated view of the loading and vehicle movements occurring in the mid-block area between the W and MOMA, it does not support an accurate description of the facts on the ground. The description is cursory and incomplete as it fails to accurately describe a number of elements crucial to understanding the traffic movements in this area: the numbers of trucks and vehicles moving in the area, the times at which they are most often in the area, the frequency of their visits, the length of their visits, the size of the vehicles, etc.

This lack of factual information leads to a failure of analysis. Because there is no accurate description of the loading and vehicle movements occurring in this area, there is also no accurate analysis of whether the loading and vehicle movements can be accommodated, for example, in expanded loading zones on Howard and Third Streets during project construction, or during project operation if access to the mid-block area is cut off.

As an example, using the some of the detail we provided in our August 25, 2011 letter,² you can assume that large trucks need access to the W Hotel loading docks for a minimum of approximately 150 to 450 minutes a day (10-15 daily truck deliveries parked in the loading area for approximately 15-30 minutes). That works out to between 2 and 7.5 hours of trucks in the

¹ The EIR indicates that these facts came from a "August 24, 2011 on-site meeting at the Natoma Street loading area between W Hotel and SFMOMA representatives." This indicates that a meeting took place between W Hotel and MOMA representatives; thus, that no EIR authors were present at the "on-site meeting" referenced for a key piece of information—where and how loading occurs at the W Hotel. The authors of the EIR relied on secondhand information, and did not independently verify these key facts.

² p. 7: "Approximately 10-15 daily truck deliveries, plus 2 deliveries daily by FedEx and UPS, and 2-4 additional weekly deliveries. Each delivery truck/vehicle is parked in the loading area or Natoma parking pad area for approximately 15-30 minutes. The peak delivery time is from 7 a.m. to 10 a.m., but deliveries may arrive at anytime throughout the day. Often, up to four trucks may arrive and seek use of the Natoma Access Area at the same time."

area each day, clustered around the peak morning commute hours. There is no indication in the final EIR whether the expanded loading zones can accommodate 7.5 truck hours of loading without causing traffic on Howard or Third Street to back up during the entire morning commute.

The standard of significance for traffic impacts is based on a level of service ("LOS"). Draft EIR, p. 254. If the LOS drops below acceptable levels—even if just during the two years of construction—that is a significant impact under CEQA. The City has additional standards of significance specific to loading:

The project would have a significant effect on the environment if it would result in a loading demand during the peak hour of loading activities that could not be accommodated within the proposed on-site loading facilities or within convenient on-street loading zones, and if it would create potentially hazardous traffic conditions or significant delays affecting traffic, transit, bicycles or pedestrians. (Draft EIR, p. 255).

The EIR must critically examine whether this threshold will be met, based on accurate, verifiable information and analysis. The EIR should examine whether increased loading in this area poses a hazard for pedestrians (i.e., from vendors unloading the trucks by crossing the sidewalk with large unwieldy loads of materials) and whether loading across the sidewalk will actually increase the duration of individual truck visits to the loading zones because pedestrian traffic will slow the pace of unloading.

We have offered to work with the City to provide accurate, verifiable information regarding the W Hotel's loading and unloading activities, the dimensions of trucks making deliveries and the schedule of those deliveries. No one from the City has contacted the W for information about the actual facts on the ground. Until that information is included in the EIR, a full analysis of the Projects impacts on traffic and circulation will remain incomplete.

B. The FEIR's Analysis of Traffic Impacts Is Glaringly Incomplete

The FEIR still does not include an analysis of traffic impacts during construction of the MOMA expansion, which will prevent the W Hotel from accessing the mid-block area between Hunt Street and Natomas Street. The reasons that the City puts forth to justify avoiding this analysis are unsupported. The EIR must ensure that the decision makers and the public are aware of the magnitude of the traffic impacts that will ensue when the loading and unloading, trash and recycling recovery and valet services are no longer able to utilize the mid-block area and are forced onto the already congested New Montgomery, Howard, Minna and Third Streets.

For the period during construction, the EIR states that the omission of this analysis is justified because the traffic impacts are temporary:

Construction-related transportation impacts generally would not be considered significant due to their temporary and limited duration. Construction activities of a 2-year duration are typical in San Francisco, and are not considered significant impacts on the physical environment. (Comments and Responses Document, p. 58).

First, just because impacts are “generally” less than significant does not mean they are *always* less than significant or less than significant for *this* Project. The City cannot avoid analysis under CEQA simply by reference to generalities or typical conditions. According to the City’s *Transportation Impact Analysis Guidelines for Environmental Review*, even if construction related impacts are “generally” less than significant, they must still be described and analyzed:

Any proposed closures or temporary use of pedestrian ways, parking lanes or traffic lanes are to be identified, as well as the extent and duration of such closure or temporary use. Impacts associated with such occupation of public rights-of-way should be identified, in terms of parking lost, effect on transit operations, loading needs, or temporary degradation in levels of service for intersections and/or pedestrians. The need to remove or move any transit stops should also be noted. For large projects, the staging plans of construction trucks for materials delivery should be cited, and methods for addressing the parking needs of construction workers should be identified. (*Transportation Impact Analysis Guidelines for Environmental Review*, p. 16)(Attached as Exhibit A).

The EIR’s reliance on the temporary nature of construction-related traffic impacts to avoid a full analysis is misguided, in violation of CEQA, and in violation of its own EIR instructional guidelines. While two years may be typical of large construction projects within the City, that does not mean two years of impacts are insignificant or benign. Increased traffic will cause additional impacts related to air quality, noise, and even public safety on the impacted streets. *See, e.g., Bay Area Air Quality Management District, CEQA Guidelines*, Updated May 2011. But those issues are ignored as well.

In other jurisdictions, lead CEQA agencies do not simply pass off construction-related traffic impacts because their duration is less than permanent. *See, e.g., “Certification of the Final Impact Report, Findings and Approvals”* for the Glen Mor 2 Student Apartments Project EIR, UC Riverside, p. 19 (incorporating mitigation in response to construction-related impacts on traffic despite “temporary” nature of impact)(Attached as Exhibit B); City of Los Angeles, Boyle Heights Mixed-Use Community Project EIR, p. VI-2 (implementing mitigation measures to reduce temporary construction-related traffic impacts)(Chapter VI attached as Exhibit C). The EIR must determine more than just how long traffic impacts will last for the construction phase

of the Project; it must also determine how bad traffic impacts will be during that time. It is that "how bad will it be?" analysis that remains missing from the EIR.

During operation of the MOMA expansion, the EIR avoids the appropriate analysis by turning a blind eye to the very real possibility that MOMA will prevent the W Hotel from using the mid-block area, and simply asserts without justification that:

[u]pon the vacation of Hunt Street and the termination of the public easement, SFMOMA would continue to provide the W Hotel with access across the reconfigured Easement Area for loading and valet parking access, such that the vacation of Hunt Street and termination of the public easement would not interfere with the W Hotel's vehicular circulation requirements. (Comments and Responses Document, p. 20).

In one breath, the EIR recognizes that Hunt Street and the public easement will be terminated (thereby terminating the W's right to use the mid-block area), and in the next breath, it assumes that MOMA will benevolently allow the W Hotel employees and vendors to cross its property without a clear, enforceable legal obligation to do so.

Instead of analyzing the circumstances and impacts if the access is cut off, the Comments and Responses Document identifies an additional mitigation measure—Improvement Measure TR-7. This measure is aimed at lessening the (un-analyzed) impacts to traffic that operation of the Project may produce. One element of Improvement Measure TR-7 is that "SFMOMA shall ensure that the W Hotel has 24-hour access across the Natoma loading area."

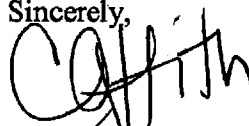
This measure is vague and, as a result, is likely unenforceable. For example, there is no indication as to whether the access must be for any and all vehicles seeking to make deliveries to the W Hotel, or whether MOMA could limit the number of trucks having access. It is not clear whether MOMA must provide access of a sufficient width for large trucks to perform required turns, or whether a pedestrian access will meet the letter of this measure. A privately enforceable, irrevocable easement would clearly set forth the legal obligation for MOMA to provide sufficient access for vehicles associated with the W Hotel and that is what should be required.

If the City is going to rely on this measure to avoid a full analysis of impacts and to ensure that the W Hotel maintains the same access to Natoma Street through what is currently a public easement area, the City must require that MOMA grant to the W Hotel an irrevocable, permanent easement to do so.

III. Conclusion

Thank you for your consideration of our comments in both this letter and our letter dated August 25, 2011. While we remain in support of this Project, we believe that the environmental review is still incomplete. The EIR should be supplemented and recirculated to meet the requirements of CEQA and to fully apprise the public and decision makers of the Project's full impacts.

Sincerely,



Christine W. Griffith

cc: Peter Wong, KSSF Enterprises Ltd.
Ivan Lee, KSSF Enterprises Ltd.
Derek Sasano, KSSF Enterprises Ltd.
Michael Pace, W San Francisco

ATTACHMENT B: PLANNING COMMISSION EIR CERTIFICATION MOTION NO. 18484



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No. 18484

HEARING DATE: November 10, 2011

Hearing Date: November 10, 2011
Case No.: 2009.0291E
Project Title: San Francisco Museum of Modern Art Expansion
Address: 151 Third Street, 670-676 Howard Street
Zoning: 151 Third Street: C-3-O (Downtown Office) Use District,
500-I Height/Bulk District
670 Howard Street: C-3-S (Downtown Support) Use District,
320-I Height/Bulk District
676 Howard Street: P (Public) Use District, 320-I Height/Bulk
District
Block/Lot: 151 Third Street: Block 3722/Lot 78
670 Howard Street: Block 3722/Lot 27
676 Howard Street: Block 3722/Lot 28
Lot Size: 151 Third Street: 43,960 square feet
670 Howard Street: 7,260 square feet
676 Howard Street: 4,400 square feet
Hunt Street: 3,500 square feet
Total: 59,120 square feet
Project Sponsor: San Francisco Museum of Modern Art
Project Contact: Greg Johnson, San Francisco Museum of Modern Art
(415) 375-4190 or gjohnson@sfmoma.org
Lead Agency: San Francisco Planning Department
Staff Contact: Michael Jacinto, Environmental Planner
(415) 575-9033 or michael.jacinto@sfgov.org

Case No.: 2010.0275E
Project Title: Fire Station Relocation and Housing Project
Address: 935 Folsom Street
Zoning District: Mixed Use Residential (MUR), 45-X and 85-X Height/Bulk
Block/Lot: Block 3753/Lot 140
Lot Size: 14,400 square feet

1650 Mission St.
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San Francisco,
CA 94103-2479

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ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED EXPANSION OF THE SAN FRANCISCO MUSEUM OF MODERN ART ("SFMOMA"), RELOCATION OF FIRE STATION NUMBER ONE, AND HOUSING PROJECT.

