

File No. 170961

Committee Item No. 3

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date December 11, 2017

Board of Supervisors Meeting

Date _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- Memorandum of Understanding (MOU)
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 - Ethics Commission
- Award Letter
- Application
- Form 700
- Vacancy Notice
- Information Sheet
- Public Correspondence

OTHER

(Use back side if additional space is needed)

- Planning Memo: Clarification of Housing Numbers, dtd 12/7/17
- Planning Memo: Public Benefits, dtd 12/7/17
- Planning Memo: Housing Strategy, dtd 12/7/17
- Planning Memo: Housing Strategy, dtd 10/18/17
- _____
- _____
- _____
- _____
- _____
- _____

Completed by: Alisa Somera

Date December 8, 2017

Completed by: _____

Date _____



SAN FRANCISCO PLANNING DEPARTMENT

To: Board of Supervisors Land Use and Transportation Committee (Supervisors Farrell, Peskin, and Tang) and Supervisor Kim

From: Steve Wertheim, Planning Department Staff
steve.wertheim@sfgov.org / (415) 558-6612

Re: Central SoMa Plan – Clarification of Housing Numbers

Date: December 7, 2017

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The purpose of this memo is to clarify the housing numbers presented as part of the Central SoMa Plan and its Environmental Impact Report (EIR). The need for clarification has become apparent based on input received at and subsequent to the October 23rd informational hearing on Central SoMa at the Land Use & Transportation Committee.

The need for clarification is based on the complicated nature of the numbers presented, including that:

- The Environmental Impact Report (EIR) Study Area is larger than the Plan Area itself:
 - The EIR studied an area that extends between 2nd and 6th Street, from Townsend Street in the south to Market Street in the north.
 - The Plan Area only incorporates the “Eastern Neighborhoods” portion of this area, and not the portion that is part of the Downtown Plan Area (see accompanying maps for the specific boundaries).
- The EIR conservatively analyzed more development than is anticipated to occur under the currently proposed Plan:
 - The EIR conservatively added a buffer to the amount of potential new development assumed in the Plan Area.
 - For a subset of parcels, the EIR studied height limits that are higher than those that would be established under the proposed Plan.
- Some analyses (e.g., EIR transportation studies) are based on total cumulative development (existing plus new growth) that will exist in Central SoMa at the end of the Plan period (i.e., 2040), and some analyses presented in the Plan (e.g., impact fee revenue generated in the Plan Area) are based only on new development.

The following table and accompanying maps attempt to more clearly lay out the distinctions between what is currently proposed in the Plan area versus the broader scope analyzed in the EIR.

Central SoMa Housing Projections

Title	EIR Study Area	Central SoMa portion	Downtown portion
Existing Units (2010) ¹	7,800	5,340	2,460
Total Units – No Project ²	16,800	8,660	8,140
Total Units – EIR Growth Projections ³	22,300	13,660	8,640
Total Units – Plan Growth Projections ⁴	21,040	12,400	8,440
New Units – No Project ⁵	9,000	3,320	5,680
New Units – EIR Growth Projections ⁶	14,500	8,320	6,180
New Units – Plan Growth Projections ⁷	13,240	7,060	6,180

¹ This row reflects the number of housing units that existed in 2010. The number in the “EIR Study Area” column comes from the Central SoMa EIR Table IV-1. The split into Central SoMa and Downtown sub-areas is based on the database that was used to inform the SFCHAMP growth model that itself informs the EIR. The database contains growth estimates by Transportation Area Zones (TAZ’s). In South of Market, these TAZ’s are typically a single square block, and thus can be allocated into each of the sub-areas. The numbers in the database were rounded up to ensure that these numbers total the amount studied in the EIR.

² This row reflects the total number of housing units projected by the EIR by 2040 if the Central SoMa Plan were *not* adopted. The source of the data is the same as explained in footnote 1.

³ This row reflects the total number of housing units projected by the EIR in 2040 with adoption of the Central SoMa Plan. The source of the data is the same as explained in footnote 1.

⁴ This row reflects the number of housing units projected in 2040 by the Central SoMa Plan. The source of the data is parcel-level analysis conducted by the Planning Department. For more information on the methodology, see the October 18th memo to the Land Use & Transportation Committee entitled “Central SoMa Plan – Strategy for New Housing.”

⁵ This row reflects the net new housing units projected by the EIR by 2040 if the Central SoMa Plan were *not* adopted. It is the difference between the “Existing Units (2010)” row and the “Total Units – No Project” row.

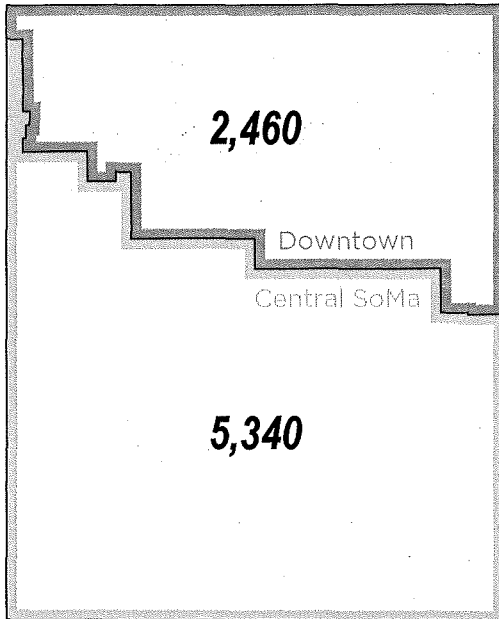
⁶ This row reflects the net new housing units projected by the EIR by 2040 with adoption of the Central SoMa Plan. It is the difference between the “Existing Units (2010)” row and the “Total Units – EIR Growth Projections” row.

⁷ This row reflects the net new housing units projected in 2040 by the Central SoMa Plan. It is the difference between the “Existing Units (2010)” row and the “Total Units – Plan Growth Projections” row.

Central SoMa Housing Projections

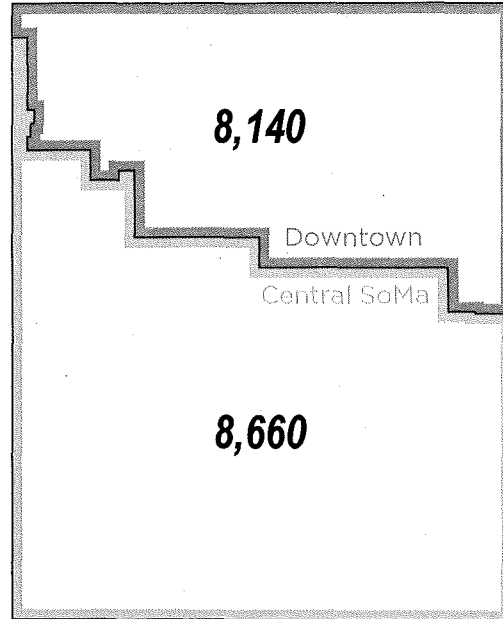
Existing Units (2010)

7,800



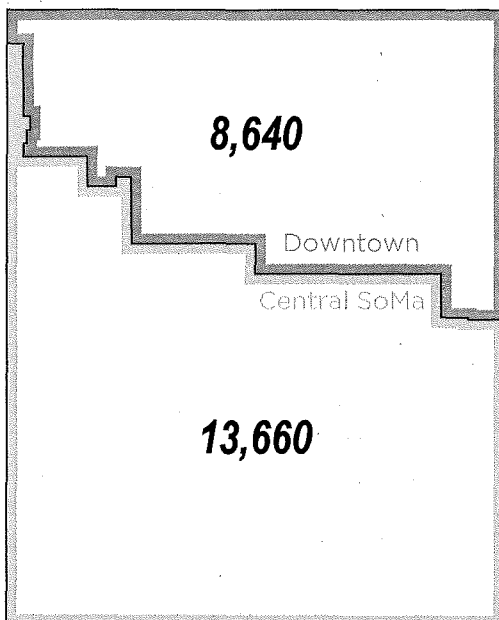
Total Units - No Project

16,800



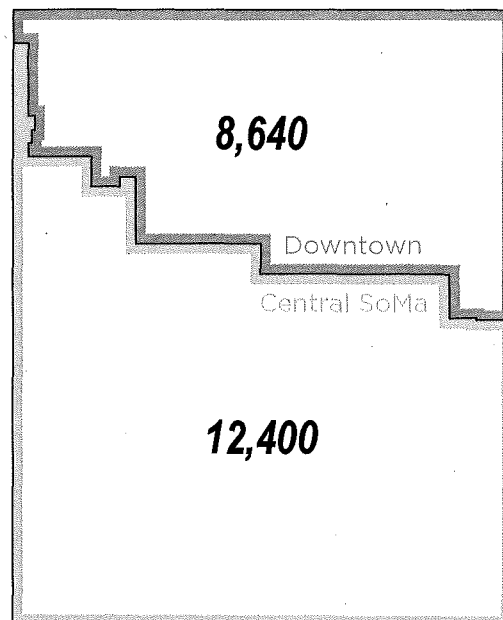
Total Units EIR Growth Projections

22,300



Total Units Plan Growth Projections

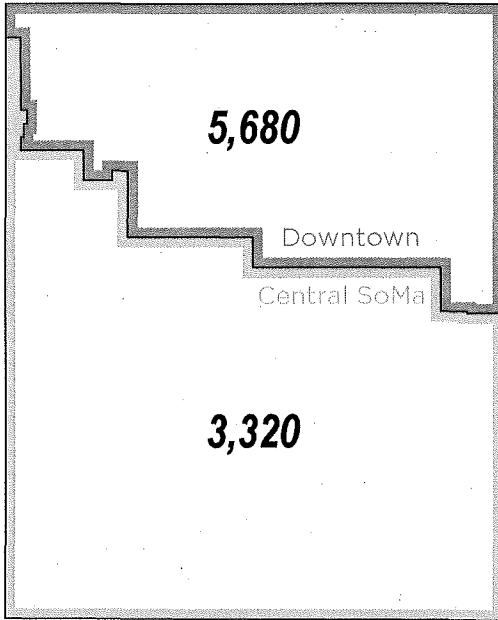
21,040



Central SoMa Housing Projections

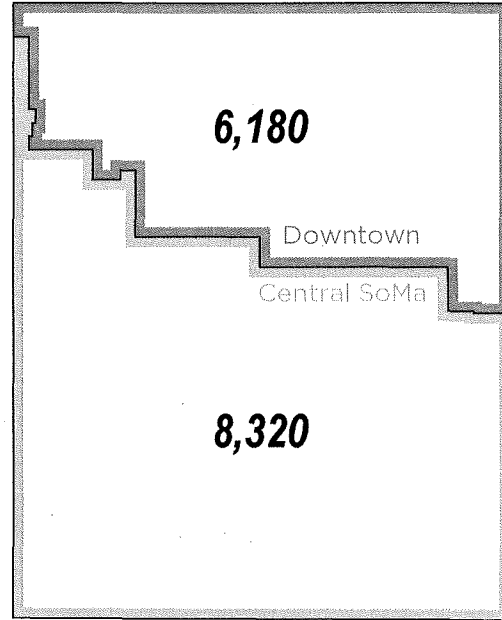
New Units - No Project

9,000



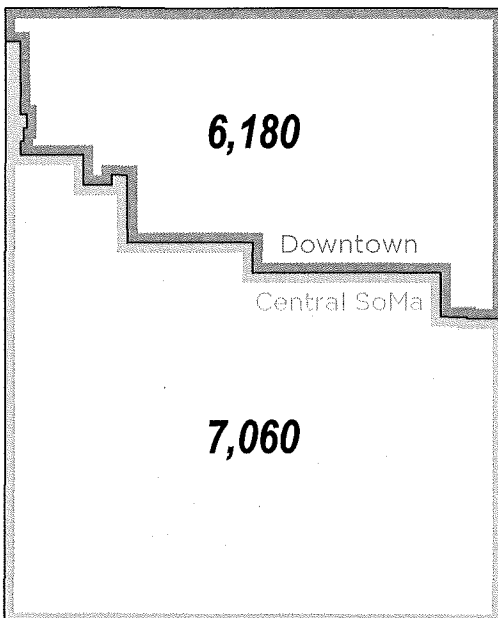
New Units EIR Growth Projections

14,500



New Units Plan Growth Projections

13,240





SAN FRANCISCO PLANNING DEPARTMENT

To: Board of Supervisors Land Use and Transportation Committee (Supervisors Farrell, Peskin, and Tang) and Supervisor Kim

From: Steve Wertheim, Planning Department Staff
steve.wertheim@sfgov.org / (415) 558-6612

Re: Central SoMa Plan – Public Benefits

Date: December 7, 2017

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The purpose of this memo is to explain the Central SoMa Plan’s proposed public benefits strategy. This memo includes a discussion of the process to generate the Plan’s public benefits package, and details of the public benefits that are proposed to be provided through the Plan.

I. Executive Summary

The Central SoMa Plan’s proposed public benefits package has been generated based on several years of engagement with the community and City agencies. The proposal would raise over \$2 billion directed back to the wellbeing of the residents, workers, and visitors of the South of Market neighborhood for such needs as affordable housing, transit, and parks, as shown in Table I-1.¹

TABLE I-1. Central SoMa Plan: Public Benefits Summary

Public Benefit	Funding
AFFORDABLE HOUSING: 38% of new/rehabilitated housing are Below-Market Rate	\$940,000,000
TRANSIT: Investment in both local and regional transit service	\$500,000,000
PRODUCTION, DISTRIBUTION, & REPAIR (including arts): No net loss of PDR space due to the Plan	\$180,000,000
COMPLETE STREETS: safe and comfortable streets for people walking and biking	\$130,000,000
PARKS & RECREATION: transformative improvements such as parks, plazas, and recreation centers	\$170,000,000
ENVIRONMENTAL SUSTAINABILITY: a healthy, resilient, green, and resource-efficient neighborhood	\$70,000,000
SCHOOLS & CHILDCARE: funding to support a growing population	\$60,000,000
CULTURAL PRESERVATION: funding towards the Old Mint and other historic buildings	\$40,000,000

¹ The numbers contained in this table and throughout the document are draft, and subject to change based on further input and decisions made by the Planning Commission and Board of Supervisors.

Central SoMa Plan – Public Benefits Strategy
December 7, 2017

COMMUNITY SERVICES: to serve the growing population	\$20,000,000
(TO BE DETERMINED): Additional funding whose use has not yet been identified.	\$70,000,000
TOTAL	\$2,180,000,000

II. Process

To develop the Central SoMa Plan’s community benefits package, the Planning Department worked iteratively over the past seven years with other agencies and community stakeholders. Concepts for infrastructure and public benefits were first developed for the Draft Central Corridor Plan in 2013, and further refined through additional outreach leading up to the Draft Central SoMa Plan in 2016. The Department held a series of public meetings and conducted an online survey in order to solicit public feedback on needs and funding priorities for public benefits. Details from these outreach events is chronicled at the project website (<http://centralsoma.sfplanning.org>).

This document describes a financially constrained list of projects that has been prioritized based on City and community feedback. It may not reflect the entire scope of possible infrastructure and service needs in the Plan Area, nor the longer term needs beyond the life of the Plan (anticipated as 25 years). It reflects public input on key neighborhood priorities and needs, informed by feedback from implementing agencies on project feasibility and cost. All public benefits identified will require further scoping and analysis on project design, financial feasibility, and implementation. Project scoping and planning has already begun for a number of the City agency projects identified here, with the goal of having projects ready for construction by the time that funding generated by the Plan becomes available. The City may choose to revisit this list of projects in the future, as the neighborhood evolves and/or new needs are identified. Any such process would involve substantial public input.

Additional technical analysis was conducted to support these proposed public benefits. A financial feasibility analysis by Seifel Consulting, Inc. was conducted in order to quantify the value created by the Plan and establish a financially feasible level of development requirements. Other nexus studies conducted for the City’s development impact fees provided further information on the amount of new infrastructure and services needed to serve new development. This document was also informed by methods and processes used for prior area planning processes (including Eastern Neighborhoods, Market & Octavia, and Transit Center District Plan).

Upon adoption of the Central SoMa Plan, its successful implementation will require collaboration among a diverse array of agencies, community members, and private actors. This includes oversight by the San Francisco Controller’s Office, the City’s Capital Planning Committee, the Interagency Plan Implementation Committee, and the Eastern Neighborhoods Citizens Advisory Committee. As a part of the Eastern Neighborhoods Area Plans, Central SoMa will also be subject to this area’s five-year monitoring and reporting requirements.

III. Public Benefits Program

“Public benefits” are goods and services expected to be generated by new development that typically: 1) support the broader community’s wellbeing; 2) are not provided voluntarily by the private sector (or at least not in sufficient quantity or quality to meet demand); and, 3) require some sort of subsidy or opportunity cost (e.g. public or private funding) to create, operate, and maintain. Common types of public benefits include affordable housing, parks, and transit service.

