



# SAN FRANCISCO PLANNING DEPARTMENT

PID 7970  
3706/093, 275, 277

Subject to: (Select only if applicable)

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

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## Planning Commission Motion 18894 Section 309

HEARING DATE: MAY 23, 2013

Date: March 28, 2013

Case No.: **2008.1084EHKXRTZ**

Project Address: **706 Mission Street**

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

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

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

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

## PREAMBLE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## FINDINGS

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

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

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

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

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

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

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

5. **Public Comment.** As of the date of publication of the staff report, the Department has not received any specific communications related to the requested entitlements. However, numerous written and verbal comments were provided during the public comment period for the draft EIR prepared for the Project. These comments related to a wide variety of topic areas, and were addressed as part of the Comments and Responses document prepared during the environmental review of the Project. Additional written and verbal testimony, both in favor of and in opposition to the Project, was provided at the hearing on May 23, 2013.

6. **Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Floor Area Ratio (Section 124).** Section 124 establishes basic floor area ratios (FAR) for all zoning districts. As set forth in Section 124(a), the FAR for the C-3-R District is 6.0 to 1. Under Sections 123 and 128, the FAR can be increased to a maximum of 9.0 to 1 with the purchase of transferable development rights (TDR).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Comfort Criterion**

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

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

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

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

#### **Hazard Criterion**

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

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

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

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

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

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

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

*The Project does not require Conditional Use authorization.*

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

**HOUSING ELEMENT:  
Objectives and Policies**

**OBJECTIVE 1**

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

**Policy 1.1:**

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

**Policy 1.3**

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

**Policy 1.4:**

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

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

## **URBAN DESIGN ELEMENT: Objectives and Policies**

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

### **OBJECTIVE 3:**

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

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#### **Policy 3.1:**

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

#### **Policy 3.6:**

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

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

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

## **COMMERCE AND INDUSTRY ELEMENT: Objectives and Policies**

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

### **OBJECTIVE 1:**

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

#### **Policy 1.1:**

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

**OBJECTIVE 2:**

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

**Policy 2.3:**

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

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

**ARTS ELEMENT:**

**Objectives and Policies**

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

**OBJECTIVE I-1:**

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

**Policy I-1.2:**

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

**OBJECTIVE I-2:**

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

**Policy I-2.1:**

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

**Policy I-2.2:**

Continue to support and increase the promotion of the arts and arts activities throughout the City for the benefit of visitors, tourists and residents.

**OBJECTIVE III-2:**

Strengthen the contribution of arts organizations to the creative life and vitality of San Francisco.

**Policy III-2.2:**

Assist in the improvement of arts organizations' facilities and access in order to enhance the quality and quantity of arts offerings.

**OBJECTIVE VI-1:**

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

**Policy VI-1.11:**

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

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

**TRANSPORTATION ELEMENT:  
Objectives and Policies**

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

**OBJECTIVE 2:**

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

**Policy 2.1:**

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

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

9. **Priority Policy Findings.** Section 101.1(b) establishes eight priority planning policies and requires the review of permits for consistency with said policies. The Project complies with these policies, on balance, as follows:
  - A. That existing neighborhood-serving retail/personal services uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

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

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

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

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

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

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

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

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

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

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

- G. That landmarks and historic buildings be preserved.

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

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

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

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

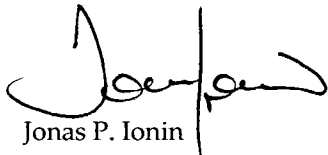
10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby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

### DECISION

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

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

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



Jonas P. Ionin  
Acting Commission Secretary

AYES: Fong, Antonini, Hillis, Borden

NOES: Moore, Sugaya, Wu

ABSENT:

ADOPTED: May 23, 2013



## EXHIBIT A

### AUTHORIZATION

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

### RECORDATION OF CONDITIONS OF APPROVAL

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

### PRINTING OF CONDITIONS OF APPROVAL ON PLANS

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

### SEVERABILITY

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

### CHANGES AND MODIFICATIONS

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

## Conditions of approval, Compliance, Monitoring, and Reporting

### PERFORMANCE

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## **DESIGN – COMPLIANCE AT PLAN STAGE**

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

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

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sfplanning.org](http://www.sfplanning.org)*

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sfplanning.org](http://www.sfplanning.org)*

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

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

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

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

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

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

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

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

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## **PARKING AND TRAFFIC**

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## PROVISIONS

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

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

*For information about compliance, contact the First Source Hiring Manager at 415-581-2335, [www.onestopSF.org](http://www.onestopSF.org)*

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**24. Inclusionary Affordable Housing Program.**

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

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

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

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

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

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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



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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## **MONITORING - AFTER ENTITLEMENT**

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## **OPERATION**

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

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

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

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

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

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*