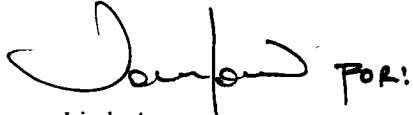
MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report identified as Case Nos. 2009.0291E and

2010.0275E, 151 Third Street; 670-676 Howard Street; and 935 Folsom Street (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
 - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on October 25, 2010.
 - B. On July 11, 2011 the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.
 - C. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project sites by Department staff on July 11, 2011.
 - D. On July 8, 2011, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.
 - E. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on July 11, 2011.
2. The Commission held a duly advertised public hearing on said DEIR on August 11, 2011 at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on August 25, 2011.
3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Draft Comments and Responses document, published on October 27, 2011, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
4. A Final Environmental Impact Report has been prepared by the Department, consisting of the Draft Environmental Impact Report, any consultations and comments received during the review process, any additional information that became available, and the Summary of Comments and Responses all as required by law.

5. Project Environmental Impact Report files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, San Francisco, CA and are part of the record before the Commission.
6. On November 10, 2011, the Commission reviewed and considered the Final Environmental Impact Report and hereby does find that the contents of said report and the procedures through which the Final Environmental Impact Report was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
7. The project sponsor has indicated that the presently preferred alternatives are the "Proposed Projects", described in the Project Description (pp. 9-59) in the Final Environmental Impact Report.
8. The Planning Commission hereby does find that the Final Environmental Impact Report concerning File Nos. 2009.0291E and 2010.0275E reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said Final Environmental Impact Report in compliance with CEQA and the CEQA Guidelines.
9. The Commission, in certifying the completion of said Final Environmental Impact Report, hereby does find that the project described in the Environmental Impact Report:
 - A. Would have a project-specific significant, adverse effect on the environment associated with the demolition of the existing building at 935 Folsom Street, a historical resource for purposes of environmental review; and;
 - B. Could expose sensitive receptors near the 935 Folsom Street Fire Station Relocation and Housing Project site to substantial pollutant concentrations associated with construction activities and result in a considerable contribution to cumulatively significant levels of particulate matter (PM 2.5) and toxic air contaminants.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of November 10, 2011.



Linda Avery
Commission Secretary

AYES: Antonini, Borden, Fong, Miguel, Moore, Sugaya
NOES: --
ABSENT: Olague
ADOPTED: November 10, 2011

ATTACHMENT C: MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
CULTURAL AND PALEONTOLOGICAL RESOURCES				
<p><u>M-CP-2</u></p> <p>Based on a reasonable presumption that archaeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of an archaeological consultant from the Planning Department (Department) pool of qualified archaeological consultants as provided by the Department archaeologist. The archaeological consultant shall undertake an archaeological testing program as specified herein. In addition, the consultant shall be available to conduct an archaeological monitoring and/or data recovery program if required pursuant to this measure. The archaeological consultant's work shall be conducted in accordance with this measure at the direction of the Environmental Review Officer (ERO). [For the SFMOMA Expansion, the archaeological consultant's work shall be conducted in accordance with this mitigation measure, and with the requirements of the project archaeological research design and treatment plan (Far Western Anthropological Research Group. <i>Archaeological Research Design and Treatment Plan for the Transit Center District Plan Area</i>. February 2010) at the direction of the Environmental Review Officer (ERO). In instances of inconsistency between the requirement of the project archaeological research design and treatment plan and of this archaeological mitigation measure, the requirements of this archaeological mitigation measure shall prevail.] All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archaeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of 4 weeks. At the direction of the ERO, the suspension of construction can be extended beyond 4 weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archaeological resource as defined in <i>CEQA Guidelines</i> Section 15064.5 (a)(c).</p> <p><i>Archaeological Testing Program.</i> The archaeological consultant shall prepare and submit to the ERO for review and approval an archaeological testing plan (ATP). The archaeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archaeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archaeological testing program will be to determine to the extent possible the presence or absence of archaeological resources and to identify and to evaluate whether any archaeological resource encountered on the site constitutes an historical resource under CEQA.</p>	<p>Project sponsor and archaeological consultant.</p> <p>(see above)</p>	<p>Prior to any soil-disturbing activities.</p> <p>(see above)</p>	<p>The ERO to review and approve all plans and reports.</p> <p>(see above)</p>	<p>Considered complete upon ERO approval of plans and reports.</p> <p>(see above)</p>

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>M-CP-2</u> <i>Continued</i></p> <p>At the completion of the archaeological testing program, the archaeological consultant shall submit a written report of the findings to the ERO. If based on the archaeological testing program the archaeological consultant finds that significant archaeological resources may be present, the ERO in consultation with the archaeological consultant shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archaeological testing, archaeological monitoring, and/or an archaeological data recovery program. If the ERO determines that a significant archaeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:</p> <p>A. The proposed project shall be re-designed so as to avoid any adverse effect on the significant archaeological resource; or</p> <p>B. A data recovery program shall be implemented, unless the ERO determines that the archaeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.</p> <p><i>Archaeological Monitoring Program.</i> If the ERO, in consultation with the archaeological consultant, determines that an archaeological monitoring program shall be implemented, the archaeological monitoring program shall minimally include the following provisions:</p> <ul style="list-style-type: none"> • The archaeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to the commencement of any project-related soils disturbing activities. The ERO, in consultation with the archaeological consultant, shall determine what project activities shall be archaeologically monitored. In most cases, any soils-disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archaeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context; • The archaeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archaeological resource; • The archaeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archaeological consultant and the ERO until the ERO has, in consultation with project archaeological consultant, determined that project construction activities could have no effects on significant archaeological deposits; 	<p>Project sponsor, archaeological consultant, archaeological monitor, ERO.</p>	<p>Prior to and during soil-disturbing activities.</p>	<p>The ERO to review and approve the archaeological monitoring program and findings from the monitoring program (as applicable).</p>	<p>Considered complete upon ERO's receipt of the written report of findings from the monitoring program.</p>

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>M-CP-2 <i>Continued</i></p> <ul style="list-style-type: none"> The archaeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis; If an intact archaeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archaeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archaeological monitor has cause to believe that the pile driving activity may affect an archaeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archaeological consultant shall immediately notify the ERO of the encountered archaeological deposit. The archaeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological deposit, and present the findings of this assessment to the ERO. <p>Whether or not significant archaeological resources are encountered, the archaeological consultant shall submit a written report of the findings of the monitoring program to the ERO.</p> <p><i>Archaeological Data Recovery Program.</i> The archaeological data recovery program shall be conducted in accordance with an archaeological data recovery plan (ADRP). The archaeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archaeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archaeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practical.</p> <p>The scope of the ADRP shall include the following elements:</p> <ul style="list-style-type: none"> <i>Field Methods and Procedures.</i> Descriptions of proposed field strategies, procedures, and operations. <i>Cataloguing and Laboratory Analysis.</i> Description of selected cataloguing system and artifact analysis procedures. 	<p>Project sponsor, archaeological consultant, ERO.</p>	<p>Prior to soil-disturbing activities.</p>	<p>The ERO to review and approve the archaeological data recovery program.</p>	<p>Considered complete upon ERO's receipt of the written report of findings from the archaeological data recovery program or ERO's direction to implement further measures.</p>

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>M-CP-2 <i>Continued</i></p> <ul style="list-style-type: none"> <i>Discard and Deaccession Policy.</i> Description of and rationale for field and post-field discard and deaccession policies. <i>Interpretive Program.</i> Consideration of an on-site/off-site public interpretive program during the course of the archaeological data recovery program. <i>Security Measures.</i> Recommended security measures to protect the archaeological resource from vandalism, looting, and non-intentionally damaging activities. <i>Final Report.</i> Description of proposed report format and distribution of results. <i>Curation.</i> Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities. <p><i>Human Remains and Associated or Unassociated Funerary Objects.</i> The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC), who shall appoint a Most Likely Descendant (MLD) (Public Resources Code Section 5097.98). The archaeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.</p> <p><i>Final Archaeological Resources Report.</i> The archaeological consultant shall submit a Draft Final Archaeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archaeological resource and describes the archaeological and historical research methods employed in the archaeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archaeological resource shall be provided in a separate removable insert within the final report.</p>	<p>Project sponsor, construction contractor, and archaeological consultant.</p> <p>Project sponsor and archaeological consultant.</p>	<p>During soil-disturbing activities.</p> <p>Following completion of any archaeological field program.</p>	<p>ERO and County Coroner.</p> <p>ERO to review Draft FARR and transmittals to specified agencies.</p>	<p>Considered complete upon latter of ERO's drafting of memo or ERO's direction to implement further measures.</p> <p>Considered complete upon ERO approval of Draft FARR and review of evidence of distribution.</p>

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>M-CP-2</u> <i>Continued</i></p> <p>Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive one bound, one unbound, and one unlocked, searchable PDF copy on CD or DVD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.</p>				
NOISE				
<p><u>M-NO-2a</u></p> <p>The following two-part measure shall be implemented:</p> <ul style="list-style-type: none"> • To reduce daytime noise impacts associated with construction activities to the maximum extent feasible, the following measures shall be implemented in addition to all measures set forth in the Noise Ordinance: <ul style="list-style-type: none"> ○ At least 10 days prior to the start of construction, the project sponsor shall notify occupants of properties within 100 feet of the project site's lot line (comprising the following addresses: 151 Third Street and 670 and 676 Howard Street). Notification shall include an estimation of the duration of construction activities, including anticipated start and completion dates and the daily construction times. ○ Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible). ○ Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible. 	<p>Project sponsor and construction contractor.</p>	<p>At least 10 days prior to the start of construction, during construction, and prior to issuance of grading permits.</p>	<p>DBI to review notification procedure and vibration impact assessment.</p>	<p>Considered complete upon DBI approval of vibration impact assessment and review of evidence of notification.</p>

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>M-NO-2a</u> <i>Continued</i></p> <ul style="list-style-type: none"> ○ Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds. Insulation barriers or other measures shall be incorporated to the extent feasible. ○ Ground clearing, excavation, foundation pouring, building erection and exterior finishing activities shall be limited to between the hours of 7:00 a.m. to 8:00 p.m. <p>The project applicant shall prepare a vibration impact assessment to determine potential construction-related groundborne vibration impacts for all structures located within 25 feet of construction activities expected to generate more than 90 VdB. Measures shall be identified and implemented that would reduce groundborne vibration impacts from extreme noise generators by prescribing methods of construction to be utilized so as not to exceed the FTA's groundborne vibration damage threshold of 90 VdB at the nearest façade of all adjacent structures. Such methods may include restrictions on the number or types of construction equipment that may operate at a time within 25 feet of structures, restrictions on equipment hours of operation, or requirements to use alternative construction techniques. The vibration impact assessment shall be submitted to the Planning Department for review and approval prior to issuance of grading permits.</p>				
HAZARDS AND HAZARDOUS MATERIALS				
<p><u>M-HZ-1a</u></p> <p>The following actions shall be implemented by the project sponsor:</p> <p><i>Step 1 (Preparation of a Phase II Environmental Site Assessment):</i> The project sponsor shall conduct a Phase II Environmental Site Assessment of the Hunt Street and Natoma Street parking pad portions of the project site. If residual contamination is identified on the project site that requires preparation and implementation of a Site Mitigation Plan, Step 2 (and subsequent steps) shall be implemented.</p>	Project sponsor.	Prior to issuance of grading or building permits.	DPH to review Phase II Environmental Site Assessment and subsequent mitigation plan(s), as warranted, for adequacy.	Considered complete upon approval of Phase II Environmental Site Assessment and subsequent mitigation plan(s) by DPH and Planning Department.