In order to fund public benefits, government agencies utilize “value capture” strategies – such as development requirements, taxes, fees, or other exactions. These strategies are often implemented

concurrently with investments in public infrastructure (such as new transit service) or increases in development potential for property owners. The public benefits generated through these strategies are typically delivered through one or more of the following three mechanisms:

- **Direct provision of benefit by a specific development project**, for instance, “on-site” affordable housing units or the provision of Privately Owned Publicly Accessible Open Spaces (POPOS). These public benefits are typically provided at the same time as the new development or shortly thereafter.
- **One-time impact fees** paid when a project is ready for construction. Within this category, the City employs two types of fees:
 - Citywide impact fees (e.g. Child Care Fee) levied on all applicable development types across the city.
 - Area plan impact fees (e.g. Eastern Neighborhood Community Infrastructure Fee) which apply to specific plan areas to fund infrastructure and service needed generated by new development.
- **Ongoing taxation** such as a Mello-Roos Community Facilities District (CFD).

This section describes the public benefits and the key funding sources expected to be generated by the Plan. There are nine categories of public benefits that would be funded by the Central SoMa Plan in support of its Goals, Objectives, and Policies. Table III-1 summarizes how the revenues generated by Plan would be allocated among these public benefits, accompanied by a detailed discussion of each category of public benefit provided in order of allocated funding.² It should be noted that, absent the Plan, public benefits generated in this area from new development would be approximately \$500 million. As such, the Plan more than quadruples the amount of public benefits expected in this area.

Notably, in addition to this \$2 billion in funding for public benefits expected to be generated directly by new development, taxes from new development in the Plan Area are expected to generate up to \$1 billion additional revenues for the City’s General Fund within the same time period, through increased property taxes, sales taxes, and other means. These taxes could be directed toward the neighborhood, other citywide needs, or a combination of the two at the discretion of the City’s budgeting process. Additionally, the City could choose to fund public benefits in the neighborhood through other mechanisms, such as bonds or general taxes. Any of these funding sources could be directed to the Plan Area to accelerate delivery of public benefits, which would make the timing of implementation less dependent on the phasing of new development. However, pursuit of these mechanisms are dependent on processes and decision-making external to the adoption of this plan. Such additional funding sources would enable the City to address other neighborhood infrastructure needs, as identified at that time.

² All dollar amounts expressed here are in 2017 dollars. Actual average revenues collected each year will be higher, due to scheduled tax rate escalation as well as indexing of City fees (which are escalated annually to reflect construction costs).

TABLE III-1. Central SoMa Plan: Public Benefits

Public Benefit	Total Revenues (Baseline plus Plan Provided)	%
AFFORDABLE HOUSING	\$940,000,000	43%
38% of new/rehabilitated housing is Below-Market Rate (BMR) (35% low and moderate income and 3% middle income)	\$940,000,000	43%
TRANSIT	\$500,000,000	23%
Local transit improvements to enhance convenience and safety	\$340,000,000	16%
Regional transit capacity enhancement and expansion	\$160,000,000	7%
COMPLETE STREETS	\$130,000,000	6%
Redesign of all major streets in the Plan Area	\$130,000,000	6%
PRODUCTION, DISTRIBUTION, & REPAIR	\$180,000,000	8%
Preservation/Creation of PDR space to ensure no net loss of PDR due to the Plan	\$180,000,000	8%
PARKS & RECREATION	\$170,000,000	8%
Gene Friend Recreation Center Reconstruction/Expansion	\$25,000,000	1%
Victoria Manalo Draves Park Programming	\$5,000,000	0%
New 1-acre park in Southwest portion of Plan Area	\$35,000,000	2%
New public recreation center	\$10,000,000	0%
New large (2+ acre) SoMa park (initial site identification)	\$5,000,000	0%
New Bluxome linear park	\$5,000,000	0%
New under-freeway public recreation area	\$5,000,000	0%
Privately-Owned Public Open Spaces (POPOS)	\$80,000,000	4%
ENVIRONMENTAL SUSTAINABILITY	\$70,000,000	3%
Enhanced stormwater management in complete street projects	\$32,000,000	1%
Freeway corridor air quality and greening improvements	\$22,000,000	1%
Living Roofs enhanced requirements	\$6,000,000	0%
Other greening and energy efficiency strategies	\$9,000,000	0%
SCHOOLS & CHILDCARE	\$60,000,000	3%
New childcare centers	\$26,000,000	1%
New schools serving K-12 population	\$32,000,000	1%
CULTURAL PRESERVATION	\$40,000,000	2%
Restoration of the US Mint Building	\$20,000,000	1%
Preservation and maintenance of historic buildings	\$20,000,000	1%
COMMUNITY SERVICES	\$20,000,000	1%
Space for community services	\$20,000,000	1%
TO BE DETERMINED³	\$70,000,000	3%
TOTAL	\$2,180,000,000	100%

³ This category represents funding that has been identified since the release of the Draft Central SoMa Plan in 2016. The Planning Department will continue to work with decision makers on the strategy for allocating this projected revenue.

A. AFFORDABLE HOUSING

Central SoMa Plan Objective 2.3, states that the City should “Ensure that at least 33% of new housing is affordable to very low, low, and moderate-income households”.⁴ The Central SoMa Plan will generate approximately 2,670 affordable units. The Plan will require that these below market rate (BMR) units are developed within SoMa (i.e., the area bounded by Market Street, the Embarcadero, King Street, Division Street, and South Van Ness Avenue).⁵

TABLE III-2. Total Estimated Costs – Affordable Housing

Public Benefit	Total Plan Revenues	Funding Source	Description	Lead Agencies
1970 Below Market Rate (BMR) units ⁶	\$730,000,000	Inclusionary Housing Program (Planning Code Section (Sec.) 415)	Applicable to new residential developments. Individual developments may choose how to satisfy the program requirements, but revenues are generally expected to be split 50-50 between: 1) onsite Inclusionary Housing Program units provided directly by development projects; and, 2) off-site Inclusionary Housing units or units provided by MOHCD, funded by payment of the Affordable Housing Fee	MOHCD
700 BMR units	\$210,000,000	Jobs-Housing Linkage Fee (Sec. 413)	Fee is paid by new nonresidential developments, and units are provided by MOHCD.	MOHCD
TOTAL	\$940,000,000			

Delivery & Timing

All of the funding sources for BMR units in the Plan Area are provided through either direct provision or impact fees paid by new developments. As such, the delivery of BMR units is highly dependent on the volume of new development. Onsite and offsite BMR units provided through the Inclusionary Housing Program are expected to be provided at the same time as market rate units of the affiliated project.

BMR units funded through the Affordable Housing Fee are provided by the Mayor’s Office of Housing and Community Development (MOHCD), which uses the money to identify and purchase sites and

⁴ Meeting this Objective also fulfills the target of 33% affordability in the city, as established by the votes in 2014’s Proposition K.

⁵ For more information on affordable housing, see the accompanying Planning Department memos written in anticipation of the December 11, 2017 informational hearing at the Land Use & Transportation Committee.

⁶ This includes an 85-unit affordable housing development on a publicly-owned sites at the northwest corner of 4th and Folsom Streets which will be funded through fees that have already been collected.

construct new affordable housing units, often in partnership with nonprofit housing developers. MOHCD may need to assemble the impact fees from several market-rate projects to obtain sufficient funds for each new affordable housing project. Thus, the development of these units may lag behind the market rate units, unless additional affordable housing funds are directed to the Plan Area in the interim.

In addition, MOHCD is increasingly exploring affordable housing preservation strategies, in which they convert existing housing units (such as rent-controlled apartments) into permanently affordable BMR units. The City's Small Sites Program is one such tool, funding acquisition and rehabilitation of 5- to-25-unit rental buildings. Central SoMa could rely on both production and preservation strategies in order to achieve the Plan's affordable housing targets.

B. TRANSIT

Central SoMa Plan Objective 4.3 states that the City should "Ensure that transit serving the Plan Area is adequate, reliable, and pleasant." This is because new and enhanced public transportation infrastructure is fundamental to accommodating the influx of new jobs and housing units proposed for Central SoMa. Although the completion of the Central Subway system will provide a vital connection between the Plan Area and the rest of the city, additional improvements will be required over time to ensure that people can travel to and from the area safely and conveniently.

Funding from the Plan will be directed to both local and regional transportation systems, reflecting the important role that the Plan Area will serve as a hub in the Bay Area for jobs, housing, and culture. The Plan is expected to generate \$500 million in investments to both near- and long-term transit service and capacity enhancements, serving both local and regional transit (Plan Objective 4.3). Local transportation funding needs include, but are not limited to: transit enhancement and expansion, preventive maintenance (e.g. state of good repair efforts), streetscape improvements (such as transit priority lanes and boarding islands), and service adjustments.

Regional transit funding would be directed towards "core capacity" enhancement and expansion projects meant to facilitate movement to the Plan Area from the East Bay and Peninsula/South Bay. Studies are ongoing at the regional level to further define the scope and specifics of such projects, including the Core Capacity Study, Plan Bay Area, and related efforts. Efforts may include BART station and fleet upgrades, Bay Bridge corridor efficiency improvements, Caltrain corridor improvements (such as the Downtown Extension, or DTX, project), and longer-term projects (such as advancement of a second Transbay transit crossing).

TABLE III-3. Total Estimated Costs - Transit

Public Benefit	Total Plan Revenues	Funding Source	Description	Lead Agencies
Local transportation enhancements	\$340,000,000	Transportation Sustainability Fee (TSF) (Sec. 411A); Eastern Neighborhoods Infrastructure Impact Fee (Sec. 423); Central SoMa Infrastructure Impact Fee (CSF) (Sec. 428.2 ⁷); Central SoMa Mello-Roos Community Facilities District (CFD) (Sec. 428.3 ⁸)	Funds will go to SFMTA to support transit service expansion/ enhancement as well as preventive maintenance projects.	SFMTA
Regional transit capacity enhancement and expansion	\$160,000,000	TSF (Sec. 411A); CSF (Sec. 428.2), Central SoMa Mello-Roos CFD (Sec. 428.3)	These funds will be split roughly equally between (1) near term enhancements on the Transbay corridor, (2) longer-term "core capacity" projects (such as a second Transbay rail crossing), and (3) enhancements on the Caltrain/High Speed Rail corridor.	TBD, but could include BART, Caltrain, MTC, and California High Speed Rail Authority, among others.
TOTAL	\$500,000,000			

Delivery & Timing

Funds for local transit improvements will be directed to and administered by the San Francisco Municipal Transportation Agency (SFMTA). The funds derived from impact fees (the TSF, Eastern Neighborhoods Infrastructure Impact Fee, and a new Central SoMa Fee) will accrue as development projects receive their building permits, and are thus tied directly to the rate of new development. The remaining funds derived from the CFD would accumulate over the lifespan of the Plan and beyond, as new development comes online and begins paying the tax. However, the City also has the option of bonding against this revenue stream, thus accruing these funds substantially earlier. This may be desirable, in order to ensure that transportation investments are in place to attract and meet the needs of new development.

The portion of revenues from Eastern Neighborhoods Infrastructure Impact Fees is programmed through the Interagency Plan Implementation Committee (IPIC) and the Eastern Neighborhoods Community Advisory Committee (ENCAC). The ENCAC, comprised of community stakeholders, provides annual recommendations for how to allocate fee revenues to high priority public projects. These proposals are subsequently evaluated, modified, and approved by the IPIC and the City Capital

⁷ Planning Code section pending Plan adoption

⁸ Planning Code section pending Plan adoption

Planning Committee, and included in the City’s annual Capital Budget and 10-year Capital Plan (adopted biennially).

The funds for regional transit improvements will come primarily from the CFD following a similar timeline as described above. These funds would be collected by the Assessor-Recorder’s office and directed to regional transportation agencies, through a process that will be governed by an interagency Memorandum of Understanding (MOU).

C. PRODUCTION, DISTRIBUTION, AND REPAIR (PDR)

Central SoMa Plan Objective 3.3 states that the City should “Ensure that the removal of protective zoning does not result in a loss of production, distribution, and repair (PDR) in the Plan Area.” due to the sector’s critical role in San Francisco. PDR companies serve the needs of local residents and businesses, and tend to provide high-paying jobs and career advancement opportunities for people without a four-year college degree. PDR jobs also enhance the city’s economic diversity and therefore our ability to weather times of economic stress.

The SoMa neighborhood has a legacy as a home for PDR jobs. The Plan would ensure that the removal of protective zoning does not result in a net loss of PDR jobs in the Plan Area, by providing requirements to fund, build, and/or protect PDR spaces. The total amount of PDR space that will be preserved or created is approximately 900,000 square feet.

TABLE III-4. Total Estimated Costs - PDR

Public Benefit	Total Plan Revenues	Funding Source	Description	Lead Agencies
900,000 sq ft of PDR space	\$180,000,000	Direct provision by new development (Sec. 202.8 and Sec. 249.77 ⁹)	PDR space directly provided by new development	Planning
TOTAL	\$180,000,000			

Delivery & Timing

The direct provision of PDR space will come from land use controls and conditions for allowing residential and non-residential development, in the form of requirements to maintain and/or replace existing spaces and to include new space in developments. As a direct provision, no transfer of funds or payment of fees will occur.¹⁰ The PDR space will be provided at the same time the associated space becomes ready for occupancy.

D. PARKS & RECREATION

⁹ Planning Code section pending Plan adoption

¹⁰ The Plan endorses the pursuit and analysis of an in-lieu fee for PDR, but the fee itself is not proposed as part of the Plan.

Central SoMa Plan Goal #5 states that the City should “Offer an abundance of parks and recreational opportunities” in Central SoMa. Central SoMa and the broader SoMa neighborhood currently suffer from a shortage of public parks and recreational opportunities, largely due to the area’s industrial history. The Plan envisions a range of new parks, recreational facilities, and public open spaces, in addition to funding for renovation and programming of existing facilities (thereby fulfilling Plan Objectives 5.1-5.6). These new and upgraded facilities may include playgrounds, sport facilities, recreational programs, and passive open spaces, catering to diverse open space needs.

TABLE III-5. Total Estimated Costs – Parks & Recreation

Public Benefit	Total Plan Revenues	Funding Source	Description	Lead Agencies
Gene Friend Rec Center Reconstruction/Expansion	\$25,000,000	Eastern Neighborhoods Infrastructure Impact Fee (Sec. 423)	Enhancement/expansion of existing facility to accommodate growth in demand.	Rec & Park
Victoria Manalo Draves Park Programming	\$5,000,000	Central SoMa Mello-Roos Community Facilities District (CFD) (Sec. 428.3)	Funding for activation and programming.	Rec & Park
New 1-acre park in Southwest portion of Plan Area	\$35,000,000	Eastern Neighborhoods Infrastructure Impact Fee (Sec. 423)	Development of a potential park on the existing SFPUC-owned lot in the area between 4th, 5th, Bryant, and Brannan Streets. This may be provided by an In-Kind Agreement with surrounding development.	Rec & Park Planning
New public recreation center	\$10,000,000	Eastern Neighborhoods Infrastructure Impact Fee (Sec. 423)	This may potentially be funded through direct provision on a development project.	Rec & Park
New large (2+ acre) SoMa park (initial site identification)	\$5,000,000	Eastern Neighborhoods Infrastructure Impact Fee (Sec. 423)	Funding for initial site identification and coordination for a large signature park in the larger SoMa area.	Rec & Park
New Bluxome linear park	\$5,000,000	Central SoMa Mello-Roos Community Facilities District (CFD) (Sec. 428.3)	A park built on the existing Bluxome Street right of way. This may potentially be developed as a privately-owned public open space (POPOS) by nearby developments.	Planning
New under-freeway public recreation area	\$5,000,000	Eastern Neighborhoods Infrastructure Impact Fee (Sec. 423)	This may potentially be developed as a POPOS by nearby developments.	Rec & Park
Privately-Owned Public Open Spaces (POPOS)	\$80,000,000	Direct provision by new development (Sec. 138)	Up to four acres of net new publicly-accessible open space spread across the Plan area, provided directly on new development projects.	Planning
TOTAL	\$170,000,000			

Delivery & Timing

Revenues from impact fees will accrue concurrently with the pace of new development, while the CFD revenues accrue annually as additional projects come online and begin paying the tax (or earlier should the City choose to bond against this revenue stream). The prioritization of projects is conveyed in Table II-6, with the highest priority for funding at the top of the table. However, this order may be amended, through input from the Eastern Neighborhoods Community Advisory Committee and Interagency Plan Implementation Committee, based on timing considerations (such as shovel readiness) and financial considerations (such as leveraging other funds).

POPOS would be delivered at the same time as their associated development projects, and would undergo an urban design review process involving the Planning Department and Recreation and Parks Department to ensure that they meet minimum requirements for size, usability, and quality. Collectively, the POPOS requirement is expected in result in up to four acres of new publicly accessible open space, all of which will be provided at ground level.

E. COMPLETE STREETS

Central SoMa Plan Objective 4.1. states that the City should “Provide a safe, convenient, and attractive walking environment on all the streets in the Plan Area.” The current network of streets in the Plan Area provides a poor experience for all users – whether walking, driving, riding transit, or cycling. Streets are clogged with rush hour traffic, many sidewalks are not up to City standards, crosswalks are few and far between, and bicycle infrastructure is incomplete and discontinuous – all of which contribute to high rates of traffic crashes and injuries.

The Plan calls for complete streets improvements to make walking and biking more safe and convenient, in order to complement the transit improvements (described in the prior section) and encourage people to drive less. Funding generated by new development will be used to transform 100 percent of all major streets in the Plan Area (totaling approximately 25,000 linear feet) into high quality streets for walking, biking, and transit.

TABLE III-6. Total Estimated Costs – Complete Streets

Public Benefit	Total Plan Revenues	Funding Source	Description	Lead Agencies
Redesign of all major streets in the Plan Area	\$130,000,000	Transportation Sustainability Fee (TSF) (Sec. 411A); Eastern Neighborhoods Infrastructure Impact Fee (Sec. 423); Central SoMa Infrastructure Impact Fee (CSF) (Sec. 428.2); Central SoMa Mello-Roos Community Facilities District (CFD) (Sec. 428.3)	Redesign of approximately 25,000 linear feet of major streets (including portions of 3rd, 4th, 5th, 6th, Howard, Folsom, Harrison, Bryant, Brannan, and Townsend Streets) at an estimated cost of \$4,400-\$5,400 per linear foot.	SFMTA
TOTAL	\$130,000,000			

Delivery & Timing

All funding dedicated to complete streets would be directed to the SFMTA and San Francisco Department of Public Works (SFDPW) for planning, design, and construction. These funds are projected to be sufficient to redesign all the major streets in the Plan Area. Although the Central SoMa Plan includes conceptual designs for the major streets, each street will need to undergo a more detailed design process, incorporating additional public feedback and environmental review as necessary, and including opportunities for incorporating environmental sustainability and green landscaping elements. Although improving main streets is the highest priority, improvements may also be implemented on alleyways in the Plan Area as funding allows. Within the main streets, prioritization will be set by SFMTA.

As noted in the Transit section above, revenues from the Eastern Neighborhoods Infrastructure Impact Fees receive additional oversight through the Eastern Neighborhoods Community Advisory Committee and the IPIC. The improvements funded by fees and the CFD could occur as money is accrued. The fees will accrue concurrently with the pace of development, while the CFD accrues annually as additional projects come online and begin paying the tax. As previously noted, the City has the option to accelerate projects by bonding against this revenue stream or utilizing other funds (including general fund revenues).

Alternatively, some improvements may be provided directly by development in order to meet minimum Better Streets Plan requirements or to satisfy an In-Kind Agreement, particularly on the new and renovated mid-block alleys that will not be included in SFMTA streetscape planning efforts. These improvements would be completed at the same time as the affiliated development project.

F. ENVIRONMENTAL SUSTAINABILITY

Central SoMa Plan Goal #6 is to “Create an Environmentally Sustainable and Resilient Neighborhood.” where urban development gives more to the environment than it takes (thereby fulfilling Plan Objectives 6.1–6.8). The Plan proposes innovative building- and neighborhood-scale interventions to improve environmental performance, providing a model for the rest of the city and beyond. New development will be required to incorporate living roofs, generate renewable energy onsite, and use only 100% greenhouse gas-free (GHG-free) electricity for the balance. Funds will also be directed to adding habitat-supportive landscaping and green infrastructure to streets and open spaces, to beautify them while also improving air quality, micro climate comfort, stormwater management, and ecological function. District-scale utility systems (e.g., shared energy and/or water systems linked between both new and existing buildings) are encouraged in order to enhance resource and cost efficiencies.

TABLE III-7. Total Estimated Costs – Environmental Sustainability

Public Benefit	Total Plan Revenues	Funding Source	Description	Lead Agencies
Enhanced stormwater management in complete street projects	\$30,000,000	Central SoMa Mello-Roos Community Facilities District (CFD) (Sec. 428.3)	Stormwater infrastructure (grey infrastructure, landscaping, etc.) on all major streets.	Planning, SFPUC
Freeway corridor air quality and greening improvements	\$22,000,000	Central SoMa Mello-Roos Community Facilities District (CFD) (Sec. 428.3)	Greening improvements along/under the freeway corridor to improve air quality and enhance pedestrian comfort.	Planning
Living Roofs enhanced requirements	\$6,000,000	Direct provision by new development (Sec. 249.77)	Living Roofs requirement of 50% of usable roof area on projects 160' or shorter, surpassing City policy.	Planning
Better Roofs demonstration projects	\$2,000,000	Central SoMa Mello-Roos Community Facilities District (CFD) (Sec. 428.3)	Demonstration projects to provide guidance and highlight best practices, including a Living Roof project (\$1mn) and a solar project (\$500k).	Planning
Water recycling and stormwater management in public spaces	\$5,000,000	Central SoMa Mello-Roos Community Facilities District (CFD) (Sec. 428.3)	Infrastructure for 100% recycled (non-potable) water for street cleaning and public park irrigation; green stormwater management in parks.	Planning, SFPUC
100% energy-efficient street lights	\$1,000,000	Central SoMa Mello-Roos Community Facilities District (CFD) (Sec. 428.3)	Energy efficient upgrades to street lights throughout the Plan area.	Planning, SFPUC
Sustainability studies & guideline documents	\$2,000,000	Central SoMa Mello-Roos Community Facilities District (CFD) (Sec. 428.3)	Funding for a District Energy & Water Utility Systems Study (\$500k), a Central SoMa Sea Level Rise & Flood Management Strategy (\$400k), a Fossil Fuel Free Buildings Study & Guidelines Document (\$300k), and Flood Resilient Design Guidelines (\$300k)	Planning
TOTAL	\$70,000,000			

Delivery & Timing

The majority of funding for environmental sustainability improvements will be provided by the CFD, and will occur upon accrual of revenues, or earlier if the City chooses to bond against the CFD revenue stream. The Studies, Strategies, and Guidelines discussed above are proposed to be delivered within two years after adoption of the Central SoMa Plan, and may lead to additional new requirements or public benefits.

The Living Roofs are provided directly onsite by new development and will occur with their respective projects. Additional benefits will be directly provided through new development via existing requirements (such as current energy and water efficiency requirements) and are not quantified here.

G. SCHOOLS & CHILDCARE

Central SoMa Plan Objective 2.6 states that the City should “Support the schools, child care, and community services that serve the local residents.” In terms of schools and child care, the Plan Area is expected to see a large increase in the number of children as it continues to transition from a primarily industrial neighborhood to a mixed-use hub for jobs and housing. The Plan will generate funding to meet the demand for schools and childcare for youth ages 0-18 through existing City impact fees.

TABLE III-8. Total Estimated Costs – Schools & Childcare

Public Benefit	Total Plan Revenues	Funding Source	Description	Lead Agencies
Schools	\$32,000,000	School Impact Fee (State Education Code Sec. 17620)	Impact fees to meet demand for school facilities to serve growth generated within the Plan Area.	SFUSD
Childcare	\$26,000,000	Child Care Fee (Sec. 414 and Sec. 414A); Eastern Neighborhoods Impact Fee (Sec. 423)	Impact fees to meet demand for child care facilities to serve growth, located within the Plan area.	HSA Office of Early Care & Education
TOTAL	\$60,000,000			

Delivery & Timing

All funding sources for this public benefit category are from impact fees, which will accrue at the time projects receive building permits.

The School Impact Fee is directed to the San Francisco Unified School District for use at their discretion throughout the city. New school facilities are expected to serve a broader area than just Central SoMa and will cost significantly more than the funds generated by the fees in the Plan Area. Additional fees, including those collected by the School Impact Fee in previous years, will be required to accrue enough to build new facilities.

Funds from the Child Care Fee and Eastern Neighborhoods Infrastructure Impact Fee will go to the Child Care Facilities Fund, which is administered jointly by the City’s Human Services Agency Office of Early Care and Education and the Low-Income Investment Fund (LIIF). The Child Care Fee money can be spent throughout the City, while the Eastern Neighborhoods fee must be spent within the Eastern Neighborhoods Plan Areas. Child care facilities are less costly than school facilities and might come online sooner. New developments have the option to satisfy up to their entire Eastern Neighborhoods Impact Fee requirement by directly providing publicly-accessible child care onsite through an In-Kind Agreement (IKA), which could result in faster delivery of services.

H. CULTURAL PRESERVATION

Central SoMa Plan Objective 7.5 states that the City should “Support mechanisms for the rehabilitation and maintenance of cultural heritage properties.” To fulfill this Objective, revenues generated by the Plan will be used as seed funding for the restoration and seismic upgrade of the celebrated U.S. Mint building at 5th and Mission Streets, one of the City’s most significant historic properties. The building has long been envisioned as a major opportunity site to provide a cultural asset that celebrates the civic history of the City.

Revenues from the Plan will also be used to help preserve and maintain important historic buildings within the Plan Area. This revenue will come from the sale of Transfer of Development Rights (TDR), a voluntary program available to these historic buildings whereby they sell their unused development rights to new development in the area. To facilitate the process, large new non-residential developments will be required to purchase TDR from historic buildings in the Plan Area.

TABLE III-9. Total Estimated Costs – Cultural Preservation

Public Benefit	Total Plan Revenues	Funding Source	Description	Lead Agencies
Restoration of the US Mint Building	\$20,000,000	Central SoMa Mello-Roos Community Facilities District (CFD) (Sec. 428.3)	Restoration and seismic upgrade of the US Mint Building.	OEWD
Preservation and maintenance of historic buildings	\$20,000,000	Transfer of Development Rights (TDR) (Sec. 128.1)	The sale of Transferable Development Rights from historic buildings to new development. Revenues from these sales are required to be spent on the preservation and maintenance of the associated historic resource.	Planning
TOTAL	\$40,000,000			

Delivery & Timing

Revenues from the CFD used to support the restoration of the US Mint Building will accrue commensurate with the area’s tax base, or sooner if the City elects to bond against these revenues. Funding from the Plan will be part of a larger funding and programming effort for restoration,

rehabilitation, and ongoing operations of the US Mint Building. This scope of work and budget is currently being developed, and it is anticipated that additional funds will need to be generated.

Sale of TDRs for the preservation and maintenance of other significant historic buildings in the Plan Area could occur upon adoption of the Central SoMa Plan.

I. COMMUNITY SERVICES & NEIGHBORHOOD STABILIZATION

Central SoMa Plan Objective 2.6 states that the City should “Support the schools, child care, and community services that serve the local residents.” “Community services” includes space for nonprofit and government organizations that provide services to the community, such as health clinics and job training facilities. As commercial rents continue to increase citywide, it becomes increasingly difficult for many of these uses to start, grow, and stay in San Francisco. Central SoMa is already a popular location for many of these services, due to its central and transit-accessible location, and large number of commercial properties. The Plan will provide space for these types of facilities, as part of its central goals of increasing jobs and facilitating economic and cultural diversity.

The City has recently developed a Community Facilities Nexus Study in order to quantify the demand for these services generated by new development, in order to establish a legal nexus for levying development impact fees.¹¹

TABLE III-10. Total Estimated Costs – Community Services

Public Benefit	Total Plan Revenues	Funding Source	Description	Lead Agencies
60,000 sq ft of new space for community services	\$20,000,000	Central SoMa Community Facilities Fee (Sec. 428.1 ¹²)	Impact fees to develop new facilities for nonprofit community services (such as health care or job training) needed to serve new growth.	MOHCD
TOTAL	\$20,000,000			

Delivery & Timing

Revenues will be directed to the Mayor’s Office of Housing and Community Development (MOHCD) to fund the development of new community facility space. As an impact fee, funding would accrue concurrently with development over the duration of the Plan. Facilities could potentially be developed through some combination of standalone locations (such as a centralized non-profit “hub” space) or potentially co-located within affordable housing projects. In the latter case, because the development of

¹¹ Available at:

http://sfcontroller.org/sites/default/files/Documents/Budget/131124_Central%20SoMa%20Nonprofit%20Nexus_FINAL_2016_03_24.pdf

¹² Planning Code section pending Plan adoption

these affordable units would occur after the market rate development providing the necessary funding, the development of community facilities is likely to occur after these new developments as well.

New developments will also be given the option to provide community facilities directly via an In-Kind Agreement with the City (instead of paying the Community Facilities Fee), which would result in faster delivery of the benefit.

J. TO BE DETERMINED

The financial feasibility analysis of Central SoMa has determined that there may be up to \$70 million in additional funding available over the next 25 years that has not been allocated to the benefits discussed above. This money would come from the Mello-Roos Community Facilities District, and thus has the potential to be spent more flexibly than impact fee revenue.¹³

At this time the Planning Department is not proposing specific recommendations for this allocation. However, here are a few possible options that have been discussed in conversation with the community and decision makers over the last several months, since the potential for additional revenue was identified.

- Funding for social programs: SoMa has a rich network of non-profit organizations that provide important services to the neighborhood's residents. Currently these organizations are supported by a number of mechanisms, including approximately \$1 million per year through the SoMa Stabilization Fund. The revenue for that Fund set to expire in the near future. However, there is the potential to extend that Fund for the foreseeable future through the Central SoMa Plan.¹⁴
- Funding for parks maintenance: Central SoMa is proposing to add several new public parks and a new recreation center. Maintenance of such facilities is typically paid for out of the City's General Fund revenue. In Central SoMa, there is potential to augment and/or replace this funding.
- Funding for Yerba Buena Gardens: The City is currently in the process of ascertaining the cost to rehabilitate the facilities at Yerba Buena Gardens, as well as identifying potential sources of revenue. This funding could be one such source of revenue.
- Funding for neighborhood cleaning services: Like in other neighborhoods that levy taxes to pay for services, this funding could be utilized to pay for additional street cleaning, graffiti removal, and other benefits.

¹³ While impact fee revenue can only be spent on capital infrastructure investment, it may be possible with adjustments to City law to enable the CFD money to be spent on such things as operations, capital maintenance, and social programs.

¹⁴ Such an expenditure would be a substantial change in precedent for CFD Funding and thus would need to be approved by the City Controller's Office and other financial agencies.



SAN FRANCISCO PLANNING DEPARTMENT

To: Board of Supervisors Land Use and Transportation Committee (Supervisors Farrell, Peskin, and Tang) and Supervisor Kim

From: Steve Wertheim, Planning Department Staff
steve.wertheim@sfgov.org / (415) 558-6612
Dan Adams, Deputy Director, Mayor's Office of Housing and Community Development
dan.adams@sfgov.org / (415) 701-5616

Re: Central SoMa Plan – Housing Strategy – Response to Questions from 10/23/17 Hearing

Date: December 7, 2017

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The purpose of this memo is to respond to questions received at and subsequent to the October 23, 2017 Land Use & Transportation Committee hearing regarding the Central SoMa Plan's housing strategy. This memo includes an analysis of the total housing development in Central SoMa, the affordability of units (by quantity and depth of affordability), and sites for affordable units.

I. Executive Summary

- There are 7,060 new housing units expected within Central SoMa
- The Central SoMa Plan will generate 2,670 affordable housing units, which represents 38% of total projected units.
- The City has already identified locations for 53% (1,425) of expected affordable units, and has developed a strategy for both identifying and securing sites for the additional units.

II. Total Housing Development in Central SoMa

Based on input received at and subsequent to the October 23rd informational hearing, the total number of units expected to be built in Central SoMa has been adjusted to 7,060, as follows:

- 6,150 units from buildout on "soft sites" per the proposed zoning;¹
- 525 units on these soft sites from use of the State Density Bonus;²

¹ Methodology described in detail in the [first Central SoMa housing memo](#) to the Land Use & Transportation Committee, dated October 18, 2017, and appended here for reference.

² The 525 unit number is derived as follows: 1) Of the 6,150 units, 50% (3,075) are projected to be in buildings that are likely to provide inclusionary BMR units on-site (based on recent evidence in SoMa for implementation of Section 415 for of residential buildings of similar scale as anticipated in Central SoMa). 2) We assume that up to 75% of those buildings (i.e., 2,300 units) will choose to use the State Density Bonus (which presumes that, for some, the additional process, scrutiny, and potential change in construction type do not merit the increase. Because utilization of the State Density Bonus is nascent,

- 300 units carved out of office development sites.³
- 85 units on 4th and Folsom (MTA site)

III. Affordability of Units (by Quantity and Depth)

Based on input received at and subsequent to the October 23rd informational hearing, the total number of affordable units expected to be built due to the Central SoMa Plan has been adjusted to 2,670, as follows:

- 740 units built on-site to meet the requirements of the Inclusionary Housing Program (Planning Code Section 415);⁴
- 300 units built off-site to meet the requirements of the Inclusionary Housing Program;⁵
- 845 units built via the in-lieu fee paid to meet the requirements of the Inclusionary Housing Program;⁶
- 700 units built via the in-lieu fee paid to meet the requirements of the Jobs-Housing Linkage Fee (Planning Code Section 413);
- 85 units at 4th and Folsom funded from in-lieu fees that have already been collected by the City.