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<i>M-HZ-1a Continued</i>				
<p><i>Step 2 (Preparation of Site Mitigation Plan):</i> A Site Mitigation Plan shall be prepared, if warranted based on the results of the Phase II Environmental Site Assessment. The SMP shall include a discussion of the level of contamination of soils and groundwater on the project site and mitigation measures for managing contaminated soils on the site, including, but not limited to: 1) the alternatives for managing contaminated soils on the site (e.g., encapsulation, partial or complete removal, treatment, recycling for reuse, or a combination of methods); 2) the preferred alternative for managing contaminated soils on the site and a brief justification as to why; and 3) the specific practices to be used to handle, haul, and dispose of contaminated soils on the site. The SMP shall be submitted to the DPH for review and approval. A copy of the SMP shall be submitted to the Planning Department to become part of the case file.</p>	(see above)	(see above)	(see above)	(see above)
<p><i>Step 3 (Handling, Hauling, and Disposal of Contaminated Soils):</i> The following measures shall be implemented:</p> <ul style="list-style-type: none"> (a) Specific work practices: If, based on the results of the soil tests conducted, DPH determines that the soils on the project site are contaminated at or above potentially hazardous levels, the construction contractor shall be alert for the presence of such soils during excavation and other construction activities on the site (detected through soil odor, color, and texture and results of onsite soil testing), and shall be prepared to handle, profile (i.e., characterize), and dispose of such soils appropriately (i.e., as dictated by local, State, and federal regulations) when such soils are encountered on the site. If excavated materials contain over 1 percent friable asbestos, they shall be treated as hazardous waste, and shall be transported and disposed of in accordance with applicable State and federal regulations. These procedures are intended to mitigate any potential health risks related to chrysotile asbestos, which may or may not be located on the site. (b) Dust suppression: Soils exposed during excavation for site preparation and project construction activities shall be kept moist throughout the time they are exposed, both during and after construction work hours. (c) Surface water runoff control: Where soils are stockpiled, visqueen shall be used to create an impermeable liner, both beneath and on top of the soils, with a berm to contain any potential surface water runoff from the soil stockpiles during inclement weather. (d) Soils replacement: If necessary, clean fill or other suitable material(s) shall be used to bring portions of the project site, where contaminated soils have been excavated and removed, up to construction grade. 	Project sponsor and construction contractor.	Prior to issuance of a grading permit and during construction.	DPH to review construction plans and specifications for inclusion of appropriate protocols regarding handling, hauling, and disposal of contaminated soils.	Considered complete upon approval of construction plans and specifications by DBI.

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>M-HZ-1a</u> <i>Continued</i></p> <p>(e) Hauling and disposal: Contaminated soils shall be hauled off the project site by waste-hauling trucks appropriately certified with the State of California and adequately covered to prevent dispersion of the soils during transit, and shall be disposed of at a permitted hazardous waste disposal facility registered with the State of California.</p> <p><i>Step 4 (Preparation of Closure/Certification Report):</i> After construction activities are completed, the Project Applicant shall prepare and submit a closure/certification report to DPH for review and approval. The closure/certification report shall include the mitigation measures in the SMP for handling and removing contaminated soils from the project site, whether the construction contractor modified any of these mitigation measures, and how and why the construction contractor modified those mitigation measures.</p>	Project sponsor.	Prior to issuance of occupancy permit.	DPH to review closure/certification report.	Considered complete upon approval of closure/certification report by DPH.
<p><u>M-HZ-1b</u></p> <p>If, based on the results of the soil tests conducted, the DPH determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, any contaminated soils designated as hazardous waste and required by DPH to be excavated shall be removed by a qualified Removal Contractor and disposed of at a regulated Class I hazardous waste landfill in accordance with U.S Environmental Protection Agency regulations, as stipulated in the SMP. The Removal Contractor shall obtain, complete, and sign hazardous waste manifests to accompany the soils to the disposal site. Other excavated soils shall be disposed of in an appropriate landfill, as governed by applicable laws and regulations, or other appropriate actions shall be taken in coordination with the DPH. If the DPH determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, a Site Health and Safety (H&S) Plan shall be required by the California Division of Occupational Safety and Health (Cal-OSHA) prior to initiating any earthmoving activities at the site. The H&S Plan shall identify protocols for managing soils during construction to minimize worker and public exposure to contaminated soils. The protocols shall include at a minimum:</p> <ul style="list-style-type: none"> • Sweeping of adjacent public streets daily (with water sweepers) if any visible soil material is carried onto the streets. • Characterization of excavated native soils proposed for use on site prior to placement to confirm that the soil meets appropriate standards. • The dust controls specified in the Construction Dust Control Ordinance (176-08). • Protocols for managing stockpiled and excavated soils. The H&S Plan shall identify site access controls to be implemented from the time of surface disruption through the completion of earthwork construction. The protocols shall include as a minimum: 	Project sponsor and qualified Removal Contractor.	Prior to issuance of grading permit and immediately following excavation activities.	DPH to review H&S Plan to ensure appropriate protocols have been included for managing potentially contaminated soil and groundwater during the construction period and that appropriate hazardous waste manifests have been provided.	Considered complete upon approval of H&S Plan and receipt of appropriate hazardous waste manifests by DPH.

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>M-HZ-1b <i>Continued</i></p> <ul style="list-style-type: none"> ○ Appropriate site security to prevent unauthorized pedestrian/vehicular entry, such as fencing or other barrier or sufficient height and structural integrity to prevent entry and based upon the degree of control required. ○ Posting of “no trespassing” signs. ○ Provision for on-site meetings with construction workers to inform them about security measures and reporting/contingency procedures. <p>If groundwater contamination is identified, the Site Health and Safety (H&S) Plan shall identify protocols for managing groundwater during construction to minimize worker and public exposure to contaminated groundwater. The protocols shall include procedures to prevent unacceptable migration of contamination from defined plumes during dewatering.</p> <p>The H&S Plan shall include a requirement that construction personnel be trained to recognize potential hazards associated with underground features that could contain hazardous substances, previously unidentified contamination, or buried hazardous debris. Excavation personnel shall also be required to wash hands and face before eating, smoking, and drinking.</p> <p>The H&S Plan shall include procedures for implementing a contingency plan, including appropriate notification and control procedures, in the event unanticipated subsurface hazards are discovered during construction. Control procedures shall include, but would not be limited to, investigation and removal of underground storage tanks or other hazards.</p>				
<p>M-HZ-1c</p> <p>If the DPH determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, all trucks and excavation and soil handling equipment shall be decontaminated following use and prior to removal from the site. Gross contamination shall be first removed through brushing, wiping, or dry brooming. The vehicle or equipment shall then be washed clean (including tires). Prior to removal from the work site, all vehicles and equipment shall be inspected to ensure that contamination has been removed.</p>	Project sponsor and construction contractor.	Prior to issuance of a grading permit and during construction.	DPH to review construction plans and specifications for inclusion of appropriate protocols regarding decontamination of equipment.	Considered complete upon approval of construction plans and specifications by DBI.

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>M-HZ-1d</u></p> <p>The City shall condition future development approvals to require that the project sponsor ensures that any equipment containing PCBs or mercury, such as fluorescent light ballasts, are removed and properly disposed of according to applicable federal, State, and local laws prior to the start of building demolition, and that any fluorescent light tubes, which could contain mercury, are similarly removed and properly disposed. Any other hazardous materials identified, either before or during work, shall be abated according to applicable federal, State, and local laws.</p>	<p>Planning Department.</p>	<p>Prior to issuance of demolition permit.</p>	<p>Planning Department to condition future approvals to require appropriate removal and disposal of any equipment containing PCBs or mercury.</p>	<p>Considered complete upon conditioning of future development approvals by Planning Department.</p>

Improvement Measures	Responsibility for Implementation	Implementation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>Improvement Measure TR-1 <i>Continued</i></p> <p>would occupy the 90-foot frontage of the SFMOMA Expansion site on Howard Street. This space is currently the driveway for the existing fire station, as well as three general metered parking spaces, which would be removed. The sidewalk extension would not affect traffic operations on Howard Street, and would reduce conflicts between parking vehicles and the adjacent travel lane.</p>				
<p>Improvement Measure TR-4 <i>(Transportation Demand Management (TDM) Plan)</i></p> <p>As an improvement measure to reduce the use of single-occupant vehicles and to increase the use of rideshare, transit, bicycle, and walk modes for employees, volunteers, and visitors, SFMOMA should formalize a TDM Plan that addresses travel to SFMOMA by employees and visitors. The project sponsor should retain the services of a transportation consultant to review existing TDM elements, prepare a TDM Plan, and recommend additional measures for consideration by SFMOMA. As part of the TDM Plan, the consultant could prepare a stand alone summary that could be incorporated into the employee manual, and also enhance the TDM information on the public website to better publicize alternative transportation options to visitors.</p>	Project sponsor.	Prior to issuance of occupancy permit.	Planning Department and MTA to review TDM Plan for adequacy.	Considered complete upon approval of TDM Plan by Planning Department and MTA.
<p>Improvement Measure TR-5 <i>(Construction)</i></p> <p>The following construction period measures could be considered:</p> <p><i>Traffic Control Plan for Construction.</i> As an improvement measure to reduce potential conflicts between construction activities and pedestrians, transit, and autos at the SFMOMA Expansion site, the contractor should prepare a traffic control plan for project construction. The project sponsor and construction contractor(s) would meet with DPW, MTA, the Fire Department, Muni Operations and other City agencies to coordinate feasible measures to reduce traffic congestion, including temporary transit stop relocations (not anticipated, but if determined necessary) and other measures to reduce potential traffic and transit disruption and pedestrian circulation effects during construction of the SFMOMA Expansion. The contractor would be required to comply with the City of San Francisco's Regulations for Working in San Francisco Streets, which establish rules and permit requirements so that construction activities can be conducted safely and with the least possible interference to pedestrians, bicyclists, transit and vehicular traffic. The traffic control plan would address how passenger loading/unloading, and deliveries and service vehicles would be accommodated at the W Hotel during project construction.</p>	Project sponsor.	Prior to issuance of demolition, grading, or building permit.	DPW, MTA, and Fire Department to review Traffic Control Plan for Construction for adequacy.	Considered complete upon approval of Traffic Control Plan for Construction.