In terms of depth of affordability, 82% (2,180) of affordable units built will serve very low and low income residents, up to 60% Area Median Income (AMI). This number represents the 1,630 units funded by fees collected by the City,⁷ as well as 550 units of units provided both on- and off-site, per the requirements of Planning Code Section 415. The remaining 18% (490) of the affordable units would be split between moderate-income residents (265 units) and middle-income residents (225 units), in keeping with the AMI requirements for on-site and off-site development contained in Planning Code Section 415.⁸

it will likely take a few years to understand how this program plays out in practice). 3) Projects producing those 2,300 units are assumed to receive on average a 23% increase in development potential, resulting in an additional 525 units. (The 23% additional development capacity is reflective of the relationship formula for granting bonuses contained in California Government Code Sections 65915-65918 and the Inclusionary Housing Requirements of Planning Code Section 415.

³ Methodology described in detail in the first Central SoMa housing memo to the Land Use & Transportation Committee, dated October 18, 2017.

⁴ Methodology described in detail in the first Central SoMa housing memo to the Land Use & Transportation Committee, dated October 18, 2017.

⁵ Ibid. Note that off-site delivery of affordable units is relatively rare, but is currently being proposed by the market-rate development at the corner of 4th and Townsend Streets.

⁶ Ibid. Note that 165 of these would be expected from the sites participating in the State Density Bonus Program, meeting the requirements of Planning Code Section 415.

⁷ I.e., the 845 + 700 + 85 from the list above. Funding sources utilized by the City to supplement in-lieu fees generally require that new units not exceed 60% of AMI.

⁸ Of the moderate income units, 195 would be built to meet on-site requirements and 70 to meet off-site requirements. Of the middle-income units, 155 would be built to meet on-site requirements and 70 to meet off-site requirements.

The resulting breakdown of affordable units would be as follows:

- Total affordable units: 38% (2,670 out of 7,060)
 - Very low-, low- and moderate-income units: 35% (2,445 out of 7,060)⁹
 - Middle-income: 3% (225 out of 7,060)

IV. Sites for Affordable Housing

As discussed in the October 18th memo (attached below), the City has already identified locations for 1,425 newly built units of affordable housing. This represents 53% of the expected affordable units to be built (and/or preserved) over a period of approximately 25 years. Subsequent to the October 23rd informational hearing, MOHCD staff has conducted a review of soft sites identified by the Planning Department within South of Market to verify sufficient capacity to create the affordable housing supported with funding through the Plan.

MOHCD's analysis included the following components:

1. Review of Planning Department's soft site map, which includes approximately 470 sites of various sizes;
2. Analysis of sites with conditions favorable to affordable housing development, including square footage, layout, and zoning;
3. Evaluation of smaller properties with potential for aggregation to create sites of sufficient size to meet production requirements;
4. Identification of SALI sites for which affordable housing might be appropriate with rezoning;
5. Confirmation of opportunities for acquisition and preservation under MOHCD's Small Sites Program.

MOHCD concludes that there is more than sufficient development capacity in SOMA with rezoning under the Plan to fulfill the remaining 1,245 units of estimated affordable housing production.

In terms of acquisition strategy, MOHCD has an established track record of proactive site acquisition. We work closely both with community-based affordable housing partners, tenant organizations, and our Department of Real Estate, as well as other City departments, to identify sites both for new construction and preservation. While MOHCD would not be in a position to pursue any acquisitions with funding generated through the Plan until such funds were committed either as inclusionary in lieu or jobs/housing linkage fees, we have already initiated a review of potential sites per the above analysis, and in coordination with community representatives.

⁹ Thereby exceeding the 33% affordability target for very low, low, and moderate-income households established in 2014's Proposition K and contained in the Central SoMa Plan as Objective 2.3.



SAN FRANCISCO PLANNING DEPARTMENT

170961
RECEIVED VIA EMAIL
10/18/2017

To: Board of Supervisors Land Use and Transportation Committee (Supervisors Farrell, and Peskin, and Tang) and Supervisor Kim

From: Steve Wertheim, Planning Department Staff
steve.wertheim@sfgov.org / (415) 558-6612

Re: Central SoMa Plan – Strategy for New Housing

Date: October 18, 2017

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The purpose of this memo is to convey the Central SoMa Plan's strategy for new housing entitled after adoption of the Plan. This memo contains the anticipated amount of new housing over the Plan "life" (25 years), the amount, location, and percentage of affordable housing, and additional considerations affecting housing.

Executive Summary

- The total amount of housing expected to be developed because of the Central SoMa Plan is 7,625 units over a 25-year period.
- This includes 5,125 market-rate units and 2,500 units affordable to people making very-low, low, and moderate incomes.
- The resulting 33% affordability meets the targets established by 2014's Proposition K and by the Central SoMa Plan.
- The affordable units are funded by our Inclusionary Housing Program (1,720 units), our Jobs-Housing Linkage Fee (700 units), and City investment at 4th and Folsom (80 units).
- The City has already identified locations for 1,420 (57%) of the potential affordable units

Amount of Total Housing

To estimate the development potential in Central SoMa, Planning Department staff conducted a parcel-level analysis of the 751 parcels in the Plan Area, based on the Plan's proposed zoning, height limits, bulk controls, and other existing and proposed regulations. After determining the maximum envelope of development potential, staff assessed which sites are likely to actually be developed. A parcel was considered to be a potential development site if it met *all* of the following criteria:

- The existing built development on the parcel represents less than 30% of the development potential;¹
- The site contains two or less existing residential units;²
- The site is not publicly owned;³
- The site is not already identified or designated as a significant historic resource, either individually (e.g., landmark) or as a contributor to a larger district;
- The site is not proposed by the Plan to become designated as a historic landmark or as a significant contributor to an existing or proposed district;
- The site is not in the area proposed to remain zoned SALI (i.e., the area bordered by 4th, 6th, Harrison, and Bryant Streets).

This analysis determined that there is potential for approximately 8,300 new units within the boundaries of the Central SoMa Plan Area. However, it is unlikely that all of these sites will be developed over the Plan “life” (25 years), and even those may not all be built to their full capacity. As such, Planning estimated 75% buildout of residential development capacity, which would yield potential for approximately 6,150 new units of housing within the boundaries of the Central SoMa Plan Area. As discussed below, these new units would generate funding for an additional 1,475 affordable units, which could be provided elsewhere in SoMa, bringing the total number of housing units affiliated with the Plan to 7,625. Using the same buildout methodology described above, staff determined that there is potential for approximately 8.5 million new square feet of non-residential development.

Amount of Affordable Housing

Development projects in Central SoMa will be subject to the existing requirements of the Planning Code, including the Inclusionary Affordable Housing requirements of Section 415 (for residential development) and the Jobs-Housing Linkage requirements of Section 413 (for non-residential development). The requirements of Section 415 vary based on 1) project size, 2) tenure, 3) fulfillment option and 4) timing.⁴ For purposes of this analysis:

¹ The 30% standard is routinely used by the Planning Department as a benchmark of whether a building has enough development potential, in comparison to the embedded value of the existing structures and uses, to warrant the expenditure of attaining entitlements and redeveloping the building.

² Current City law establishes high barriers to the demolition of any units, particularly for rent-stabilized units. However, it is foreseeable that some projects where the residents are the property owners could proceed if they can establish a clear net benefit, such as a substantial increase in the number of permanently affordable units.

³ Generally, public parcels in Central SoMa are not strong candidates for new housing. Publicly-owned sites in Central SoMa include freeway rights-of-way, a fire station, and a public park. They also include an SFPUC facility that is proposed to contain affordable units as part of the 598 Brannan St. development, as discussed below.

⁴ Requirements only apply to projects larger than 9 units. Projects of 10-24 units have reduced requirements. Ownership projects have a requirement that is 2% higher than rental projects. The requirements for projects that provide units on-site are lower than projects that provide units off-site or pay the in-lieu fee. For projects providing units on-site, the requirements escalate over the first 10 years to reach a maximum of 26% for ownership projects and 24% for rental projects.

- Project size was calculated based on the methodology described above;
- Tenure was assumed to be 50% ownership and 50% rental;⁵
- Fulfillment was assumed to be 50% on-site and 50% in-lieu/off-site;⁶
- Projects were assumed to be built on an even pace over the 25 year period.⁷

Based on the assumptions above:

- The application of the requirements of Section 415 to residential development will result in 1,720 affordable units (740 on-site and 980 off-site or in-lieu).
- The application of the requirements of Section 413 to non-residential development will result in approximately 700 units.⁸
- Additionally, the City-owned parcel at the northwest corner of 4th and Folsom Streets has been identified as a location for a new affordable housing development for up to 80 units. This site has funding identified through existing City sources.

As a result, it is anticipated that there would be 2,500 new affordable units constructed within and/or funded by development within Central SoMa.

Location of Affordable Units

The Central SoMa Plan would require that all 2,500 affordable units are built within SoMa.⁹ Many sites for affordable housing have already been identified, as follows:

- On-Site: 740 on-site affordable units built in new development (as discussed above);
- 100% affordable developments that are already in process and/or have active applications:
 - 80 units at 4th and Folsom (City-owned land, as discussed above);
 - 200 units at 921 Howard Street (partnership between TNDC and Tishman Speyer as off-site for the Tishman Speyer project at 4th and Townsend Streets);
- As part of other sites owned by affordable housing non-profits:
 - 100 units at the southwest corner of 5th and Howard (TNDC)¹⁰
- As part of larger development projects with active applications:

⁵ This is meant to be a conservative estimate, as the precedent for comparably sized and located projects is that the majority will be ownership, which would thus result in higher affordability rates than estimated here.

⁶ This is meant to be a conservative estimate, as the precedent for comparably sized and located projects is that they pay the in-lieu fee, which would thus result in higher affordability rates than estimated here.

⁷ Actual construction rates will be more “clustered” around periods with strong market conditions. However, given the unpredictability of market conditions, it is not possible to predict when these clusters will occur.

⁸ The fee is expected to generate \$210 million for affordable housing from non-residential development in Central SoMa. The assumption is that the cost to the City of an in-lieu unit is approximately \$300,000. However, preliminary analysis by MOHCD has indicated that the cost to the City may be lower. As such, this estimate is conservative, as the amount of affordable units delivered by this fee may be greater.

⁹ As defined by the area bounded by Market Street, the Embarcadero, King Street, Division Street, and South Van Ness Avenue.

¹⁰ Presuming 50% affordability on a 200 unit project for a site zoned for up to 300 feet in height.

- 100 units as part of the 598 Brannan development (Tishman Speyer) as off-site for their project at 4th and Townsend Streets;
- 100 units as part of the 725 Harrison development (Boston Properties), as land dedication to the City or possibly as developed as part of the project;
- 100 units as part of the 88 Bluxome/Tennis Club Site (TMG/Alexandria), as land dedication to the City or possibly as developed as part of the project;

The result is that locations have already been identified for 57% (1,420) of the affordable housing units anticipated over the life of the Plan. Of these, 1,140 would be built by private development and delivered before or at the same time as the affiliated market rate project.

The remaining 1,080 units could likely be contained in approximately 11 sites.¹¹ Such sites could include one or more of the publicly-owned sites in SoMa. It is anticipated that other sites would be identified or acquired over the 25 year life of the Plan, as funding for affordable housing accumulates.

Percentage of Affordable Housing

In 2014, San Francisco’s voters passed Proposition K, which established City policy that 33% of all units built or rehabilitated between then and 2020 be affordable to low- and moderate-income households. Objective 2.3 of the Central SoMa Plan reiterates this goal, but extends it over a longer timeframe. Based on the strategies outlined above, the Central SoMa Plan will achieve this percentage as follows:

- 2,500 affordable units
- 5,125 market-rate units, calculated as follows:
 - 6,150 units on residential sites within Central SoMa, of which
 - 1,025 are affordable units (740 on-site units and 285 units from the 4th and Folsom, 921 Howard, and 5th and Howard locations¹²)

Other Housing Considerations

There are several additional factors that could potential enhance the amount and delivery of housing in Central SoMa, and that will merit further conversation as the Central SoMa Plan moves through the adoption process.

State Density Bonus

The State Density Bonus program allows additional development capacity for residential development providing on-site affordable units. There are substantial portions of the Plan Area that are not proposed for upzoning and where housing could be built, and would be eligible for application of State Density Bonus. It is yet to be determined whether and how this provision might apply to the portions of Central

¹¹ Assuming an average size of 100 units per affordable housing project.

¹² Assuming that the sites, if not dedicated to higher percentages of affordability, would have yielded 20% on-site affordability.

SoMa that receive substantial increase in development capacity due to the Plan.¹³ It is also unclear how many sites will avail themselves of this program, given the parameters of the program.¹⁴ That being said, an analysis using the methodology discussed above suggests that there could be the potential for up to 1,000 more units due to the Plan if all projects providing on-site inclusionary units invoke the State law. Additionally, any projects that use the State Density Bonus are required to pay an in-lieu fee of 33% (for ownership) or 30% (for rental) for the “bonus units” per current Planning Code requirements, which means that the overall percentage of affordable units in the plan area is likely to stay the same (i.e. 33% overall) regardless of use of the State Density Bonus.

SB35 and AB73

In the past several weeks, Governor Brown signed multiple pieces of legislation that affect housing production. Potentially the two most relevant are SB35 and AB73. Both of these bills facilitate expedited production of housing. In the near term, SB35 will make approval of affordable housing projects in San Francisco “ministerial,” which means that they will not need to undergo CEQA review or seek discretionary approvals from City bodies such as the Planning Commission.¹⁵ AB73 allows cities to create “Sustainability Districts” by ordinance in which Code-compliant housing projects can opt to be approved ministerially if they agree to prevailing wage requirements and meet other requirements, including overall affordability requirements for such districts. Additionally, the State would provide the City with incentive payments for both the adoption of the district and completion of the target buildout of housing in the district. The City is currently evaluating the details of this new State law. If the Board were to declare Central SoMa a “Sustainability District” it would allow for expedited approval and delivery of housing construction in the area as well as provide the City additional funding.

The Mayor’s Executive Directive

On September 27, 2017, Mayor Lee issued an Executive Directive to help facilitate the creation of 5,000 new and rehabilitated housing units a year in San Francisco. The Directive directs City departments to expedite housing approvals at both the entitlement stage and the post-entitlement permitting stage, including:

- Setting specific approval deadlines;
- Creating an accountability process;
- Requiring Departments to submit process improvements to expedite entitlement (by December 1, 2017) and post-entitlement (by January 1, 2018).

¹³ Many sites are being granted development capacity increases substantially exceeding the maximum 35% bonus currently provided for under State law. It may be determined that the “Bonus” is incorporated into the upzoning itself.

¹⁴ To date, only a handful of projects building on-site inclusionary housing in the City are seeking to invoke the State law out of a much larger pool of eligible pipeline projects.

¹⁵ SB35 requires cities that do not meet their Regional Housing Needs Targets for market rate or below-market rate housing to approve such development ministerially. Because San Francisco currently meets its targets for market rate units, SB35 will not likely apply for the next several years, if at all.

The intent of this Directive is to reduce approval timeframes by nearly half. Given the timeline of the Directive, specific proposals are already being developed by City departments. Fulfilling this Directive may require legislation for consideration by the Board of Supervisors.



File No. 170961
Received via email
10/23/2017

October 23, 2017

Board of Supervisors
Land Use and Transportation Committee
San Francisco City Hall
1 Dr Carlton B Goodlett Place
San Francisco, CA 94102

Dear Supervisors,

On behalf of Walk San Francisco, I am writing to share our support for the Central SoMa Plan compiled by the City's Planning Department.

Walk SF makes walking in San Francisco safe for everyone, so our community is healthier and more livable. By reclaiming streets as shared public space for everyone, Walk SF helps ensure walking is safe and enjoyable, and encourages more people to walk more often.

Currently, almost every street in SoMa is on the Vision Zero High-Injury Network, the 13% of city streets where 75% of severe and fatal crashes happen. The Plan's explicit reference to the City's Vision Zero commitment underscores the need for safety improvements throughout the Plan area, including mid-block crossings, intersection and crosswalk treatments, and signal timing upgrades. We are excited to see specific discussions and high-level improvement concepts for each street in Central SoMa in the Plan. The Plan also acknowledges a number of Green Connection routes throughout SoMa, which are part of the planned city-wide network of 115 miles of traffic-calmed, green streets that connects people to parks and open spaces.

The Central SoMa Plan envisions SoMa as a neighborhood where it's safe and enjoyable to walk. The Plan's goal to provide safe and convenient transportation that prioritizes walking, bicycling, and transit will transform SoMa's dangerous streets into safe, vibrant, and inclusive destinations where people want to travel, work, and live. The Plan sets the framework for the implementation of City projects, such as the Folsom-Howard Streetscape Project and the 6th Street Pedestrian Safety Project, that will improve safety, comfort, and mobility for people walking, as well as support San Francisco's Vision Zero goal by providing significant safety improvements to streets, sidewalks, and intersections.

Walk SF is pleased to support this Plan that will help the City achieve its Vision Zero, mode-shift, public health, and sustainability goals. We look forward to continuing to partner with various City departments to ensure that SoMa has safe, beautiful, green streets where people are the priority—especially as the neighborhood grows in the coming decades.

Sincerely,

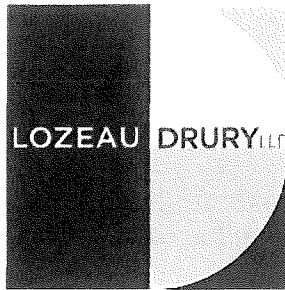
A handwritten signature in black ink, appearing to read "Jodie Medeiros", written over a light blue horizontal line.

Jodie Medeiros
Executive Director

170961

RECEIVED IN COMMITTEE

10/23/2017



T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
richard@lozeaudrury.com

By Email and Overnight Mail

February 13, 2017

Commission President Rich Hillis
Planning Commissioners
c/o Jonas P. Ionin, Commission Secretary
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

richhillissf@yahoo.com; dennis.richards@sfgov.org; christine.d.johnson@sfgov.org;
joel.koppel@sfgov.org; myrna.melgar@sfgov.org; kathrin.moore@sfgov.org;
planning@rodnevfong.com; Commissions.Secretary@sfgov.org

Lisa M. Gibson, Acting Environmental Review Officer
1650 Mission Street, Suite 400
San Francisco, CA 94103
lisa.gibson@sfgov.org

RE: Comments of Central SoMa Neighbors and SFBlu on Central SoMa Plan
DEIR SCH NO. 2013042070
SUPPORT FOR MID-RISE ALTERNATIVE (Reduced Height Alternative)

Dear President Hillis, Honorable Planning Commissioners, and Ms. Gibson:

I. INTRODUCTION

I am writing on behalf of the Central SoMa Neighbors (CSN) and SFBlu concerning the draft environmental impact report (DEIR) for the Central SoMa Plan. CSN and SFBlu (collectively, "Neighbors") urge the Planning Commission to adopt the Reduced Height Alternative, (known as the Mid-Rise Alternative in the Central Corridor Plan). The Mid-Rise Alternative would allow for a dramatic increase in residential and office development in the area, while still maintaining building heights of 130 feet or less (with some exceptions at transit hubs), thus retaining a pedestrian scale, livability, access to light, air and open space, and creating a family-friendly neighborhood. By contrast, the High-Rise alternative (identified simply as the "Plan" in the DEIR ("Plan" or "Project")), would create vastly higher building heights of up to 350 feet, which would be out-of-scale with a mixed-use residential neighborhood, casting shadows, blocking

views, creating wind tunnels and essentially transforming the neighborhood into a second financial district. As longtime residents of Central SoMa, the Neighbors urge the Planning Commission to adopt the Mid-Rise Alternative since it protects neighborhood character, while allowing for almost as much job growth and housing as the High-Rise Alternative.

Central SoMa Neighbors (CSN) is a community organization composed of residents of the Central SoMa neighborhood. CSN is dedicated to preserving and enhancing the unique character of Central SoMa. CSN seeks to: 1. Help preserve and enhance the character of Central SoMa with its diversity of buildings and architecture; 2. Work towards making Central SoMa a more livable, mixed-use and pedestrian-friendly neighborhood; 3. Advocate for livability - residents need access to light, air, parks, and public open spaces; 4. Ensure the area is affordable and accessible, with the right balance of housing, office space and retail.

SFBlu is a homeowners association whose residents live at 631 Folsom Street. As longtime residents of Central SoMa, the Neighbors are committed to ensuring a safe, livable, family-friendly neighborhood. We are very much in favor of development and planning for sustainable growth that preserves the character of what this neighborhood is becoming --- a mixed use residential neighborhood where businesses of varied sizes and types can thrive; where people have the opportunity to live in an environmentally sustainable manner; and where the unique existing historic architectural resources are retained and renewed. To accomplish its full potential the neighborhood requires more development, which if properly overseen is something we welcome. However, the type of development outlined in the current Plan is quite likely to retard the current transformation of this neighborhood. Rather than developing into high density residential and mixed use neighborhood stretching from Mission Bay to downtown, the current plan proposes to cut the Central SoMa neighborhood off from the neighborhoods to the south and essentially isolate it.

The Mid-Rise (Reduced Height) Alternative is superior to the High-Rise Alternative in almost every respect. It will create a family-friendly environment with access to light and air. It will create less traffic congestion, and therefore less air pollution and related health effects, and less traffic-related pedestrian injuries. It will allow tall buildings, but clustered near BART on the north side and CalTrain on the south side of the neighborhood, thereby encouraging use of public transportation. The Mid-Rise Alternative would also have reduced greenhouse gas (GHG) impacts since recent research shows that mid-rise buildings are generally more energy efficient than high-rise. By contrast, the High-Rise alternative includes extremely tall buildings (350 feet) on Harrison Street, between Second and Third Streets, which is not close to the CalTrain or BART stations, but is close to the Bay Bridge freeway ramps – thereby encouraging automobile commuting rather than public transit. This contradicts the Plan itself, which “would seek to retain the character of the mid-rise district, limiting the presence of high-rises to areas near transit stations.” (DEIR, p. IV.B-34).

The Mid-Rise Alternative allows for almost as much growth as the High-Rise Alternative. The Initial Study for the Central SoMa Plan (p. 81) shows that the Mid-Rise Alternative is projected to add 52,300 new jobs by 2040, while the High-Rise option is projected to add 56,400 new jobs. The difference in the additional population increments is even smaller, 22,700 versus 23,400 (a 3% difference). Although the DEIR presents slightly different projections, there is still only about a 12-14% difference between the Reduced Height Alternative and the Plan (population growth of 21,900 versus 25,500; job growth of 55,800 versus 63,600). (DEIR p. VI-2, VI-16, IV-6). Thus, the Mid-Rise Alternative would achieve about 90% of the jobs and housing growth, while maintaining the character of Central SoMa as a mid-rise community with access to light and air, avoiding wind-tunnels, and promoting a more family-friendly environment.

Indeed, in 2013 when the Plan was known as the Central Corridor Plan, City Planning staff articulated all of the right reasons for supporting the Mid-Rise Alternative. The Central Corridor Plan stated:

Urban design experience shows that people feel most comfortable on urban streets where the height of buildings is between $\frac{3}{4}$ and $1\frac{1}{4}$ times the width of the street, creating an “urban room” that has a pleasing, but not overwhelming, sense of enclosure and intimacy. The Plan proposes that the base height limits along all major streets in the Plan area should be 85 feet, lowering to 65 feet toward the western edge of the Plan area and in historic areas, such as the South End and near South Park. While in some areas the Plan proposes to allow buildings to rise above the 85-foot base height (generally to 130 feet), these upper stories would be required to set back by at least 15 feet in order to maintain the perception of the lower streetwall.... This scale is also consistent with both the traditional form and character of SoMa’s significant commercial and industrial buildings as well as aligning with the desire for larger floorplate, open floorplan, mid-rise buildings most desired by contemporary new economy companies.¹

PRINCIPLE 2: The predominant character of SoMa as a mid-rise district should be retained, and the presence of high-rises reduced by limiting their distribution and bulk.

The South of Market sits at a critical location in the city’s landscape. SoMa is a large expanse of flat land at the center of the east side of the City, sitting as an important balance and counterpoint to the dramatic hills that surround it, including the man-made “hill” of the downtown high-rise district, creating a dramatic amphitheater.

¹ Central Corridor Plan, p. 30.

With relatively low buildings in comparison to the hills and high-rises around it, the South of Market allows expansive and cherished views to extend across it to and from the surrounding hills, districts and the major features of the region beyond. In order to preserve this essential characteristic and preserve views across the area, height limits taller than 130 feet are generally kept to the southern portion of the Plan Area (Brannan Street southward), limited in distribution and widely spaced. It is important to note that mid-rise buildings are not necessarily synchronous with low densities... Because the number of potential buildings taller than 130 feet is limited to strategic locations adjacent to transit stations and their locations generously spaced, these buildings will be prominent from all directions and serve as local landmarks.²

The Neighbors agree entirely with the opinions set forth by City Planning Staff in 2013 in the Central Corridor Plan. **“The predominant character of SoMa as a mid-rise district should be retained, and the presence of high-rises reduced by limiting their distribution and bulk.”** The Mid-Rise Alternative creates an urban neighborhood “that has a pleasing, but not overwhelming sense of enclosure and intimacy.” The Mid-Rise Alternative achieves almost all of the housing and job growth, while maintaining a family-friendly, livable neighborhood. We urge the Planning Commission to direct staff to revise the DEIR to select the Mid-Rise (Reduced Height Alternative) as the environmentally preferred alternative, consistent with the staff opinions set forth in the Central Corridor Plan only three short years ago.

In the alternative, the Neighbors request that the City consider an alternative that would modify the proposed Plan to eliminate the proposed changes that would allow extremely tall buildings in the block bounded by I-80 and Folsom and Second and Third Streets (including the tallest buildings on Harrison that go up to 350 feet). These buildings are inconsistent with the Plan’s own goals to limit taller buildings to areas near BART and CalTrain. These properties are close to neither BART nor CalTrain, but are at the foot of the Bay Bridge access ramps. Development would therefore encourage automobile usage, not public transit, violating the fundamental Project goals. These properties should be limited to no more than 130 feet, which would still allow for substantial development on the properties, but maintain the mid-rise character of the neighborhood.

The City should also consider creating a park at 350 Second Street. This property is currently a parking lot, and provides a prime opportunity for the City to address the acknowledged need for more parks and open space in the area. In the alternative, development on this parcel should be limited to no more than 130 feet since it is close to neither BART nor CalTrain.

² Id. p. 32.

After reviewing the DEIR, together with our team of expert consultants, it is evident that the document contains numerous errors and omissions that preclude accurate analysis of the Project. As a result of these inadequacies, the DEIR fails as an informational document and fails to impose feasible mitigation measures to reduce the Project's impacts. The Neighbors request the City address these shortcomings in a revised draft environmental impact report ("RDEIR") and recirculate the RDEIR prior to considering approval of the Project. The Neighbors have submitted expert comments from:

- Urban Planner Terrell Watt, AICP (Exhibit A);
- Environmental Scientists Matthew Hagemann, P.G., C. Hg., and Jessie Jaeger (Exhibit B);
- Traffic Engineer Daniel T. Smith, PE (Exhibit C), and
- Wildlife Biologist Shawn Smallwood, Ph.D. (Exhibit D).

All of these experts conclude that the Plan has numerous impacts that are not adequately analyzed or mitigated in the DIER. The expert comments are submitted herewith and incorporated by reference in their entirety. Each of the comments requires separate responses in the Final EIR. For these reasons, a revised DEIR should be prepared prior to Project approval to analyze all impacts and require implementation of all feasible mitigation measures.

II. BACKGROUND

The Central SoMa Plan (formerly, Central Corridor Plan) is a comprehensive plan for the area surrounding much of southern portion of the Central Subway transit line. The Plan Area includes roughly 230 acres that comprise 17 city blocks, as well as the streets and thoroughfares that connect SoMa to its adjacent neighborhoods: Downtown, Mission Bay, Rincon Hill, and the Mission District. The Plan Area is bounded by Second Street on the east, Sixth Street on the west, Townsend Street on the south, and by an irregular border that generally jogs along Folsom, Howard and Stevenson Streets to the north (see DEIR, Figure II-1, Central SoMa Plan Area Boundaries, in Chapter II, Project Description).

The Plan would fundamentally transform the Central SoMa area. It would **triple** the resident population of the area from a current population of 12,000 to 37,500³ -- an increase of 25,500 additional residents. It would more than **double** employment in the area from a current level of 45,600 jobs to 109,200 -- an increase of 63,600 additional jobs. (DEIR, pp. IV-6, IV-5).

³ Actual current population is closer to 10,000, so the Plan will almost quadruple resident population. This points out the importance of using an accurate baseline population number.

For at least three years, the City presented a plan to the public that extended from Market Street to Townsend and from Second Street to Sixth Street. The plan was called the Central Corridor plan. The plan proposed a Mid-Rise option, in which almost all buildings would be capped at no more than 130 feet or less. The plan also included a High-Rise option. Then, in late 2016, without explanation, the City drastically altered the plan, lopping off 11 blocks at the north from Folsom to Market (with a narrow exception from Fifth to Sixth Street). Critically, at the same time the City dropped the Mid-Rise option and included only the High-Rise option in the analysis. The Mid-Rise Option was relegated to a small section at the back of the alternatives analysis of the DEIR, and renamed the "Reduced-Height Alternative." The City released the DEIR for the completely new project just before the Christmas and New Year holidays, on December 14, 2016.

III. LEGAL STANDARD

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR"). *See, e.g.*, Pub. Res. Code § 21100. The EIR is the very heart of CEQA. *Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652. "The 'foremost principle' in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." *Comms. for a Better Env't v. Calif. Resources Agency* (2002) 103 Cal. App. 4th 98, 109.

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 Cal. Code Regs. ("CEQA Guidelines") § 15002(a)(1). "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR 'protects not only the environment but also informed self-government.'" *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564. The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal. App. 4th 1344, 1354 ("*Berkeley Jets*"); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring "environmentally superior" alternatives and all feasible mitigation measures. CEQA Guidelines § 15002(a)(2) and (3); *see also Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564. The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to "identify ways that environmental damage can be avoided or significantly reduced." CEQA Guidelines §15002(a)(2). If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or

substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” Pub.Res.Code (“PRC”) § 21081; CEQA Guidelines § 15092(b)(2)(A) & (B).

While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position. A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” *Berkeley Jets*, 91 Cal. App. 4th 1344, 1355 (emphasis added), quoting, *Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 391 409, fn. 12. A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process.” *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 722; *Galante Vineyards v. Monterey Peninsula Water Mgmt. Dist.* (1997) 60 Cal. App. 4th 1109, 1117; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 946.

IV. THE DEIR INCLUDES AN INADEQUATE BASELINE.

The DEIR fails to adequately describe baseline conditions in the Plan area. In several areas there is no baseline analysis at all. In others, the baseline data is far out of date, from 2010. 2010 data is inherently unrepresentative since the City and nation was in the midst of the worst recession since the great depression. Therefore, using 2010 baseline data will inherently bias the entire DEIR analysis.

Every CEQA document must start from a “baseline” assumption. The CEQA “baseline” is the set of environmental conditions against which to compare a project’s anticipated impacts. *Communities for a Better Environment v. So Coast Air Qual. Mgmt. Dist.* (2010) 48 Cal. 4th 310, 321. Section 15125(a) of the CEQA Guidelines (14 C.C.R., § 15125(a)) states in pertinent part that a lead agency’s environmental review under CEQA:

“...must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time [environmental analysis] is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.”

(See, *Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4th 99, 124-125 (“*Save Our Peninsula.*”) As the court of appeal has explained, “the impacts of the project must be measured against the ‘real conditions on the ground.’” (*Save Our Peninsula*, 87 Cal.App.4th 99, 121-123.) As the court has explained, using such a skewed baseline “mislead(s) the public” and “draws a red herring across the path of

public input.” (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 656; *Woodward Park Homeowners v. City of Fresno* (2007) 150 Cal.App.4th 683, 708-711.)

SoMa is among the most ethnically and economically diverse neighborhoods in the City. The neighborhood is home to 15% of the City’s minority and women owned businesses, and 8% of the City’s green businesses, which is significant given that the area makes up only 1% of the City’s land area.⁴ The neighborhood has a slightly higher level of racial diversity than the City as a whole, with about 60% of the population being people of color.⁵ Although the median household income is slightly higher than the City average, the neighborhood also has one of the highest levels poverty with 31% of the population living at or below 200% of the poverty threshold.⁶

The neighborhood faces extreme environmental challenges. As the San Francisco Department of Public Health (DPH) stated in a 2012 report:

due to close proximity to freeways and high traffic roads, the area has some of the poorest air quality in the City, with 13% of households living in an area exposed to greater than 10ug/m3 of fine particulate matter (PM 2.5) and 16% living in areas with ambient air pollution cancer risks greater than 100 in a million.⁷

Asthma and chronic obstructive pulmonary disease hospitalizations are approximately twice as high in Central SoMa as in the rest of the City.⁸

The neighborhood has one of the highest incidences of pedestrian injuries in the City. As DPH stated, “The incidence of severe injuries and deaths related to collisions between vehicles and pedestrians, cyclists, and other vehicles is amongst the highest in the City. The situation for pedestrians is especially troubling, as the average annual number of pedestrian injuries and fatalities per 100 road miles is six times higher in the Plan area compared to the City as a whole (48 vs. 8).”⁹ The neighborhood also faces “amongst the highest violent and property crime rates in the City. During that time period, the number of assaults per 1,000 residents was 210 in the plan area and 44 for the City as a whole. Likewise, the property crime rate was 900 in the Plan area and 177 for the whole City.”¹⁰

⁴ San Francisco Department of Public Health, Environmental Health, Sustainable Communities Health Assessment: Central Corridor Plan, p. 6 (Nov. 30, 2012) (Exhibit F).