Improvement Measures	Responsibility for Implementation	Implementation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>Improvement Measure TR-5 <i>Continued</i></p> <p><i>Carpool and Transit Access for Construction Workers.</i> As an improvement measure to minimize parking demand associated with construction workers, the construction contractor could be required by the project sponsor to encourage carpooling and transit access to the project sites by construction workers.</p> <p><i>Project Construction Updates for Adjacent Businesses and Residents.</i> As an improvement measure to minimize construction impacts on access for nearby institutions and businesses, DPW could require the project sponsor to provide nearby residences and adjacent businesses with regularly-updated information regarding project construction, including construction activities, peak construction vehicle activities (e.g., concrete pours), travel lane closures, and lane closures. A web site could be created by project sponsor that would provide current construction information of interest to neighbors, as well as contact information for specific construction inquiries or concerns.</p>				
<p>Improvement Measure TR-7 <i>(Loading)</i></p> <p>As an improvement measure to minimize the potential for conflicts within the Natoma loading area and to ensure that deliveries for SFMOMA and W Hotel are adequately accommodated:</p> <ul style="list-style-type: none"> • SFMOMA shall provide an on-site loading dock manager to coordinate loading, manage the delivery demand, provide assistance for truck maneuvers into and out of the loading area, and coordinate trash collection activity. • SFMOMA shall ensure that the W Hotel has 24-hour access across the Natoma loading area. • The SFMOMA on-site loading dock manager shall coordinate and integrate scheduling of truck deliveries for SFMOMA and the W Hotel. • The SFMOMA on-site loading dock manager and overnight security staff shall actively manage the loading area 24 hours a day to ensure that trucks park efficiently and do not dwell in loading spaces, or block valet and loading access for the W Hotel. • The SFMOMA on-site loading dock manager shall, to the extent possible, schedule deliveries destined to the Natoma loading area (e.g., restaurant deliveries) to before 7:00 a.m. to minimize conflicts with other daytime couriers such as Federal Express and United Parcel Service. • Delivery vehicles longer than 35 feet shall be prohibited from entering the Natoma loading area. 	Project sponsor.	Prior to issuance of occupancy permit.	Planning Department and MTA to review loading plans to ensure that conflicts would be minimized and that deliveries for SFMOMA and W Hotel would be adequately accommodated.	Considered complete upon approval of loading plans by Planning Department and MTA.

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
CULTURAL AND PALEONTOLOGICAL RESOURCES				
<p><u>M-CP-2</u></p> <p>Based on a reasonable presumption that archaeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of an archaeological consultant from the Planning Department (Department) pool of qualified archaeological consultants as provided by the Department archaeologist. The archaeological consultant shall undertake an archaeological testing program as specified herein. In addition, the consultant shall be available to conduct an archaeological monitoring and/or data recovery program if required pursuant to this measure. The archaeological consultant's work shall be conducted in accordance with this measure at the direction of the Environmental Review Officer (ERO). All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archaeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of 4 weeks. At the direction of the ERO, the suspension of construction can be extended beyond 4 weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archaeological resource as defined in <i>CEQA Guidelines</i> Section 15064.5 (a)(c).</p>	<p>Project sponsor and archaeological consultant.</p>	<p>Prior to any soil-disturbing activities.</p>	<p>The ERO to review and approve all plans and reports.</p>	<p>Considered complete upon ERO approval of plans and reports.</p>
<p><i>Archaeological Testing Program.</i> The archaeological consultant shall prepare and submit to the ERO for review and approval an archaeological testing plan (ATP). The archaeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archaeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archaeological testing program will be to determine to the extent possible the presence or absence of archaeological resources and to identify and to evaluate whether any archaeological resource encountered on the site constitutes an historical resource under CEQA.</p>	<p>(see above)</p>	<p>(see above)</p>	<p>(see above)</p>	<p>(see above)</p>

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>M-CP-2</u> <i>Continued</i></p> <p>At the completion of the archaeological testing program, the archaeological consultant shall submit a written report of the findings to the ERO. If based on the archaeological testing program the archaeological consultant finds that significant archaeological resources may be present, the ERO in consultation with the archaeological consultant shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archaeological testing, archaeological monitoring, and/or an archaeological data recovery program. If the ERO determines that a significant archaeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:</p> <p>A. The proposed project shall be re-designed so as to avoid any adverse effect on the significant archaeological resource; or</p> <p>B. A data recovery program shall be implemented, unless the ERO determines that the archaeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.</p> <p><i>Archaeological Monitoring Program.</i> If the ERO, in consultation with the archaeological consultant, determines that an archaeological monitoring program shall be implemented, the archaeological monitoring program shall minimally include the following provisions:</p> <ul style="list-style-type: none"> • The archaeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to the commencement of any project-related soils disturbing activities. The ERO, in consultation with the archaeological consultant, shall determine what project activities shall be archaeologically monitored. In most cases, any soils-disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archaeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context; • The archaeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archaeological resource; • The archaeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archaeological consultant and the ERO until the ERO has, in consultation with project archaeological consultant, determined that project construction activities could have no effects on significant archaeological deposits; 	<p>Project sponsor, archaeological consultant, archaeological monitor, ERO.</p>	<p>Prior to and during soil-disturbing activities.</p>	<p>The ERO to review and approve the archaeological monitoring program and findings from the monitoring program (as applicable).</p>	<p>Considered complete upon ERO's receipt of the written report of findings from the monitoring program.</p>

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>M-CP-2</u> <i>Continued</i></p> <ul style="list-style-type: none"> The archaeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis; If an intact archaeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archaeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archaeological monitor has cause to believe that the pile driving activity may affect an archaeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archaeological consultant shall immediately notify the ERO of the encountered archaeological deposit. The archaeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological deposit, and present the findings of this assessment to the ERO. <p>Whether or not significant archaeological resources are encountered, the archaeological consultant shall submit a written report of the findings of the monitoring program to the ERO.</p> <p><i>Archaeological Data Recovery Program.</i> The archaeological data recovery program shall be conducted in accordance with an archaeological data recovery plan (ADRP). The archaeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archaeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archaeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practical.</p> <p>The scope of the ADRP shall include the following elements:</p> <ul style="list-style-type: none"> <i>Field Methods and Procedures.</i> Descriptions of proposed field strategies, procedures, and operations. <i>Cataloguing and Laboratory Analysis.</i> Description of selected cataloguing system and artifact analysis procedures. 	<p>Project sponsor, archaeological consultant, ERO.</p>	<p>Prior to soil-disturbing activities.</p>	<p>The ERO to review and approve the archaeological data recovery program.</p>	<p>Considered complete upon ERO's receipt of the written report of findings from the archaeological data recovery program or ERO's direction to implement further measures.</p>

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>M-CP-2 <i>Continued</i></p> <ul style="list-style-type: none"> • <i>Discard and Deaccession Policy.</i> Description of and rationale for field and post-field discard and deaccession policies. • <i>Interpretive Program.</i> Consideration of an on-site/off-site public interpretive program during the course of the archaeological data recovery program. • <i>Security Measures.</i> Recommended security measures to protect the archaeological resource from vandalism, looting, and non-intentionally damaging activities. • <i>Final Report.</i> Description of proposed report format and distribution of results. • <i>Curation.</i> Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities. <p><i>Human Remains and Associated or Unassociated Funerary Objects.</i> The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC), who shall appoint a Most Likely Descendant (MLD) (Public Resources Code Section 5097.98). The archaeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.</p> <p><i>Final Archaeological Resources Report.</i> The archaeological consultant shall submit a Draft Final Archaeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archaeological resource and describes the archaeological and historical research methods employed in the archaeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archaeological resource shall be provided in a separate removable insert within the final report.</p> <p>Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive one bound, one</p>	<p>Project sponsor, construction contractor, and archaeological consultant.</p> <p>Project sponsor and archaeological consultant.</p>	<p>During soil-disturbing activities.</p> <p>Following completion of any archaeological field program.</p>	<p>ERO and County Coroner.</p> <p>ERO to review Draft FARR and transmittals to specified agencies.</p>	<p>Considered complete upon latter of ERO's drafting of memo or ERO's direction to implement further measures.</p> <p>Considered complete upon ERO approval of Draft FARR and review of evidence of distribution.</p>

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>M-CP-2</u> <i>Continued</i></p> <p>unbound, and one unlocked, searchable PDF copy on CD or DVD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.</p>				
<p><u>CP-4</u></p> <p>To partially offset the demolition of the building at 935 Folsom Street, the project sponsor shall retain an architectural historian to complete architectural documentation that meets Historic American Building Survey (HABS) standards prior to demolition. The survey shall be done in accordance with HABS level II documentation standards and shall include the following measures:</p> <ul style="list-style-type: none"> • Prior to demolition, the project sponsor shall provide adequate documentation of the existing building. The documentation shall be submitted to the San Francisco Planning Department and approved prior to the authorization of demolition. The sponsor shall prepare and transmit the photographs and descriptions of the property to the Northwest Information Center of the California Historical Resources Information System and the History Room of the San Francisco Public Library. The documentation shall include: <ul style="list-style-type: none"> ○ Digital videography of the building to document its exterior character-defining features, as determined by a qualified architectural historian. ○ Photo-documentation of the buildings to HABS Standards. <p>Completing a historical resources survey to HABS level II documentation standards would reduce Impact CP-4, but not to a less-than-significant level. Therefore, the impact would be significant and unavoidable.</p>	<p>Project sponsor and historical resources consultant.</p>	<p>Prior to building demolition.</p>	<p>ERO to review architectural documentation.</p>	<p>Considered complete upon receipt of documentation by ERO and HPC.</p>
NOISE				
<p><u>NO-2</u></p> <p>The project sponsor shall incorporate standard industrial noise control measures for stationary equipment. Such measures may include enclosing equipment in sound-attenuating structures, using buildings to shield these noise sources from sensitive receptors, or mounting equipment on resilient pads to reduce both groundborne and airborne vibration noises. The project sponsor shall adopt noise performance standards to ensure that operational noise from stationary sources would not exceed noise guidelines set forth in the Noise Ordinance for fixed source noise level standards. The project sponsor shall use standard design features/approaches, including installation of relatively quiet models of mechanical equipment, installation of exhaust silencers, orientation or shielding to protect sensitive</p>	<p>Project sponsor.</p>	<p>Prior to issuance of a building permit.</p>	<p>DBI to review acoustical analysis and plans for inclusion of appropriate noise control measures for stationary equipment.</p>	<p>Considered complete upon approval of building plans by DBI.</p>

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>NO-2</u> <i>Continued</i></p> <p>uses, and installation within enclosures when necessary to reduce stationary, or fixed source, noise levels to below the established threshold when measured at the property line of the nearest affected sensitive receptor. In addition, once design plans have been finalized, the project sponsor shall prepare a detailed final acoustical analysis report with building design noise reduction requirements that would maintain acceptable interior noise levels and that would reduce stationary noise impacts to a less-than-significant level. This report shall be submitted to the Department of Building Inspection (DBI) prior to issuance of a building permit.</p>	Project sponsor.	Prior to issuance of a building permit.	DBI to review acoustical analysis and plans for inclusion of appropriate noise control measures for stationary equipment.	Considered complete upon approval of building plans by DBI.
<p><u>M-NO-2a</u></p> <p>The following two-part measure shall be implemented:</p> <ul style="list-style-type: none"> • To reduce daytime noise impacts associated with construction activities to the maximum extent feasible, the following measures shall be implemented in addition to all measures set forth in the Noise Ordinance: <ul style="list-style-type: none"> ○ At least 10 days prior to the start of construction, the project sponsor shall notify occupants of properties within 100 feet of the project site's lot line. Notification shall include an estimation of the duration of construction activities, including anticipated start and completion dates and the daily construction times. ○ Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible). ○ Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible. ○ Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds. Insulation barriers or other measures shall be incorporated to the extent feasible. ○ Ground clearing, excavation, foundation pouring, building erection and exterior finishing activities shall be limited to between the hours of 7:00 a.m. to 8:00 p.m. 	Project sponsor and construction contractor.	At least 10 days prior to the start of construction, during construction, and prior to issuance of grading permits.	DBI to review notification procedure and vibration impact assessment.	Considered complete upon DBI approval of vibration impact assessment and review of evidence of notification.

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>M-NO-2a</u> <i>Continued</i></p> <p>The project applicant shall prepare a vibration impact assessment to determine potential construction-related groundborne vibration impacts for all structures located within 25 feet of construction activities expected to generate more than 90 VdB. Measures shall be identified and implemented that would reduce groundborne vibration impacts from extreme noise generators by prescribing methods of construction to be utilized so as not to exceed the FTA's groundborne vibration damage threshold of 90 VdB at the nearest façade of all adjacent structures. Such methods may include restrictions on the number or types of construction equipment that may operate at a time within 25 feet of structures, restrictions on equipment hours of operation, or requirements to use alternative construction techniques. The vibration impact assessment shall be submitted to the Planning Department for review and approval prior to issuance of grading permits.</p>				
<p><u>M-NO-2b</u></p> <p>The following two-part measure shall be implemented:</p> <ul style="list-style-type: none"> • Implement Mitigation Measure M-NO-2a. • The project sponsor shall require that the project contractor predrill holes (if feasible based on soils) for piles to the maximum feasible depth to minimize noise and vibration from pile driving. The project sponsor shall also require that the construction contractor limit pile driving activity to result in the least disturbance to neighboring uses. 	<p>See M-NO-2a. Project sponsor and construction contractor.</p>	<p>See M-NO-2a. During construction.</p>	<p>See M-NO-2a. DBI to review construction plans and specifications to verify that holes would be predrilled and pile driving activity would be limited.</p>	<p>See M-NO-2a. Considered complete upon approval of construction plans and specifications by DBI.</p>
<p><u>NO-3</u></p> <p>The project sponsor shall implement the following mitigation measures from the Mitigation Monitoring and Reporting Program prepared for the Eastern Neighborhoods Rezoning and Area Plans: Mitigation Measures F-3 (Interior Noise Levels); F-4 (Siting of Noise-Sensitive Uses); and F-6 (Open Space in Noisy Environments). In particular, the project sponsor shall prepare a detailed final acoustical analysis report with building design noise reduction requirements, once design plans have been finalized, to maintain acceptable interior noise levels, and subsequently include appropriate noise insulation features in the proposed design of the multifamily residential project. Such features may include the incorporation of alternative ventilation systems, such as air conditioning or passive ventilation, to permit windows to remain closed for prolonged periods of time. Any passive ventilation systems must include appropriate noise insulation features. This report shall be submitted to the DBI prior to issuance of a building permit.</p>	<p>Project sponsor.</p>	<p>Prior to issuance of building permit.</p>	<p>DBI to review final acoustical analysis and building plans.</p>	<p>Considered complete upon approval of acoustical analysis and building plans by DBI.</p>

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>F-3: Interior Noise Levels</u> [Note: Measures F-3 through F-6 are incorporated from the <i>Eastern Neighborhoods Rezoning and Area Plans Project Final EIR.</i>]</p> <p>For new development including noise-sensitive uses located along streets with noise levels above 60 dBA (Ldn), as shown in EIR Figure 18, where such development is not already subject to the California Noise Insulation Standards in Title 24 of the California Code of Regulations, the project sponsor shall conduct a detailed analysis of noise reduction requirements. Such analysis shall be conducted by person(s) qualified in acoustical analysis and/or engineering. Noise insulation features identified and recommended by the analysis shall be included in the design, as specified in the San Francisco General Plan Land Use Compatibility Guidelines for Community Noise to reduce potential interior noise levels to the maximum extent feasible.</p>	(see above)	(see above)	(see above)	(see above)
<p><u>F-4: Siting of Noise-Sensitive Uses</u></p> <p>To reduce potential conflicts between existing noise-generating uses and new sensitive receptors, for new development including noise-sensitive uses, the Planning Department shall require the preparation of an analysis that includes, at a minimum, a site survey to identify potential noise-generating uses within 900 feet of, and that have a direct line-of-sight to, the project site, and including at least one 24-hour noise measurement (with maximum noise level readings taken at least every 15 minutes), prior to the first project approval action. The analysis shall be prepared by persons qualified in acoustical analysis and/or engineering and shall demonstrate with reasonable certainty that Title 24 standards, where applicable, can be met, and that there are no particular circumstances about the proposed project site that appear to warrant heightened concern about noise levels in the vicinity. Should such concerns be present, the Department may require the completion of a detailed noise assessment by person(s) qualified in acoustical analysis and/or engineering prior to the first project approval action, in order to demonstrate that acceptable interior noise levels consistent with those in the Title 24 standards can be attained.</p>	(see above)	(see above)	Planning Department to review acoustical analysis, and, if necessary, detailed noise assessment.	Considered complete upon finding by Planning Department that Title 24 standards can be attained.
<p><u>F-5: Siting of Noise-Generating Uses</u></p> <p>To reduce potential conflicts between existing sensitive receptors and new noise-generating uses, for new development including commercial, industrial or other uses that would be expected to generate noise levels in excess of ambient noise, either short-term, at nighttime, or as a 24-hour average, in the proposed project site vicinity, the Planning Department shall require the preparation of an analysis that includes, at a minimum, a site survey to identify potential noise-sensitive uses within 900 feet of, and that have a direct line-of-sight to, the project site, and including at least one 24-hour noise measurement (with maximum noise level readings taken at least every 15 minutes), prior to the first project approval action. The analysis shall be prepared by persons qualified in acoustical analysis and/or engineering and shall demonstrate with reasonable certainty that the proposed use would comply with the use compatibility requirements in the General Plan and in Police Code Section 2909, would not adversely affect nearby noise-sensitive uses, and that there are no particular</p>	(see above)	(see above)	(see above)	Considered complete upon finding by Planning Department that General Plan and Police Code standards can be attained and that no particular circumstances exist that would warrant additional protective measures.

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>E-5 <i>Continued</i></p> <p>circumstances about the proposed project site that appear to warrant heightened concern about noise levels that would be generated by the proposed use. Should such concerns be present, the Department may require the completion of a detailed noise assessment by person(s) qualified in acoustical analysis and/or engineering prior to the first project approval action.</p>				
<p>F-6: Open Space in Noisy Environments</p> <p>To minimize effects on development in noisy areas, for new development including noise-sensitive uses, the Planning Department shall, through its building permit review process, in conjunction with noise analysis required pursuant to Mitigation Measure F-4, require that open space required under the Planning Code for such uses be protected, to the maximum feasible extent, from existing ambient noise levels that could prove annoying or disruptive to users of the open space. Implementation of this measure could involve, among other things, site design that uses the building itself to shield on-site open space from the greatest noise sources, construction of noise barriers between noise sources and open space, and appropriate use of both common and private open space in multi-family dwellings, and implementation would also be undertaken consistent with other principles of urban design.</p>	(see above)	(see above)	Planning Department to review plans for open space in context of noise environment.	Considered complete upon finding by Planning Department that ambient noise levels in open space areas would be acceptable or that open space is protected from noise to the maximum feasible extent.
AIR QUALITY				
<p>AQ-3</p> <p>Consistent with guidance from the BAAQMD, the following actions shall be required of construction contracts and specifications for the Fire Station Relocation and Housing Project:</p> <ul style="list-style-type: none"> • All haul trucks transporting soil, sand, or other loose material off-site shall be covered. • All vehicle speeds on unpaved roads shall be limited to 15 mph. • All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. • Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. • Clear signage indicating that idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure, Title 13, Section 2485 of California Code of Regulations (CCR)) shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. 	Construction contractor.	Prior to issuance of grading permit.	DBI to review construction plans and specifications for compliance with air pollutant reduction measures.	Considered complete upon approval of construction plans and specifications by DBI.

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>AO-3</u> <i>Continued</i></p> <ul style="list-style-type: none"> • A publicly visible sign shall be posted with the telephone number and person to contact at the City of San Francisco regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations. 				
<p><u>AO-6</u></p> <p>To reduce the health risk associated with construction of the Fire Station Relocation and Housing Project, all off-road construction equipment shall be equipped with Tier 3 (Tier 2 if greater than 750 hp) diesel engines or better. The following types of equipment were identified as candidates for retrofitting with CARB-certified Level 3 verified diesel emission controls (Level 3 VDECs, which are capable of reducing DPM emissions by 85 percent or better), due to their expected operating modes (i.e., fairly constant use at high revolution per minute):</p> <ul style="list-style-type: none"> o Excavators o Backhoes o Rubber-Tired Bulldozers o Concrete Boom Pumps o Concrete Trailer Pumps o Concrete Placing Booms o Soil Mix Drill Rigs o Soldier Pile Rigs o Shoring Drill Rigs <p>All diesel generators used for project construction shall meet Tier 4 emissions standards. To the extent that the above listed types of equipment are used for project construction, those equipment types shall be required to meet DPM emission standards equivalent to Tier 3 (Tier 2 if greater than 750 hp) engines with Level 3 VDECs, if feasible. For the purposes of this mitigation measure, "feasibility" refers to the availability of newer equipment in the subcontractor's fleet that meets these standards, or the availability of older equipment in the subcontractor's fleet that can be feasibly modified to incorporate Level 3 VDECs. It should be noted that for specialty equipment types (e.g. drill rigs, shoring rigs and concrete pumps) it may not be feasible for construction contractors to modify their current, older equipment to accommodate the particulate filters, or for them to provide newer models with these filters preinstalled. Therefore, this mitigation measure may be infeasible. Should it be determined by the construction contractor or their subcontractors that compliance with the emissions control requirements of this mitigation measure is infeasible for any one of the above listed construction equipment, the construction contractor shall demonstrate an alternative method of compliance that achieves an equivalent reduction in the project's</p>	(see above)	(see above)	(see above)	(see above)