⁵ Id. p. 21.

⁶ Id. p. 3.

⁷ Id. p. 3.

⁸ Id. p. 22.

⁹ Id. p. 3.

¹⁰ Id. p. 4.

Finally, the neighborhood faces a severe lack of open space and parks. The same DPH report stated:

Public infrastructure areas that the Plan area performs more poorly in include public health facilities and parks and open space. The Recreational Area Access Score assesses relative access to park acreage at any point in the City. Here again the Plan area was one of the lowest performers. Currently 67% of residents live within 1/2 mile of a public recreational facility compared to 91% for the City as a whole. Additionally, only 16% of residents are within 1/4 mile of a community garden compared to 26% across the City.¹¹

Thus, while Central SoMa is a robust, ethnically and economically diverse community, it also faces serious challenges in terms of a lack of open space, high levels of pollution, pedestrian safety and extreme traffic congestion. Solving these problems is the key to making the neighborhood livable and family friendly. Very little of this critical baseline information is included in the DEIR, making the document inadequate as a public information document.

Urban Planner Terrell Watt, AICP, explains that the DEIR's baseline data is out of date in many respects, for population, jobs-housing balance, public services and other impacts. (Watt Comment pp. 7-8).

V. THE EIR AND INITIAL STUDY HAVE AN INCONSISTENT AND INADEQUATE PROJECT DESCRIPTION.

A. Initial Study is Inadequate Because it Describes an Entirely Different Project than in the DEIR.

The Initial Study is patently inadequate because it describes an entirely different project from the Plan set forth in the DEIR. The Initial Study must accurately describe the Project in order to identify impacts to be analyzed in the EIR. The Initial Study fails to perform this task because it does not describe the Plan at all. The Initial Study was prepared in 2014. It describes a rectangular project area that extends from Market Street to Townsend and from Second Street to Sixth Street. The Plan set forth in the DEIR is entirely different, with most of the three blocks from Market Street to Folsom excluded from the Plan area. Clearly the Plan will have entirely different impacts than the project described in the Initial Study in all respects, including, but not limited to, traffic, air quality, pedestrian safety, jobs-housing balance, etc. A new initial study is required to analyze the Project actually proposed by the City and to identify impacts requiring analysis in an EIR. The DEIR relies on the Initial Study to conclude that eleven environmental impacts are less than significant. This makes no sense. The City

¹¹ Id. p. 4.

may not rely on an Initial Study prepared for one project to conclude that a very different project has less than significant impacts. (See, Terrell Watt, AICP, Comments).

The purpose of an initial study is to briefly describe the proposed project and its impacts, and to identify significant impacts requiring analysis in an EIR. 14 CCR §15063. The initial study must contain an accurate description of the proposed project. 14 CCR §15063(d), 15071(a); *Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180. For example, in *Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.*, 215 Cal. App. 4th 1013, 1049 (2013), the court found an initial study to be inadequate because it did not disclose the number of football games to be held at a proposed stadium and it was therefore impossible to calculate the amount of traffic that would be generated by the project. ("Without a reasonable determination of the expected attendance at Hoover evening football games on completion of the Project, District may be unable to adequately compare the baseline attendance to expected attendance in determining whether there is a fair argument the Project may have a significant impact on traffic and/or parking.n22 (Guidelines, §§ 15125, subd. (a), 15126.2, subd. (a); *Communities*, at p. 320 & fn. 5.)")

The project description must include a description of the environmental setting of the Project. A CEQA document "must include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, from both a local and a regional perspective." 14 CCR § 15125; see *Environmental Planning and Info. Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354. "An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient [CEQA document]." *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193; *Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.*, 215 Cal. App. 4th 1013, 1049 (initial study must describe baseline conditions).

"[T]he Guidelines contemplate that "only one initial study need be prepared for a project. If a project is modified after the study has been prepared, the [lead] agency need not prepare a second initial study." *Gentry v. City of Murrieta*, 36 Cal. App. 4th 1359, 1384 (1995), citing, 1 Kostka & Zischke, supra, § 6.15, at p. 263; see also *Uhler v. City of Encinitas* (1991) 227 Cal. App. 3d 795, 803, disapproved on other grounds in *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal. App. 4th 1597, 1603; Guidelines, § 15063, subd. (a), 15070. However, when changes are made to a project after the initial study, the agency must have substantial evidence to show that the changes are not significant. *Building Code Action v. Energy Resources Conservation & Dev. Com.*, 102 Cal. App. 3d 577, 592 (1980). The City lacks substantial evidence to support its conclusion that a second initial study is not required.

1. The DEIR Project Has a Vastly Different Geographic Scope, Populations and Jobs Projections, and Other Elements than the Initial Study.

In this case, the 2014 Initial Study does not describe the Project at all. It describes an entirely different project with different project boundaries that is 11 square blocks larger than the Project set forth in the EIR. The project described in the Initial Study clearly has a different baseline than the Project set forth in the EIR, including population, traffic, existing office space, transit ridership, pedestrian safety history, etc. The project described in the Initial Study will also have different impacts in all respects from the Project set forth in the EIR. The Initial Study therefore fails to perform its basic function to describe the Project and its impacts and to identify issues requiring study in the EIR.

Urban Planner Terrell Watt, AICP, describes major differences between the various iterations of the project description. (Watt Comment, p. 5). Growth assumptions in the DEIR, Initial Study and Central SOMA Plan are vastly different:

Table IV-1, Summary of Growth Projections, presents the population and employment growth assumed in the Plan Area between 2010 (the base year for the analysis) and 2040 (“buildout year” or “planning horizon”). This growth amounts to approximately 14,400 additional households, approximately 25,500 additional residents and about 63,600 additional jobs under the Plan. DEIR at page IV-5.

Growth projected in the Initial Study includes up to 13,200 housing units (IS at page 85) and 56,400 new jobs (IS at page 81). In contrast, the Central SOMA Plan states: “With adoption of the Central SOMA Plan, there would be potential to build space for approximately to 45,000 jobs and 7,500 housing units. The Plan therefore represents an increase in development capacity of 450 percent for jobs and 300 percent for housing.” Central SOMA Plan at page 7. The Financial Analysis of San Francisco’s Central Soma Plan¹² (December 2016) is based on different growth assumptions than presented in DEIR, Initial Study and Plan: “The vision of the Central Soma Plan is to create a sustainable and vital neighborhood in the area immediately surrounding the Central Subway (expected to open in 2019) in San Francisco’s South of Market District. The Plan is projected to bring 40,000 jobs and 7,500 housing units to the area over the next 25 years.”

Clearly, the population, jobs and growth projections are entirely inconsistent throughout the environmental analysis. Will the Plan results in 7,500 housing units (Central SOMA Plan, p.7), or 14,400 (DEIR, p. IV-5), or 13,200 (IS, p. 85)? Will it create 40,000 new jobs (Financial Analysis), or 63,600 jobs (DEIR, p. IV-5), or 56,400 jobs (IS,

¹² The Financial Analysis is intended to implement the Plan’s public benefits and as such it is of critical importance it be based on a stable and finite Project description that is consistent throughout the Plan, DEIR and other related documents. That is not the case and as such, a revised DEIR and revised policy papers and financial analyses must be completed based on a consistent, stable, complete and finite Project description.

p. 81)? Since these figures are fundamental to analysis of almost all other impacts (air pollution, traffic, public services, etc.), this wildly inconsistent project description renders the entire CEQA analysis inadequate. The City simply cannot rely on an Initial Study that assumed 56,400 new jobs, to conclude that a Plan that creates 63,600 new jobs has insignificant impacts.

2. The DEIR Project Has Entirely Different Goals than the Initial Study.

Also, the project described in the Initial Study has very different project goals. The Initial Study project has five project goals:

1. Support transit-oriented growth, particularly workplace growth, in the Central SoMa area.
2. Shape the Central SoMa's urban form recognizing both City and neighborhood contexts.
3. Maintain the Central SoMa's vibrant economic and physical diversity.
4. Support growth with improved streets, additional open space, and other elements of "complete communities."
5. Create a model of sustainable growth.

(Central SOMA Plan Initial Study, p.3, http://sfmea.sfplanning.org/2011.1356E_IS.pdf).

By contrast, the DEIR Project has eight very different goals:

1. Increase the capacity for jobs and housing;
2. Maintain the diversity of residents;
3. Facilitate an economically diversified and lively jobs center;
4. Provide safe and convenient transportation that prioritizes walking, bicycling, and transit;
5. Offer an abundance of parks and recreational opportunities;
6. Create an environmentally sustainable and resilient neighborhood;
7. Preserve and celebrate the neighborhood's cultural heritage; and
8. Ensure that new buildings enhance the character of the neighborhood and the city.

(Central SOMA DEIR, p. S-2, http://sfmea.sfplanning.org/CentralSoMaPlanDEIR_2016-12-14.pdf).

Nowhere does the DEIR explain why the Project goals were so dramatically changed. Nor does the DEIR explain why the Project boundaries were so drastically altered. Clearly, the two projects are entirely different given that the basic project goals differ. A new Initial Study is therefore required to properly describe the Project and its impacts and to identify issues for analysis in a recirculated draft EIR.

3. The DEIR Eliminates the Mid-Rise Option that was Favored by the Central Corridor Plan.

The DEIR also differs from the 2013 Draft Central Corridor Plan in that it “eliminate[s] the ‘mid-rise’ height limit option (Option A); this option is considered in this EIR as the Reduced Heights Alternative.” (DEIR p. II-4). The Mid-Rise Option limited building heights to no more than 130 feet throughout most of the plan area. By contrast, the DEIR Project allows building heights of 350 feet or more at many areas that were formerly limited. This is a drastic change from the Initial Study and Central Corridor Plan since those prior documents strongly favored the Mid-Rise Option. Indeed, in 2013 when the Plan was known as the Central Corridor Plan, City Planning staff articulated all of the right reasons for supporting the Mid-Rise Alternative. The Central Corridor Plan stated:

Urban design experience shows that people feel most comfortable on urban streets where the height of buildings is between $\frac{3}{4}$ and $1\frac{1}{4}$ times the width of the street, creating an “urban room” that has a pleasing, but not overwhelming, sense of enclosure and intimacy. The Plan proposes that the base height limits along all major streets in the Plan area should be 85 feet, lowering to 65 feet toward the western edge of the Plan area and in historic areas, such as the South End and near South Park. While in some areas the Plan proposes to allow buildings to rise above the 85-foot base height (generally to 130 feet), these upper stories would be required to set back by at least 15 feet in order to maintain the perception of the lower streetwall.... This scale is also consistent with both the traditional form and character of SoMa’s significant commercial and industrial buildings as well as aligning with the desire for larger floorplate, open floorplan, mid-rise buildings most desired by contemporary new economy companies.¹³

PRINCIPLE 2: *The predominant character of SoMa as a mid-rise district should be retained, and the presence of high-rises reduced by limiting their distribution and bulk.*

The South of Market sits at a critical location in the city’s landscape. SoMa is a large expanse of flat land at the center of the east side of the City, sitting as an important balance and counterpoint to the dramatic hills that surround it, including the man-made “hill” of the downtown high-rise district, creating a dramatic amphitheater.

With relatively low buildings in comparison to the hills and high-rises around it, the South of Market allows expansive and cherished views to extend across it to and from the surrounding hills, districts and the major features of the region

¹³ Central Corridor Plan, p. 30.

beyond. In order to preserve this essential characteristic and preserve views across the area, height limits taller than 130 feet are generally kept to the southern portion of the Plan Area (Brannan Street southward), limited in distribution and widely spaced. It is important to note that mid-rise buildings are not necessarily synchronous with low densities... Because the number of potential buildings taller than 130 feet is limited to strategic locations adjacent to transit stations and their locations generously spaced, these buildings will be prominent from all directions and serve as local landmarks.¹⁴

4. Initial Study and DEIR Use Out-of-Date Baseline Data.

Also, the 2014 Initial Study uses out-of-date baseline data. Population, housing, traffic and other data used for the baseline analysis in the Initial Study was taken in 2010. Of course, 2010 was the height of the last recession. As a result, much of this data does not represent actual current baseline conditions, in which traffic, population, air pollution, and other impacts are all much higher. CEQA requires that the baseline reflect actual current conditions on the ground, not an unrepresentative time period, such as the greatest recession since the great depression. *Communities for a Better Environment v. So Coast Air Qual. Mgmt. Dist.* (2010) 48 Cal. 4th 310, 321; *Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4th 99, 124-125 (“Save Our Peninsula.”) As the court of appeal has explained, “the impacts of the project must be measured against the ‘real conditions on the ground.’” *Save Our Peninsula*, 87 Cal.App.4th 99, 121-123. As the court has explained, using such a skewed baseline “mislead(s) the public” and “draws a red herring across the path of public input.” *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 656; *Woodward Park Homeowners v. City of Fresno* (2007) 150 Cal.App.4th 683, 708-711.

Urban Planner Terrell Watt, AICP, explains that baseline data for employment, housing, population, public services, jobs-housing balance, and many other factors are either absent or out of date.

5. City Staff Refused to Grant an Extension of the Comment Period Despite Massive Project Revisions and Two Federal Holidays.

Exacerbating this problem is the fact that for at least three years, City staff led the public to believe that the project was as described in the Initial Study. In particular, the 2013 Central Corridor plan document strongly favored the Mid-Rise Alternative over the High-Rise Alternative, and described a project extending all the way to Market Street. Then, just a week before the holidays, on December 14, 2016, the City released the DEIR for a short 60-day comment period, for the first time unveiling the very different Project in the DEIR. CEQA does not countenance such “bait-and-switch”

¹⁴ Id. p. 32.

tactics which serve only to confuse and mislead the public and short-circuit the public process embodied in CEQA. “An accurate, stable and finite project description is the Sine qua non of an informative and legally sufficient EIR.” *County of Inyo v. City of Los Angeles* (1977), 71 Cal.App.3d 185 (rejecting an EIR that changed the project description over the course of the CEQA review process). The City has done the opposite – radically changing the project description after years of processes and public meetings in which an entirely different project was presented to the public. Despite this sleight of hand, the City flatly refused any extension of the public comment period, despite admitting that the situation met all of the City’s criteria for an extension, particularly given that the comment period fell over both the Christmas and New Year’s holidays. The City’s Environmental Review Officer responded to three separate requests for extension by stating:

The Planning Department has identified a number of situations that may warrant longer public review' periods, such as those including projects affecting multiple sites in various locations, or an area larger than a single site; or in situations where multiple federally recognized holidays occur within a DEIR's 45-day the public review period. Both situations apply to the Central SoMa Plan DEIR.

(Letter from Lisa M. Gibson, San Francisco Environmental Review Officer (Feb. 3, 2017). Despite admitting that the criteria for an extension had been met, the City proceeded to reject the extension request.

The City makes a mockery of CEQA and the public process. “Public participation is an essential part of the CEQA process.” (CEQA Guidelines §15201). “Environmental review derives its vitality from public participation.” (*Ocean View Estates Homeowners Assn. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 400). By dramatically altering the Project after years of public review, on the eve of the holiday season, and then refusing to extend the public comment period, the City “mislead(s) the public” and “draws a red herring across the path of public input.” *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 656; *Woodward Park Homeowners v. City of Fresno* (2007) 150 Cal.App.4th 683, 708-711.

VI. THE PROJECT IS FATALLY INCONSISTENT WITH THE GENERAL PLAN AND OTHER APPLICABLE PLANNING DOCUMENTS.

The DEIR incorrectly concludes that the Project is consistent with the General Plan and other applicable planning documents. In fact, the proposed Plan is plainly inconsistent with these planning documents, resulting in significant adverse environmental impacts.

The City must treat its analysis of conflicts with the General Plan seriously and land use decisions must be consistent with the plan. (CEQA Guidelines, App. G, Evaluation of Environmental Impacts, Item 6; Guidelines § 15125(d); Gov. Code §

65860(a)) The General Plan is intended to be the "constitution for all future developments," a "charter for future development," that embodies "fundamental land use decisions that guide the future growth and development of cities and counties." (*Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors of El Dorado County* (1998) 62 Cal.App.4th 1334, 1335; *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531,54; *City of Santa Ana v. City of Garden Grove* (1979) 100 Cal.App.3d 521,532) The "propriety of virtually any local decision affecting land use and development depends upon consistency with applicable general plan and its elements." (*Citizens of Goleta Valley v. Board of Supervisors of County of Santa Barbara* (1990) 52 Cal.3d 553, 570) The consistency doctrine has been described as the "linchpin of California's land use and development laws; it is the principal which infuses the concept of planned growth with the force of law." *Corona-Norco Unified School District v. City of Corona* (1993) 17 Cal.App.4th 985, 994.