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>AO-6</u> <i>Continued</i></p> <p>fleetwide DPM and other TAC emissions. If alternative means of compliance with the emissions exhaust requirements are further determined to be infeasible, the construction contractor shall document, to the satisfaction of the Environmental Review Officer, that the contractor has complied with this mitigation measure to the extent feasible and why full compliance with the mitigation measure is infeasible.</p>				
HAZARDS AND HAZARDOUS MATERIALS				
<p><u>M-HZ-1d</u></p> <p>The City shall condition future development approvals to require that the project sponsor ensures that any equipment containing PCBs or mercury, such as fluorescent light ballasts, are removed and properly disposed of according to applicable federal, State, and local laws prior to the start of building demolition, and that any fluorescent light tubes, which could contain mercury, are similarly removed and properly disposed. Any other hazardous materials identified, either before or during work, shall be abated according to applicable federal, State, and local laws.</p>	<p>Planning Department.</p>	<p>Prior to issuance of demolition permit.</p>	<p>Planning Department to condition future approvals to require appropriate removal and disposal of any equipment containing PCBs or mercury.</p>	<p>Considered complete upon conditioning of future development approvals by Planning Department.</p>

Improvement Measures	Responsibility for Implementation	Implementation Schedule	Monitoring/Report Responsibility	Status/Date Completed
IMPROVEMENT MEASURES				
<p><u>Improvement Measure TR-2</u> (<i>Bicycles</i>)</p> <p>Although the Fire Station Relocation and Housing Project would have a less-than-significant impact on bicyclists at the new fire station, following full occupation of the new fire station, the Planning Department, in consultation with the SFFD and MTA, should periodically monitor bicycle conditions along Folsom Street during testing of emergency equipment. If the Planning Director, or his or her designee, determines that the proposed equipment testing procedures encroach on the bicycle lane and result in bicycle hazards, then the SFFD should consider no longer testing fire equipment on the south side of Folsom Street. Instead, SFFD would utilize an alternative fire equipment testing area on Falmouth Street, which is a location that would not conflict with bicycles.</p>	Planning Department, SFFD, and MTA.	Following full occupation of Fire Station No. 1.	Planning Director to review monitoring report to determine if alternate equipment testing on Falmouth Street should be established.	Considered complete upon finding by Planning Director that bicycle conditions are safe and/or establishment of an alternate equipment testing location on Falmouth Street.
<p><u>Improvement Measure TR-3</u> (<i>Loading</i>)</p> <p>To ensure that residential move-in and move-out activities do not impede traffic flow on Shipley Street, move-in and move-out operations, as well as larger deliveries should be scheduled and coordinated through building management. Building management should require that curb parking spaces on Shipley Street are reserved via the San Francisco Police Department in advance for all move-in and move-out activities.</p>	Project sponsor.	Prior to issuance of occupancy permit.	DBI to review standard tenant contract to ensure that appropriate protocols are included for move-in and move-out operations.	Considered complete upon issuance of occupancy permit by DBI.
<p><u>Improvement Measure TR-5</u> (<i>Construction</i>).</p> <p>The following construction period measures could be considered:</p> <p><i>Project Construction Updates for Adjacent Businesses and Residents.</i> As an improvement measure to minimize construction impacts on access for nearby institutions and businesses, DPW could require the project sponsor to provide nearby residences and adjacent businesses with regularly-updated information regarding project construction, including construction activities, peak construction vehicle activities (e.g., concrete pours), travel lane closures, and lane closures. A web site could be created by project sponsor that would provide current construction information of interest to neighbors, as well as contact information for specific construction inquiries or concerns.</p>	Project sponsor.	Prior to issuance of demolition, grading, or building permit.	DPW to review Traffic Control Plan for Construction for adequacy.	Considered complete upon approval of Traffic Control Pan for Construction by DPW.
<p><u>Improvement Measure TR-6</u> (<i>Parking</i>)</p> <p>As an improvement measure to reduce the Housing Project's parking demand and parking shortfall and to encourage use of alternative modes, the developer of the Housing Project at 935 Folsom Street could provide a transportation insert for the move-in packet. This packet could provide information on transit service (Muni and BART lines, schedules and fares), information on where FastPasses could be purchased, and information on the 511 Regional Rideshare Program.</p>	Project sponsor.	Prior to issuance of occupancy permit.	Planning Department to review transportation insert for adequacy.	Considered complete upon approval of transportation insert by Planning Department.

Improvement Measures	Responsibility for Implementation	Implementation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p><u>Improvement Measure TR-8</u> (<i>Signage</i>)</p> <p>As an improvement measure to reduce unexpected conflicts between right-turning vehicles and fire and rescue vehicles, MTA should consider the desirability and feasibility of instituting a prohibition on right turn on red movements on the northbound Sixth Street approach to Folsom Street as part of its review and implementation of traffic preemption improvements proposed as part of the project.</p>	MTA	Prior to issuance of occupancy permit.	MTA to review the engineering analysis regarding instituting a prohibition on right turn on red movements on the northbound Sixth Street approach to Folsom Street.	Considered complete upon finding by MTA that right turn on red prohibition is or is not warranted.
<p><u>Improvement Measure NO-1a</u> (<i>Neighborhood Noise</i>)</p> <p>As an improvement measure to reduce the noise, SFFD Staff at Station No 1. will be trained in the use of and required to utilize the traffic signal preemption system.</p>	SFFD	Prior to issuance of occupancy permit.	SFFD to verify it conducted appropriate training regarding the signal preemption system.	Considered complete upon verification that SFFD has conducted appropriate training.
<p><u>Improvement Measure NO-1b</u> (<i>Neighborhood Noise</i>)</p> <p>As an improvement measure to ensure that the operational activities of relocated Fire Station No. 1, including noise from emergency vehicle operation and equipment testing, are reduced to the extent feasible, six months after the fire station is in operation, a community meeting will be held by the SFFD. At this meeting, the SFFD will describe the operation of the station and the community will have the opportunity to raise any concerns they have experienced and suggest any operational improvements for SFFD to consider.</p>	SFFD	Within six months after Fire Station No. 1 is occupied.	SFFD to verify that it has scheduled a community meeting.	Considered complete upon verification that that a community meeting was held.

ATTACHMENT D: AGREEMENT TO IMPLEMENT MITIGATION MEASURES



SAN FRANCISCO PLANNING DEPARTMENT

Agreement to Implement Mitigation Measure(s)

Date: October 17, 2011
Case No.: 2010.0275E
Project Title: Fire Station Relocation and Housing Project
Project Sponsor: San Francisco Museum of Modern Art
Project Address: 935 Folsom Street, San Francisco, CA 94107
Block/Lot: Block 3753/Lot 140
City and County: San Francisco
Sponsor's Representative: Ikuko Satoda, New Florian LLC

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

MITIGATION MEASURE(S):

CULTURAL AND PALEONTOLOGICAL RESOURCES

M-CP-2

Based on a reasonable presumption that archaeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of an archaeological consultant from the Planning Department (Department) pool of qualified archaeological consultants as provided by the Department archaeologist. The archaeological consultant shall undertake an archaeological testing program as specified herein. In addition, the consultant shall be available to conduct an archaeological monitoring and/or data recovery program if required pursuant to this measure. The archaeological consultant's work shall be conducted in accordance with this measure at the direction of the Environmental Review Officer (ERO). All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archaeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of 4 weeks. At the direction of the ERO, the suspension of construction can be extended beyond 4 weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archaeological resource as defined in *CEQA Guidelines* Section 15064.5 (a)(c).

Archaeological Testing Program. The archaeological consultant shall prepare and submit to the ERO for review and approval an archaeological testing plan (ATP). The archaeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archaeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archaeological testing program will be to determine to the extent possible the presence or absence of archaeological resources and to identify and to evaluate whether any archaeological resource encountered on the site constitutes an historical resource under CEQA.

At the completion of the archaeological testing program, the archaeological consultant shall submit a written report of the findings to the ERO. If based on the archaeological testing program the archaeological consultant finds that significant archaeological resources may be present, the ERO in consultation with the archaeological consultant shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archaeological testing, archaeological monitoring, and/or an archaeological data recovery program. If the ERO determines that a significant archaeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:

- A. The proposed project shall be re-designed so as to avoid any adverse effect on the significant archaeological resource; or
- B. A data recovery program shall be implemented, unless the ERO determines that the archaeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.

Archaeological Monitoring Program. If the ERO, in consultation with the archaeological consultant, determines that an archaeological monitoring program shall be implemented, the archaeological monitoring program shall minimally include the following provisions:

- The archaeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to the commencement of any project-related soils disturbing activities. The ERO, in consultation with the archaeological consultant, shall determine what project activities shall be archaeologically monitored. In most cases, any soils-disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archaeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context;
- The archaeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archaeological resource;
- The archaeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archaeological consultant and the ERO until the ERO has, in consultation with project archaeological consultant, determined that project construction activities could have no effects on significant archaeological deposits;
- The archaeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;
- If an intact archaeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archaeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the

archaeological monitor has cause to believe that the pile driving activity may affect an archaeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archaeological consultant shall immediately notify the ERO of the encountered archaeological deposit. The archaeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological deposit, and present the findings of this assessment to the ERO.

Whether or not significant archaeological resources are encountered, the archaeological consultant shall submit a written report of the findings of the monitoring program to the ERO.

Archaeological Data Recovery Program. The archaeological data recovery program shall be conducted in accordance with an archaeological data recovery plan (ADRP). The archaeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archaeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archaeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practical.

The scope of the ADRP shall include the following elements:

- *Field Methods and Procedures.* Descriptions of proposed field strategies, procedures, and operations.
- *Cataloguing and Laboratory Analysis.* Description of selected cataloguing system and artifact analysis procedures.
- *Discard and Deaccession Policy.* Description of and rationale for field and post-field discard and deaccession policies.
- *Interpretive Program.* Consideration of an on-site/off-site public interpretive program during the course of the archaeological data recovery program.
- *Security Measures.* Recommended security measures to protect the archaeological resource from vandalism, looting, and non-intentionally damaging activities.
- *Final Report.* Description of proposed report format and distribution of results.

Curation. Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.

Human Remains and Associated or Unassociated Funerary Objects. The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC), who shall appoint a Most Likely Descendant (MLD) (Public Resources Code Section 5097.98). The archaeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (*CEQA Guidelines* Section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.

Final Archaeological Resources Report. The archaeological consultant shall submit a Draft Final Archaeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archaeological resource and describes the archaeological and historical research methods employed in the archaeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archaeological resource shall be provided in a separate removable insert within the final report.

Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive one bound, one unbound, and one unlocked, searchable PDF copy on CD or DVD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.

CP-4

To partially offset the demolition of the building at 935 Folsom Street, the project sponsor shall retain an architectural historian to complete architectural documentation that meets Historic American Building Survey (HABS) standards prior to demolition. The survey shall be done in accordance with HABS level II documentation standards and shall include the following measures:

- Prior to demolition, the project sponsor shall provide adequate documentation of the existing building. The documentation shall be submitted to the San Francisco Planning Department and approved prior to the authorization of demolition. The sponsor shall prepare and transmit the photographs and descriptions of the property to the Northwest Information Center of the California Historical Resources Information System and the History Room of the San Francisco Public Library. The documentation shall include:

- Digital videography of the building to document its exterior character-defining features, as determined by a qualified architectural historian.
- Photo-documentation of the buildings to HABS Standards.

Completing a historical resources survey to HABS level II documentation standards would reduce Impact CP-4, but not to a less-than-significant level. Therefore, the impact would be significant and unavoidable.

NOISE

NO-2

The project sponsor shall incorporate standard industrial noise control measures for stationary equipment. Such measures may include enclosing equipment in sound-attenuating structures, using buildings to shield these noise sources from sensitive receptors, or mounting equipment on resilient pads to reduce both groundborne and airborne vibration noises. The project sponsor shall adopt noise performance standards to ensure that operational noise from stationary sources would not exceed noise guidelines set forth in the Noise Ordinance for fixed source noise level standards. The project sponsor shall use standard design features/approaches, including installation of relatively quiet models of mechanical equipment, installation of exhaust silencers, orientation or shielding to protect sensitive uses, and installation within enclosures when necessary to reduce stationary, or fixed source, noise levels to below the established threshold when measured at the property line of the nearest affected sensitive receptor. In addition, once design plans have been finalized, the project sponsor shall prepare a detailed final acoustical analysis report with building design noise reduction requirements that would maintain acceptable interior noise levels and that would reduce stationary noise impacts to a less-than-significant level. This report shall be submitted to the Department of Building Inspection (DBI) prior to issuance of a building permit.

M-NO-2a

The following two-part measure shall be implemented:

- To reduce daytime noise impacts associated with construction activities to the maximum extent feasible, the following measures shall be implemented in addition to all measures set forth in the Noise Ordinance:
 - At least 10 days prior to the start of construction, the project sponsor shall notify occupants of properties within 100 feet of the project site's lot line. Notification shall include an estimation of the duration of construction activities, including anticipated start and completion dates and the daily construction times.
 - Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible).

- Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.
- Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds. Insulation barriers or other measures shall be incorporated to the extent feasible.
- Ground clearing, excavation, foundation pouring, building erection and exterior finishing activities shall be limited to between the hours of 7:00 a.m. to 8:00 p.m.

The project applicant shall prepare a vibration impact assessment to determine potential construction-related groundborne vibration impacts for all structures located within 25 feet of construction activities expected to generate more than 90 VdB. Measures shall be identified and implemented that would reduce groundborne vibration impacts from extreme noise generators by prescribing methods of construction to be utilized so as not to exceed the FTA's groundborne vibration damage threshold of 90 VdB at the nearest façade of all adjacent structures. Such methods may include restrictions on the number or types of construction equipment that may operate at a time within 25 feet of structures, restrictions on equipment hours of operation, or requirements to use alternative construction techniques. The vibration impact assessment shall be submitted to the Planning Department for review and approval prior to issuance of grading permits.

M-NO-2b

The following two-part measure shall be implemented:

- Implement Mitigation Measure M-NO-2a.
- The project sponsor shall require that the project contractor predrill holes (if feasible based on soils) for piles to the maximum feasible depth to minimize noise and vibration from pile driving. The project sponsor shall also require that the construction contractor limit pile driving activity to result in the least disturbance to neighboring uses.

NO-3

The project sponsor shall implement the following mitigation measures from the Mitigation Monitoring and Reporting Program prepared for the Eastern Neighborhoods Rezoning and Area Plans: Mitigation Measures F-3 (Interior Noise Levels); F-4 (Siting of Noise-Sensitive Uses); and F-6 (Open Space in Noisy Environments). In particular, the project sponsor shall prepare a detailed final acoustical analysis report with building design noise reduction requirements, once design plans have been finalized, to maintain acceptable interior noise levels, and subsequently include appropriate noise insulation features in the proposed design of the multifamily residential project.

Such features may include the incorporation of alternative ventilation systems, such as air conditioning or passive ventilation, to permit windows to remain closed for prolonged periods of time. Any passive ventilation systems must include appropriate noise insulation features. This report shall be submitted to the DBI prior to issuance of a building permit.

F-3: Interior Noise Levels [Note: Measures F-3 through F-6 are incorporated from the *Eastern Neighborhoods Rezoning and Area Plans Project Final EIR.*]

For new development including noise-sensitive uses located along streets with noise levels above 60 dBA (Ldn), as shown in EIR Figure 18, where such development is not already subject to the California Noise Insulation Standards in Title 24 of the California Code of Regulations, the project sponsor shall conduct a detailed analysis of noise reduction requirements. Such analysis shall be conducted by person(s) qualified in acoustical analysis and/or engineering. Noise insulation features identified and recommended by the analysis shall be included in the design, as specified in the San Francisco General Plan Land Use Compatibility Guidelines for Community Noise to reduce potential interior noise levels to the maximum extent feasible.

F-4: Siting of Noise-Sensitive Uses

To reduce potential conflicts between existing noise-generating uses and new sensitive receptors, for new development including noise-sensitive uses, the Planning Department shall require the preparation of an analysis that includes, at a minimum, a site survey to identify potential noise-generating uses within 900 feet of, and that have a direct line-of-sight to, the project site, and including at least one 24-hour noise measurement (with maximum noise level readings taken at least every 15 minutes), prior to the first project approval action. The analysis shall be prepared by persons qualified in acoustical analysis and/or engineering and shall demonstrate with reasonable certainty that Title 24 standards, where applicable, can be met, and that there are no particular circumstances about the proposed project site that appear to warrant heightened concern about noise levels in the vicinity. Should such concerns be present, the Department may require the completion of a detailed noise assessment by person(s) qualified in acoustical analysis and/or engineering prior to the first project approval action, in order to demonstrate that acceptable interior noise levels consistent with those in the Title 24 standards can be attained.

F-5: Siting of Noise-Generating Uses

To reduce potential conflicts between existing sensitive receptors and new noise-generating uses, for new development including commercial, industrial or other uses that would be expected to generate noise levels in excess of ambient noise, either short-term, at nighttime, or as a 24-hour average, in the proposed project site vicinity, the Planning Department shall require the preparation of an analysis that includes, at a minimum, a site survey to identify potential noise-sensitive uses within 900 feet of, and that have a direct line-of-sight to, the project site, and including at least one 24-hour noise measurement (with maximum noise level readings taken at least every 15 minutes), prior to the first project approval action. The analysis shall be prepared by persons qualified in acoustical analysis and/or engineering and shall demonstrate with reasonable certainty that the proposed use would comply with the use compatibility requirements in the General Plan and in Police Code Section 2909, would not adversely affect nearby noise-sensitive uses, and that there are no particular circumstances about the proposed project site that appear to

warrant heightened concern about noise levels that would be generated by the proposed use. Should such concerns be present, the Department may require the completion of a detailed noise assessment by person(s) qualified in acoustical analysis and/or engineering prior to the first project approval action.

F-6: Open Space in Noisy Environments

To minimize effects on development in noisy areas, for new development including noise-sensitive uses, the Planning Department shall, through its building permit review process, in conjunction with noise analysis required pursuant to Mitigation Measure F-4, require that open space required under the Planning Code for such uses be protected, to the maximum feasible extent, from existing ambient noise levels that could prove annoying or disruptive to users of the open space. Implementation of this measure could involve, among other things, site design that uses the building itself to shield on-site open space from the greatest noise sources, construction of noise barriers between noise sources and open space, and appropriate use of both common and private open space in multi-family dwellings, and implementation would also be undertaken consistent with other principles of urban design.

AIR QUALITY

AQ-3

Consistent with guidance from the BAAQMD, the following actions shall be required of construction contracts and specifications for the Fire Station Relocation and Housing Project:

- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
- Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Clear signage indicating that idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure, Title 13, Section 2485 of California Code of Regulations (CCR)) shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- A publicly visible sign shall be posted with the telephone number and person to contact at the City of San Francisco regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

AQ-6

To reduce the health risk associated with construction of the Fire Station Relocation and Housing Project, all off-road construction equipment shall be equipped with Tier 3 (Tier 2 if greater than 750 hp) diesel engines or better. The following types of equipment were identified as candidates for retrofitting with CARB-certified Level 3 verified diesel emission controls (Level 3 VDECs, which are capable of reducing DPM emissions by 85 percent or better), due to their expected operating modes (i.e., fairly constant use at high revolution per minute):

- o Excavators
- o Backhoes
- o Rubber-Tired Bulldozers
- o Concrete Boom Pumps
- o Concrete Trailer Pumps
- o Concrete Placing Booms
- o Soil Mix Drill Rigs
- o Soldier Pile Rigs
- o Shoring Drill Rigs

All diesel generators used for project construction shall meet Tier 4 emissions standards. To the extent that the above listed types of equipment are used for project construction, those equipment types shall be required to meet DPM emission standards equivalent to Tier 3 (Tier 2 if greater than 750 hp) engines with Level 3 VDECs, if feasible. For the purposes of this mitigation measure, "feasibility" refers to the availability of newer equipment in the subcontractor's fleet that meets these standards, or the availability of older equipment in the subcontractor's fleet that can be feasibly modified to incorporate Level 3 VDECs. It should be noted that for specialty equipment types (e.g. drill rigs, shoring rigs and concrete pumps) it may not be feasible for construction contractors to modify their current, older equipment to accommodate the particulate filters, or for them to provide newer models with these filters preinstalled. Therefore, this mitigation measure may be infeasible. Should it be determined by the construction contractor or their subcontractors that compliance with the emissions control requirements of this mitigation measure is infeasible for any one of the above listed construction equipment, the construction contractor shall demonstrate an alternative method of compliance that achieves an equivalent reduction in the project's fleetwide DPM and other TAC emissions. If alternative means of compliance with the emissions exhaust requirements are further determined to be infeasible, the construction contractor shall document, to the satisfaction of the Environmental Review Officer, that the contractor has complied with this mitigation measure to the extent feasible and why full compliance with the mitigation measure is infeasible.

HAZARDS AND HAZARDOUS MATERIALS

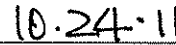
M-HZ-1d

The City shall condition future development approvals to require that the project sponsor ensures that any equipment containing PCBs or mercury, such as fluorescent light ballasts, are removed and properly disposed of according to applicable federal, State, and local laws prior to the start of building demolition, and that any fluorescent light tubes, which could contain mercury, are similarly removed and properly disposed. Any other hazardous materials identified, either before or during work, shall be abated according to applicable federal, State, and local laws.

I agree to implement the above mitigation measure(s) as a condition of project approval.



Project Sponsor Signature



Date



SAN FRANCISCO PLANNING DEPARTMENT

Agreement to Implement Mitigation Measure(s)

Date: October 17, 2011
Case No. **2009.0291E**
Project Title: San Francisco Museum of Modern Art Expansion
Project Sponsor: San Francisco Museum of Modern Art
Project Address: **151 Third Street, San Francisco, CA 94105**
Block/Lot: 151 Third Street: Block 3722/Lot 78
670 Howard Street: Block 3722/Lot 27
676 Howard Street: Block 3722/Lot 28
City and County: San Francisco
Sponsor's Representative: Ikuko Satoda, Deputy Director Administration & Finance

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

MITIGATION MEASURE(S):

CULTURAL AND PALEONTOLOGICAL RESOURCES

M-CP-2

Based on a reasonable presumption that archaeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of an archaeological consultant from the Planning Department (Department) pool of qualified archaeological consultants as provided by the Department archaeologist. The archaeological consultant shall undertake an archaeological testing program as specified herein. In addition, the consultant shall be available to conduct an archaeological monitoring and/or data recovery program if required pursuant to this measure. The archaeological consultant's work shall be conducted in accordance with this measure at the direction of the Environmental Review Officer (ERO). [For the SFMOMA Expansion, the archaeological consultant's work shall be conducted in accordance with this mitigation measure, and with the requirements of the project archaeological research design and treatment plan (Far Western Anthropological Research Group. *Archaeological Research Design and Treatment Plan for the Transit Center District Plan Area*. February 2010) at the direction of the Environmental Review Officer (ERO). In instances of inconsistency between the requirement of the project archaeological research design and treatment plan and of this archaeological mitigation measure, the requirements of this archaeological mitigation measure shall prevail.] All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archaeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of 4 weeks. At the direction of the ERO, the suspension of construction can be extended beyond 4 weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archaeological resource as defined in *CEQA Guidelines* Section 15064.5 (a)(c).