A project's impacts may be deemed significant if they are greater than those deemed acceptable in a general plan or other applicable planning documents. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1416). A significant impact on land use and planning would occur if the project would "[c]onflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect." (CEQA Guidelines Appendix G, § IX(b))

According to the CEQA Guidelines, "environmental effects" include direct and indirect impacts to land use and planning. Where the plan or policy was adopted to avoid negative environmental effects, conflicts with the plan or policy constitutes a significant negative impact. (*Oro Fino Gold Mining Corp. v. Co. of el Dorado* (1990) 225 Cal.App.3d 872, 881-882; *see also Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 783-4; *County of El Dorado v. Dept. of Transp.* (2005) 133 Cal.App.4th 1376; CEQA Guidelines, App. G., § IX(b)). Thus, under CEQA, a project results in a significant effect on the environment if the project is inconsistent with an applicable land use plan, policy or regulation adopted for the purpose of avoiding or mitigating one or more of these environmental effects.

The DEIR fails to conduct a complete and forthright consistency analysis with the General Plan and other applicable planning documents. The DEIR must be revised to analyze inconsistencies identify appropriate mitigations or set the foundation for a finding of overriding considerations.

The Plan is inconsistent with Policy 3.5 of the General Plan, which states, "Ensure that growth will not outpace improvements to transit of the circulation system." (DEIR P. III-9). The DEIR admits that the Plan would "result in substantial delays to a number of MUNI routes serving the area," (DEIR, p. IV.D-49), and "Development under the Plan ... would result in a substantial increase in transit demand that would not be

accommodated by local transit capacity, and would cause a substantial increase in delays resulting in adverse impacts on local and regional transit routes.” (DEIR, p, IV.D-43). This impact to transit is not only a significant impact under CEQA, it is prohibited by the General Plan. The DEIR’s conclusion that the Plan does not conflict with this General Plan Policy is arbitrary and capricious.

The Plan is inconsistent with the Urban Design Element of the General Plan, which states:

Policy 3.5: Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development; and

Policy 3.6: Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction

(DEIR p. III-10). The Plan allows buildings of 350 feet or more in an area that the City admits is a mid-rise neighborhood. As noted in the Central Corridor Plan, such tall buildings are inconsistent with the mid-rise character of the neighborhood. The City stated in the Central Corridor Plan, at page 32, “The predominant character of SoMa as a mid-rise district should be retained, and the presence of high-rises reduced by limiting their distribution and bulk.” Having made these statements in the Central Corridor Plan, the City cannot not simply ignore them. The court in the case *Stanislaus Audobon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144 rejected a county’s argument that a revised initial study prepared by the county which contradicted the findings of the first initial study had not “relegated the first initial study to oblivion.” *Id.* at 154. The court stated, “We analogize such an untenable position to the **unringing of a bell**. The first initial study is part of the record. The fact that a revised initial study was later prepared does not make the first initial study any less a record entry nor does it diminish its significance, particularly when the revised study does not conclude that the project would not be growth inducing but instead simply proceeds on the assumption that evaluation of future housing can be deferred until such housing is proposed.” (*Id.* at 154 (emphasis added)). The City cannot conclude that a project may have significant impacts and then, when such admission is no longer convenient, simply change its conclusion to better suit its needs. The City conclusion of “no inconsistencies” with the General Plan (DEIR, p. III-10) are refuted by its own statements in the Central Corridor Plan.

The Plan is inconsistent with the Recreation and Open Space Element of the General Plan, Policy 1.9: Preserve sunlight in public open spaces. (DEIR, p. III-11). The DEIR admits that the Plan will create new shadow on several parks under the jurisdiction of the Recreation and Park Department, including South Park, Victoria Manalo Draves Park and Gene Friend Recreation Center, as well as several public open spaces. (DEIR, p. III-11). For example the DEIR admits that the Plan will create new shadows on the only Rec & Park property in the Plan area, South Park, and “could

increase shadow on portions of South Park during early morning and late afternoon hours from the spring equinox to the fall equinox (March through September). (DEIR, p. IV.H-35). In other words, the Plan will cast shadows on South Park for half of the year! Similarly, the DEIR admits that the Plan will cast shadows on the heavily used privately owned public open space (POPOS) located at 303 Second Street from noon "through much of the afternoon," and shading up to one-third of the POPOS. (DEIR p. IV.H-38). Given these admissions, the DEIR's finding that the Plan is somehow consistent with the General Plan Policy to "preserve sunlight in public open spaces" is arbitrary and capricious and lacks substantial evidence. Casting additional shadows for half of the year simply cannot be considered consistent with the policy of "preserving sunlight in public open spaces."

The Plan is also inconsistent with the General Plan Objective 9: Reduce transportation-related noise, and Policy 11.1, Discourage new uses in areas in which the noise level exceeds the noise compatibility guidelines for that use. (DEIR p. III-12). The DEIR admits that "Development under the Plan, including the proposed street network changes, would generate noise that would result in exposure of persons to noise in excess of standards in the San Francisco General Plan or Noise Ordinance (Article 29 of the Police Code), and would result in a substantial permanent increase in ambient noise above existing levels." (DEIR, p. S-71). Thus, the Plan will increase transportation-related noise and place new uses in areas that exceed noise guidelines, in direct violation of the General Plan. The DEIR's conclusion of General Plan consistency is therefore arbitrary and capricious.

The Plan is plainly inconsistent with the Western SoMa Plan, yet the DEIR inexplicably concludes that the Plan would "not be demonstrably inconsistent with the Western SoMa Plan." (DEIR, p. III-8). Most obviously, the Western SoMa Plan Policy 1.2.4 is to "Prohibit housing outside of designated Residential Enclave Districts (RED) south of Harrison Street." (DEIR, p. III-6). The Plan is flatly inconsistent with this Policy, thereby resulting in a significant environmental impact that is not addressed in the DEIR.

A revised DEIR is required to acknowledge, address and mitigate these plan inconsistencies.

VII. THE DEIR FAILS TO ADEQUATELY ANALYZE AND MITIGATE SIGNIFICANT IMPACTS OF THE PLAN.

At its core, CEQA requires the lead agency to identify all significant adverse impacts of a project and adopt all feasible mitigation measures or alternatives to reduce those impacts. 14 Cal. Code Regs. § 15002(a)(1). A prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process." (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 722]; *Galante Vineyards v. Monterey Peninsula Water Management*

Dist. (1997) 60 Cal. App. 4th 1109, 1117; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 946). The DEIR fails to meet these basic requirements.

A. The Plan will have Significant Adverse Traffic Impacts that are not Disclosed or Analyzed in the DEIR.

1. The Plan will Increase Employee VMT, Resulting in a Significant Traffic Impact Under SB 743.

The Plan will place thousands of cars each day into an area that already has unacceptable levels of traffic congestion. At rush hour, traffic is at a standstill in the Plan area. The Plan will add over 63,000 new jobs and 25,000 new residents to the area – more than doubling the number of jobs and tripling the number of residents in the area. (DEIR, p. IV-6). While many of these workers and residents may take public transit, there can be no dispute that many will drive cars, thereby adding to already unacceptable levels of traffic. The DEIR glosses over this obvious fact and makes the preposterous conclusion that the Plan will have less than significant traffic impacts. This conclusion simply fails the straight-face test. Anyone who has spent any time on roadways in this area will recognize that tripling the population of the area will have significant traffic impacts.

The DEIR relies on the recently passed SB 743 (Pub.Res.Code § 21099(b)(1)) for its counterfactual conclusion of not traffic impacts. However, even under the vehicle miles travelled (VMT) approach set forth in SB 743, the Plan will have significant traffic impacts. The SB743 regulations, 14 Cal.Code Regs. §15064.3, specify that a land use plan may have a significant impact on transportation if it is not consistent with the relevant sustainable community strategy (SCS). To be consistent with the SCS, the development must lead to VMT equal to or less than the VMT per capita *and* VMT per employee specified in the SCS. Plan Bay Area is the SCS (DEIR, p. VI.D-36), and it sets VMT target per capita at 10% below the 2005 Bay Area average. However, it does not set any target for employee VMT. (DEIR, p. IV.D-21, IV.D-36) Therefore, the city cannot claim that the development meets employee VMT targets in the SCS -- there are none. Even worse, the DEIR concludes that the plan will *increase* employment VMT from 8.2 to 8.7 in 2012 and from 6.8 to 7.1 in 2040. (DEIR p. IV.D-38). “With Plan implementation, VMT per capita would ... increase slightly in the office category.” (DEIR, p. IV.D-38). This should be no surprise since the Plan creates 63,000 new jobs, but only 25,000 new residents, so about 40,000 of the new employees will have to commute long distances. Since the plan will *increase* employee VMT, it has a significant traffic impacts even under the new VMT methodology set forth in SB 743. As a result, the City’ conclusion that the Plan has less than significant traffic impacts is arbitrary and capricious and the City has failed to proceed in a manner required by law. The City must acknowledge a significant traffic impact in a revised DEIR, analyze the

traffic impact, and implement all feasible mitigation measures and alternative to reduce this impact and consider all feasible alternatives.

Also, as discussed by Traffic Engineer Daniel T. Smith, PE, the Plan will drastically increase VMT in the Plan area. Mr. Smith explains:

DEIR Table IV-1 indicates that in the baseline (2010) condition, the Central SoMA population was 12,000, that in 2040 without the Project it would be 28,200, and in 2040 with the Project it would be 37,500. The same table also indicates that in the baseline year employment in Central SoMa was 45,600, that in 2040 without the Project it would be 72,800 and that in 2040 with the Project employment would be 109,200 jobs. At the VMT per capita rates disclosed in DEIR Table IV.D-6, the following would be total VMT generated in Central SoMa:

	<u>Baseline</u>	<u>2040 No Project</u>	<u>2040 With Project</u>
Population	25,200	50,760	60,000
<u>Employment</u>	<u>373,920</u>	<u>495,040</u>	<u>775,320</u>
Total	399,120	545,800	935,320

As can be seen from the above compilations, the 2030 No Project scenario generates almost 37 percent more net VMT than the Baseline; **the 2040 With Project scenario generates over 134 percent more net VMT than the Baseline and over 71 percent more than the 2040 No Project Scenario.** Since the public knows from information presented in this DEIR and from other recent DEIR's for projects having transportation effects on the Central SoMa area that there are already problems impacting motor vehicle traffic, bicyclists, pedestrians, the safety of all of the aforementioned, and transit operations. In that situation adding development to the area that generates 134 percent more than existing uses and 71 percent more than development to 2040 under existing plans and zoning is significantly impactful on transportation

(Smith Comment, p. 2). Since the Plan will increase VMT, the City must conclude that it will have significant impacts even under SB 743.

2. The Plan will have Highly Significant Traffic Impacts.

Traffic Engineer Daniel T. Smith, P.E. shows that the Plan will have highly significant traffic impacts and will create massive delays and traffic congestion in the plan area. Mr. Smith concludes (Smith Comment pp. 3-4):

- With the Project traffic and the Howard/Folsom one-way street configuration option, in the AM peak, intersections experiencing delay levels at LOS E or worse (55 seconds or more average delay per vehicle) would increase from 3 of the 36 studied under the existing condition to 21 of 36. In the PM peak, with the

Project and the Howard/Folsom one-way street configuration, the number of intersections operating at LOS E or worse would increase from 19 of 80 in the existing condition to 39 of 80 with the Project traffic and subject street configuration

- With the Howard/Folsom two-way street configuration option, in the AM peak, the number of intersections operating at LOS E or worse would increase from 3 of 36 in the existing condition to 17 of 36 with the plan and the subject street configuration. In the pm peak the number of intersections operating at LOS E or worse would increase from 19 of 80 in the existing condition to 37 of 80 with Project traffic and the two way street configuration.
- As to the freeway ramp analysis, 8 of the 11 ramps analyzed operate at vehicle densities of 35 passenger cars per mile per lane (volumes reflecting breakdown conditions) in the AM and/or PM peak in the existing condition. With the addition of Project related traffic and the proposed street network changes, 10 of the 11 ramps would operate at vehicle densities of 35 passenger cars per mile per lane in the AM and/or Pm peak hour.

3. The Traffic Analysis Uses an Improper Baseline.

As discussed above, CEQA requires the agency to use a baseline that represents real conditions on the ground at the time of CEQA review. Mr. Smith concludes that the DEIR fails to use a representative traffic baseline. The DEIR relies on traffic baseline data from 2011 and earlier. This data reflects a recessionary period. It does not reflect much higher traffic currently found in the area.

4. The Plan Will Have Significant Adverse Impacts to Emergency Vehicle Access.

Mr. Smith concludes that the Plan will have significant adverse impacts to emergency vehicle access that are not disclosed or analyzed in the DEIR. (Smith Comment, p. 7). The DEIR asserts without foundation that although traffic congestion would occur, that the California Vehicle Code requires that other motor vehicles get out of the way of emergency vehicles and because emergency vehicles primarily use arterial streets where there is purportedly room to get out of the way of emergency vehicles, despite the fact that the DEIR admits there would be increased traffic congestion with the Project, it asserts without sound foundation that there would be no significant impact on emergency vehicle traffic. This assertion is inconsistent with the information in the DEIR's traffic impact analysis at DEIR pages IV.D-41 through 43 which indicate that:

- With the Project, 10 of 11 freeway ramps serving the Project area would be at "breakdown levels" during the AM and/or PM peak periods. Breakdown levels on the on ramps causes extensive queuing on City surface streets that would impair emergency vehicle traffic even on arterials because other drivers may not have

the room to comply with the Vehicle Code and get out of the way quickly. "Breakdown levels" on the off ramps involves queues onto the freeway mainlines. The confined ramps provide motorists little opportunity to comply with the vehicle code and get out of the way and motorists at the critical ramp exit points will not even know that an emergency vehicle is coming until it has slowly worked its way toward the head of the exit queue.

- With the Project, up to 21 of the 36 study area intersections that were analyzed for the AM peak hour and up to 39 of the 80 study area intersections that were analyzed for the PM peak hour are reported to experience highly deficient delay conditions. At these traffic delay levels that imply significant queuing, even on arterial width roadways, traffic is likely to be too congested to comply with the Vehicle Code mandate to get out of the way of emergency vehicles.

The DEIR's unsubstantiated and conclusory statements about emergency vehicle access impacts of the Project must be revised and made consistent with findings made elsewhere in the DEIR.

5. The Plan will have Significant Parking Impacts that are Not Disclosed or Mitigated in the DEIR.

Parking impacts are significant under CEQA. In *Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.*, 215 Cal. App. 4th 1013, 1051 (2013), the court rejected the City of San Francisco's position that parking impacts are not significant impacts under CEQA, holding, "Therefore, as a general rule, we believe CEQA considers a project's impact on parking of vehicles to be a physical impact that could constitute a significant effect on the environment." "To the extent the lack of parking affects humans, that factor may be considered in determining whether the project's effect on parking is significant under CEQA." *Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.*, 215 Cal. App. 4th 1013, 1053.

The Plan will have significant parking impacts. The DEIR admits that the Plan will create a shortfall of parking of 15,500 parking spaces. (DEIR, p. IV.D-77). The DEIR states:

there could be a shortfall in parking spaces provided relative to the projected demand (i.e., a shortfall of about 15,550 parking spaces). This shortfall could be greater if development projects provide less than the maximum permitted parking spaces. It is anticipated that a portion of the shortfall would be accommodated on-street, particularly the overnight residential parking demand, and a portion of the shortfall could potentially be accommodated off-street in public parking facilities serving the daytime non-residential parking demand (e.g., the SFMTA Fifth & Mission/Yerba Buena Garage). As a result of the parking shortfall, some

drivers may circle around the neighborhood in search of parking, which would increase traffic congestion on the local street network.

Id. Despite these statement, the DEIR concludes that parking impacts would be less than significant. (DEIR, p. IV.D-78). This conclusion simply does not logically follow from the DEIR's own analysis. As such it is arbitrary and capricious.

6. The Traffic Analysis Fails to Analyze Cumulative Impacts.

Traffic Engineer Smith concludes that the traffic analysis fails to include many reasonably foreseeable future projects, such as Pier 70 in the nearby Dogpatch neighborhood, and many others. These projects will have cumulative traffic impacts together with the Project, which are not analyzed or mitigated in the DEIR.