Archaeological Testing Program. The archaeological consultant shall prepare and submit to the ERO for review and approval an archaeological testing plan (ATP). The archaeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archaeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archaeological testing program will be to determine to the extent possible the presence or absence of archaeological resources and to identify and to evaluate whether any archaeological resource encountered on the site constitutes an historical resource under CEQA.

At the completion of the archaeological testing program, the archaeological consultant shall submit a written report of the findings to the ERO. If based on the archaeological testing program the archaeological consultant finds that significant archaeological resources may be present, the ERO in consultation with the archaeological consultant shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archaeological testing, archaeological monitoring, and/or an archaeological data recovery program. If the ERO determines that a significant archaeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:

- A. The proposed project shall be re-designed so as to avoid any adverse effect on the significant archaeological resource; or
- B. A data recovery program shall be implemented, unless the ERO determines that the archaeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.

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- The archaeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archaeological resource;
- The archaeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archaeological consultant and the ERO until the ERO has, in consultation

with project archaeological consultant, determined that project construction activities could have no effects on significant archaeological deposits;

- The archaeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;
- If an intact archaeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archaeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archaeological monitor has cause to believe that the pile driving activity may affect an archaeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archaeological consultant shall immediately notify the ERO of the encountered archaeological deposit. The archaeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological deposit, and present the findings of this assessment to the ERO.

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The scope of the ADRP shall include the following elements:

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- *Interpretive Program.* Consideration of an on-site/off-site public interpretive program during the course of the archaeological data recovery program.

- *Security Measures.* Recommended security measures to protect the archaeological resource from vandalism, looting, and non-intentionally damaging activities.
- *Final Report.* Description of proposed report format and distribution of results.
- *Curation.* Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.

Human Remains and Associated or Unassociated Funerary Objects. The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC), who shall appoint a Most Likely Descendant (MLD) (Public Resources Code Section 5097.98). The archaeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (*CEQA Guidelines* Section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.

Final Archaeological Resources Report. The archaeological consultant shall submit a Draft Final Archaeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archaeological resource and describes the archaeological and historical research methods employed in the archaeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archaeological resource shall be provided in a separate removable insert within the final report.

Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive one bound, one unbound, and one unlocked, searchable PDF copy on CD or DVD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.

NOISE

M-NO-2a

The following two-part measure shall be implemented:

- To reduce daytime noise impacts associated with construction activities to the maximum extent feasible, the following measures shall be implemented in addition to all measures set forth in the Noise Ordinance:
 - At least 10 days prior to the start of construction, the project sponsor shall notify occupants of properties within 100 feet of the project site's lot line (comprising the following addresses: 151 Third Street and 670 and 676 Howard Street). Notification shall include an estimation of the duration of construction activities, including anticipated start and completion dates and the daily construction times.
 - Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible).
 - Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.
 - Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds. Insulation barriers or other measures shall be incorporated to the extent feasible.
 - Ground clearing, excavation, foundation pouring, building erection and exterior finishing activities shall be limited to between the hours of 7:00 a.m. to 8:00 p.m.

The project applicant shall prepare a vibration impact assessment to determine potential construction-related groundborne vibration impacts for all structures located within 25 feet of construction activities expected to generate more than 90 VdB. Measures shall be identified and implemented that would reduce groundborne vibration impacts from extreme noise generators by prescribing methods of construction to be utilized so as not to exceed the FTA's groundborne vibration damage threshold of 90 VdB at the nearest façade of all adjacent structures. Such methods may include restrictions on the number or types of construction equipment that may operate at a time within 25 feet of structures, restrictions on equipment hours of operation, or requirements to use alternative construction techniques. The vibration impact assessment shall be submitted to the Planning Department for review and approval prior to issuance of grading permits.

HAZARDS AND HAZARDOUS MATERIALS

M-HZ-1a

The following actions shall be implemented by the project sponsor:

Step 1 (Preparation of a Phase II Environmental Site Assessment): The project sponsor shall conduct a Phase II Environmental Site Assessment of the Hunt Street and Natoma Street parking pad portions of the project site. If residual contamination is identified on the project site that requires preparation and implementation of a Site Mitigation Plan, Step 2 (and subsequent steps) shall be implemented.

Step 2 (Preparation of Site Mitigation Plan): A Site Mitigation Plan shall be prepared, if warranted based on the results of the Phase II Environmental Site Assessment. The SMP shall include a discussion of the level of contamination of soils and groundwater on the project site and mitigation measures for managing contaminated soils on the site, including, but not limited to: 1) the alternatives for managing contaminated soils on the site (e.g., encapsulation, partial or complete removal, treatment, recycling for reuse, or a combination of methods); 2) the preferred alternative for managing contaminated soils on the site and a brief justification as to why; and 3) the specific practices to be used to handle, haul, and dispose of contaminated soils on the site. The SMP shall be submitted to the DPH for review and approval. A copy of the SMP shall be submitted to the Planning Department to become part of the case file.

Step 3 (Handling, Hauling, and Disposal of Contaminated Soils): The following measures shall be implemented:

- (a) **Specific work practices:** If, based on the results of the soil tests conducted, DPH determines that the soils on the project site are contaminated at or above potentially hazardous levels, the construction contractor shall be alert for the presence of such soils during excavation and other construction activities on the site (detected through soil odor, color, and texture and results of onsite soil testing), and shall be prepared to handle, profile (i.e., characterize), and dispose of such soils appropriately (i.e., as dictated by local, State, and federal regulations) when such soils are encountered on the site. If excavated materials contain over 1 percent friable asbestos, they shall be treated as hazardous waste, and shall be transported and disposed of in accordance with applicable State and federal regulations. These procedures are intended to mitigate any potential health risks related to chrysotile asbestos, which may or may not be located on the site.
- (b) **Dust suppression:** Soils exposed during excavation for site preparation and project construction activities shall be kept moist throughout the time they are exposed, both during and after construction work hours.
- (c) **Surface water runoff control:** Where soils are stockpiled, visqueen shall be used to create an impermeable liner, both beneath and on top of the soils, with a berm to contain any potential surface water runoff from the soil stockpiles during inclement weather.
- (d) **Soils replacement:** If necessary, clean fill or other suitable material(s) shall be used to bring portions of the project site, where contaminated soils have been excavated and removed, up to construction grade.

- (e) Hauling and disposal: Contaminated soils shall be hauled off the project site by waste-hauling trucks appropriately certified with the State of California and adequately covered to prevent dispersion of the soils during transit, and shall be disposed of at a permitted hazardous waste disposal facility registered with the State of California.

Step 4 (Preparation of Closure/Certification Report): After construction activities are completed, the Project Applicant shall prepare and submit a closure/certification report to DPH for review and approval. The closure/certification report shall include the mitigation measures in the SMP for handling and removing contaminated soils from the project site, whether the construction contractor modified any of these mitigation measures, and how and why the construction contractor modified those mitigation measures.

M-HZ-1b

If, based on the results of the soil tests conducted, the DPH determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, any contaminated soils designated as hazardous waste and required by DPH to be excavated shall be removed by a qualified Removal Contractor and disposed of at a regulated Class I hazardous waste landfill in accordance with U.S Environmental Protection Agency regulations, as stipulated in the SMP. The Removal Contractor shall obtain, complete, and sign hazardous waste manifests to accompany the soils to the disposal site. Other excavated soils shall be disposed of in an appropriate landfill, as governed by applicable laws and regulations, or other appropriate actions shall be taken in coordination with the DPH. If the DPH determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, a Site Health and Safety (H&S) Plan shall be required by the California Division of Occupational Safety and Health (Cal-OSHA) prior to initiating any earthmoving activities at the site. The H&S Plan shall identify protocols for managing soils during construction to minimize worker and public exposure to contaminated soils. The protocols shall include at a minimum:

- Sweeping of adjacent public streets daily (with water sweepers) if any visible soil material is carried onto the streets.
- Characterization of excavated native soils proposed for use on site prior to placement to confirm that the soil meets appropriate standards.
- The dust controls specified in the Construction Dust Control Ordinance (176-08).
- Protocols for managing stockpiled and excavated soils. The H&S Plan shall identify site access controls to be implemented from the time of surface disruption through the completion of earthwork construction. The protocols shall include as a minimum:
 - Appropriate site security to prevent unauthorized pedestrian/vehicular entry, such as fencing or other barrier of sufficient height and structural integrity to prevent entry and based upon the degree of control required.
 - Posting of "no trespassing" signs.

- o Provision for on-site meetings with construction workers to inform them about security measures and reporting/contingency procedures.

If groundwater contamination is identified, the Site Health and Safety (H&S) Plan shall identify protocols for managing groundwater during construction to minimize worker and public exposure to contaminated groundwater. The protocols shall include procedures to prevent unacceptable migration of contamination from defined plumes during dewatering.

The H&S Plan shall include a requirement that construction personnel be trained to recognize potential hazards associated with underground features that could contain hazardous substances, previously unidentified contamination, or buried hazardous debris. Excavation personnel shall also be required to wash hands and face before eating, smoking, and drinking.

The H&S Plan shall include procedures for implementing a contingency plan, including appropriate notification and control procedures, in the event unanticipated subsurface hazards are discovered during construction. Control procedures shall include, but would not be limited to, investigation and removal of underground storage tanks or other hazards.

M-HZ-1c

If the DPH determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, all trucks and excavation and soil handling equipment shall be decontaminated following use and prior to removal from the site. Gross contamination shall be first removed through brushing, wiping, or dry brooming. The vehicle or equipment shall then be washed clean (including tires). Prior to removal from the work site, all vehicles and equipment shall be inspected to ensure that contamination has been removed.

M-HZ-1d

The City shall condition future development approvals to require that the project sponsor ensures that any equipment containing PCBs or mercury, such as fluorescent light ballasts, are removed and properly disposed of according to applicable federal, State, and local laws prior to the start of building demolition, and that any fluorescent light tubes, which could contain mercury, are similarly removed and properly disposed. Any other hazardous materials identified, either before or during work, shall be abated according to applicable federal, State, and local laws.

I agree to implement the above mitigation measure(s) as a condition of project approval.


Project Sponsor Signature

10.24.11
Date