B. The Plan will have Significant Adverse Air Quality Impacts that are not Disclosed or Analyzed in the DEIR.

As discussed by environmental consultants, Matthew Hagemann, C.Hg., and Jessie Jaeger, B.S., or Soil Water Air Protection Enterprise (SWAPE), the air quality analysis is woefully inadequate. SWAPE states:

The DEIR concludes that the Plan would have a less than significant air quality impact (p. IV.F-33). This conclusion, however, is incorrect for several reasons. First, the air quality analysis conducted within the DEIR is based on outdated baseline data that do not accurately reflect current traffic, air quality, pedestrian safety, and population within the Plan area. Second, the DEIR fails to account for all major development projects currently being considered within the area. As a result, the Plan's net increase in criteria air pollutants within the area, as well as it's cumulative air quality impact, are misrepresented. Due to these reasons, we find the DEIR's air quality analysis and resultant significance determination to be inadequate, and require that an updated DEIR be prepared to adequately evaluate the Plan's air quality impact. (Exhibit B, p.1).

While the DEIR admits that individual projects built pursuant to the Plan may have significant impacts, (DEIR, p. IV.F-34), it fails to acknowledge that these individual projects are made possible only because of the Plan and it is therefore the Plan itself that has significant impacts, as well as the individual projects. In essence, the City acknowledges individual impacts of specific projects, while ignoring cumulative impacts of the Plan.

1. Air Quality Baseline Analysis is Inadequate.

First the air quality analysis cannot be adequate if it uses an erroneous baseline. *CBE v. SCAQMD, supra*. The DEIR fails to disclose that the San Francisco Department

of Public Health has determined Plan area has among the worst air quality in the City, due primarily to extreme traffic congestion. An SFDPH 2012 report states:

due to close proximity to freeways and high traffic roads, the area has some of the poorest air quality in the City, with 13% of households living in an area exposed to greater than 10ug/m³ of fine particulate matter (PM 2.5) and 16% living in areas with ambient air pollution cancer risks greater than 100 in a million.¹⁵

Asthma and chronic obstructive pulmonary disease hospitalizations are approximately twice as high in Central SoMa as in the rest of the City.¹⁶ Almost the entire Plan area is in an Air Pollution Exposure Zone (APEZ), meaning that airborne cancer risks exceed 100 per million. (DEIR, Figure IV.F-1). Without this critical baseline information, the DEIR analysis is meaningless. *Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.*, 215 Cal. App. 4th 1013, 1049 (Cal. App. 4th Dist. 2013) (“Without a reasonable determination of the expected attendance at Hoover evening football games on completion of the Project, District may be unable to adequately compare the baseline attendance to expected attendance in determining whether there is a fair argument the Project may have a significant impact on traffic and/or parking.” (Guidelines, §§ 15125, subd. (a), 15126.2, subd. (a); *Communities*, at p. 320 & fn. 5.)”)

In *Kings County Farm Bureau v. City of Hanford*, 221 Cal.App.3d at 718, the court concluded that an EIR inadequately considered an air pollution (ozone) cumulative impact. The court said: “The [] EIR concludes the project’s contributions to ozone levels in the area would be immeasurable and, therefore, insignificant because the [cogeneration] plant would emit relatively minor amounts of [ozone] precursors compared to the total volume of [ozone] precursors emitted in Kings County. The EIR’s analysis uses the magnitude of the current ozone problem in the air basin in order to trivialize the project’s impact.” The court concluded: “The relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with preexisting emissions, but **whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in this air basin.**” (Emphasis added). The *Kings County* case was reaffirmed in *Communities for a Better Environment v. Cal. Res. Agency*, 103 Cal.App.4th at 116, where the court rejected cases with a narrower construction of “cumulative impacts.”

As in Kings County, given the already extreme air pollution problems facing the Plan area, the Project’s air quality impacts are even more significant. The DEIR glosses over this issue by failing to acknowledge the air pollution baseline.

¹⁵ Id. p. 3.

¹⁶ Id. p. 22.

2. Plan Exceeds Applicable CEQA Significance Thresholds.

The DEIR erroneously concludes that the Plan will have less than significant air quality impacts. (DEIR, p. IV.F-33). The DEIR bases this conclusion on the allegation that growth in VMT will be less than growth in population. *Id.* However, as discussed above, employee VMT will actually increase under the Plan. Therefore, this conclusion is contradicted by the facts and is arbitrary and capricious.

a. DEIR Violates SB 743 by Basing Air Quality Impacts on VMT.

SB 743, expressly states that even if VMT is reduced (which it is not), the agency must still analyze air quality impacts and pedestrian safety impacts, among others. Pub. Res. Code §21099(b) states:

(3) This subdivision does not relieve a public agency of the requirement to analyze a project's potentially significant transportation impacts related to air quality, noise, safety, or any other impact associated with transportation. The methodology established by these guidelines shall not create a presumption that a project will not result in significant impacts related to air quality, noise, safety, or any other impact associated with transportation. Notwithstanding the foregoing, the adequacy of parking for a project shall not support a finding of significance pursuant to this section.¹⁷

The City has done precisely what is prohibited by SB 743. The City concludes (erroneously) that since the Plan reduces VMT, it does not have significant air pollution impacts. SB 743 prohibits this type of analysis and requires an independent analysis of air quality impacts. Therefore, the City has failed to proceed in a manner required by law and has thereby abused its discretion.

¹⁷ OPR Draft Regulations for SB 743, p. III:15 (Jan. 20, 2016) state:

Models can work together. For example, agencies can use travel demand models or survey data to estimate existing trip lengths and input those into sketch models such as CalEEMod to achieve more accurate results. Whenever possible, agencies should input localized trip lengths into a sketch model to tailor the analysis to the project location. However, in doing so, agencies should be careful to avoid double counting if the sketch model includes other inputs or toggles that are proxies for trip length (e.g. distance to city center). Generally, if an agency changes any sketch model defaults, it should record and report those changes for transparency of analysis. Again, trip length data should come from the same source as data used to calculate thresholds, to be sure of an "apples-to-apples" comparison.

b. Plan Has Highly Significant Air Quality Impacts Related to Criteria Air Pollutants.

The DEIR acknowledges that the BAAQMD has established CEQA significance thresholds for air pollution, and that these thresholds apply to the Plan. (DEIR, p. IV.F.1; IV.F-7; IV.F-35).

- Under BAAQMD CEQA Guidelines, a CEQA project with more than 510 apartments or condominiums will have significant emissions of the ozone precursor, reactive organic gases (ROGs). (DEIR, p. IV.F-35). The Plan will result in 14,400 new housing units in the Plan area – 28 times above the BAAQMD CEQA significance threshold!
- Under the BAAQMD CEQA Guidelines, a project with more than 346,000 square feet of office space will have significant emission of the ozone-precursor, nitrogen oxides (NOx). (DEIR, p. IV.F-35). The Plan will allow 10,430,000 square feet of office space – 30 times above the BAAQMD CEQA Threshold.

When an impact exceeds a duly adopted CEQA significance threshold, as here, the agency abuses its discretion if it refuses to acknowledge a significant impact. Indeed, in many instances, such air quality thresholds are the only criteria reviewed and treated as dispositive in evaluating the significance of a project's air quality impacts. *See, e.g. Schenck v. County of Sonoma* (2011) 198 Cal.App.4th 949, 960 (County applies BAAQMD's "published CEQA quantitative criteria" and "threshold level of cumulative significance"). *See also Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 110-111 ("A 'threshold of significance' for a given environmental effect is simply that level at which the lead agency finds the effects of the project to be significant"). The California Supreme Court recently made clear the substantial importance that a BAAQMD significance threshold plays in providing substantial evidence of a significant adverse impact. *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 327 ("As the [South Coast Air Quality Management] District's established significance threshold for NOx is 55 pounds per day, these estimates [of NOx emissions of 201 to 456 pounds per day] constitute substantial evidence supporting a fair argument for a significant adverse impact"). The City has abused its discretion by failing to disclose the Plan's significant criteria air pollutant impacts. A recirculated DEIR is required to disclose this impact and propose all feasible mitigation measures.

c. Plan Has Highly Significant Air Quality Impacts Related to Toxic Air Contaminants.

Almost the entire Plan area is already listed as an Air Pollution Exposure Zone (APEZ), meaning air pollution-related cancer risk already exceeds 100 per million. (DEIR Figure VI.F-1). Under BAAQMD CEQA significance thresholds, any increase in cancer risk above 10 per million is considered significant. (DEIR, p. IV.F.23). The DEIR admits that "as a result of Plan-generated traffic ... excess cancer risk within the Air Pollutant Exposure Zone would increase by as much as 226 in a million and PM-2.5 concentrations would increase by up to 4.54 ug/m³ at individual receptor points. These levels substantially exceed the thresholds identified in the Approach and Analysis subsection." (DEIR p. IV.F.-48). In other words, the Plan will cause cancer risk to almost triple in the Plan area, from 100 per million to 326 per million. The increase of 226 per million exceeds the CEQA significance threshold by 22 times. Of particular concern to the Neighbors is the fact that the property at 631 Folsom, is currently not with the APEZ. (DEIR Figure VI.F-1). However, with Plan implementation, the property will exceed the cancer risk threshold and it will be re-designated as part of the APEZ. (DEIR, Figure IV.F-3). This is a particular concern to the Neighbors because the building is not equipped with high efficiency air filtration (MERV-13), and the DEIR includes no mitigation measure to require retrofitting of existing buildings with filtration.

d. The DEIR Contains Inadequate Air Pollution Mitigation and Alternatives.

While the DEIR acknowledges that the Plan has significant impacts related to toxic air contaminants (TACs), it does not impose all feasible mitigation measures to reduce such impacts. The DEIR contains only four weak mitigation measures to reduce air quality impacts: 1) electrical hook-ups for diesel trucks at refrigerated warehouses; 2) low-VOC paints; 3) best available control technology for diesel back-up generators; and 4) "other measures" to reduce air pollutant emissions.

i. DEIR Improperly Relies on Deferred Air Mitigation.

The fourth mitigation measure is a clear example of deferred mitigation that is prohibited by CEQA. CEQA requires mitigation measures to be clearly set forth in the EIR so that the public may analyze them and their adequacy. "Other" undefined measures provides not specificity. Feasible mitigation measures for significant environmental effects must be set forth in an EIR for consideration by the lead agency's decision makers and the public before certification of the EIR and approval of a project. The formulation of mitigation measures generally cannot be deferred until after certification of the EIR and approval of a project. Guidelines, section 15126.4(a)(1)(B) states: "Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way."

"A study conducted after approval of a project will inevitably have a diminished influence on decisionmaking. Even if the study is subject to administrative approval, it is analogous to the sort of post hoc rationalization of agency actions that has been repeatedly condemned in decisions construing CEQA." (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307.) "[R]eliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA's goals of full disclosure and informed decisionmaking; and[,] consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment." (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92 (Communities).)

The fourth mitigation measure is a clear example of deferred mitigation prohibited by CEQA. A new DEIR is required to clearly identify specific mitigation measures that will be required to reduce air pollution impacts.

ii. DEIR Fails to Analyze or Require all Feasible Mitigation Measures.

There are numerous feasible mitigation measures that should be required to reduce the Plan's air quality impacts. The California Attorney General has published a list of feasible measures to reduce greenhouse gas emissions from projects and area plans. (Addressing Climate Change at the Project Level, California Attorney General's Office, Available at http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf, Exhibit E). These same measures would reduce the Plans emissions of NOx, ROG's and TACs. All of the measures in the Attorney General document should be analyzed in a revised DEIR and imposed a mandatory mitigation measures. These measures include, but are not limited to:

- Energy efficiency audits of existing buildings.
- Energy efficiency upgrades to existing buildings not otherwise required by law, including heating, ventilation, air conditioning, lighting, water heating equipment, insulation and weatherization (perhaps targeted to specific communities, such as low-income or senior residents).
- Programs to encourage the purchase and use of energy efficient vehicles, appliances, equipment and lighting.
- Programs that create incentives to replace or retire polluting vehicles and engines.
- Programs to expand the use of renewable energy and energy storage.
- Preservation and/or enhancement of existing natural areas (e.g., forested areas, agricultural lands, wildlife habitat and corridors, wetlands, watersheds, and groundwater recharge areas) that provide carbon sequestration benefits.
- Improvement and expansion of public transit and low- and zero-carbon transportation alternatives.
- Requiring solar photo-voltaic panels on all new and existing buildings.

- Require Energy Star Appliances in all new buildings.
- Require energy efficient lighting in all new buildings, particularly LED.
- Require all new buildings to be LEED certified.
- Require solar hot water heaters.
- Require water-efficiency measures.
- Require energy storage facilities to store solar energy.
- Require electric vehicle charging stations to encourage use of the clean cars.

All of these measures are feasible and should be analyzed in a revised DEIR.

C. The Plan will have Significant Adverse Visual Impacts that are not Disclosed or Analyzed in the DEIR.

The Plan will have significant adverse visual impacts because it conflicts with height and bulk prevailing in the area. As discussed above, the Plan is inconsistent with the Urban Design Element of the General Plan, which states:

Policy 3.5: Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development; and

Policy 3.6: Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction

(DEIR p. III-10). The Plan allows buildings of 350 feet or more in an area that the City admits is a mid-rise neighborhood. This is not only inconsistent with the General Plan, but also with the Plan's own Goal 8.3: "Reinforce the character of Central SoMa as a mid-rise district with tangible 'urban rooms.'" (DEIR, p. II-23). The DEIR states, "some observers could be more keenly aware of any increase in building height or overall density, and these observers could find these changes substantially disruptive." (DEIR, p. IV-B.32). The DEIR states that the "Plan would seek to retain the character of the mid-rise district, limiting the presence of high-rises to areas near transit stations," (DEIR, p. IV.B-34), yet by allowing 350 buildings on Second and Harrison, the Plan violates this principle.

As noted in the Central Corridor Plan, such tall buildings are inconsistent with the mid-rise character of the neighborhood. The City stated in the Central Corridor Plan, at page 32, "The predominant character of SoMa as a mid-rise district should be retained, and the presence of high-rises reduced by limiting their distribution and bulk." The Central Corridor Plan also stated:

Given the amount of high-rise space recently enabled through the Transit Center District Plan and goals to build on and complement the character of SoMa, this Plan does not envision high rise development as a major component of the Central Corridor Plan. Rather, it promotes the kind of mid-rise development that

is more in line with SoMa's current character and can also enable the large floorplate work spaces that are in high demand, yet difficult to find and secure, in central City locations.

In general, the mid-rise heights set by the plan provide for the same, and in some cases even more, density that would be provided with taller buildings. The large floor-plates possible on large development sites, combined with heights ranging from 8 to 12 stories, enables a significant amount of density. Conversely, the combination of necessary bulk limitations, tower separation requirements for high rise buildings and the realities of designing elegant tall buildings that maximize light, air and views to both tenants and the neighborhood, limits the amount of incremental additional development possible with a tower prototype. For instance, on a 100,000 square foot site, a mid-rise building at 130 feet in height would yield more development space than two 200-foot towers constructed above an 85-foot base on the same site.

However, to enable the option for more high-rise buildings, the Plan does include a High Rise Alternative, which amplifies height limits in certain areas, expanding opportunities for buildings taller than 130 feet.

Central Corridor Plan, p. 116. Having made these statements in the Central Corridor Plan, the City cannot not simply "unring the bell." *Stanislaus Audobon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144. The DEIR's conclusion that the Plan has no significant visual impacts is arbitrary and capricious and ignore the conflicts with the General Plan. (DEIR, p. IV.B-33).

By allowing very tall buildings throughout the Plan area, the Plan conflicts with the Urban Design Element, and creates a significant aesthetic impact on the neighborhood. This impact must be disclosed and mitigated in a revised DEIR. The most obvious way to reduce this impact is for the City to adopt the Reduced Height (Mid-Rise) alternatives.

D. The Plan will have Significant Adverse Growth-Inducing Impacts that are Inadequately Analyzed in the DEIR.

CEQA requires that an EIR include a detailed statement setting forth the growth-inducing impacts of a proposed project. Pub. Res. Code Section 21100(b)(5). A proposed project is either directly or indirectly growth inducing if it: (1) fosters economic or population growth or requires additional housing; (2) removes obstacles to growth; (3) taxes community services or facilities to such an extent that new services or facilities would be necessary; or (4) encourages or facilitates other activities that cause significant environmental effects. CEQA Guidelines Section 15126.2(d). While growth inducing impacts of a project need not be labeled as adverse, the secondary impacts of growth (e.g., traffic, air pollution, etc.) may be significant and adverse. In such cases,

the secondary impacts of growth inducement must be disclosed as significant secondary or indirect impacts of the project. The analysis required is similar in some respects to the analysis required to analyze impacts associated with population and housing.

Urban Planner Terrell Watt, AICP, explains that the DEIR contains a discussion of Growth Inducement at Section V.D. The discussion acknowledges the proposed zoning changes under the Project would expand the Plan Area's capacity for growth through a planning horizon year of 2040, during which time up to an additional 14,500 residential units and up to an additional 63,600 jobs could be accommodated in the Plan Area. The discussion provides no analysis of the Project's potential to induce growth in accordance with CEQA, nor does the discussion reach any conclusions as to the significance of growth inducing impacts instead relying on the assertion that the growth allowed by the Project is simply an accommodation of growth projected for the region.

Watt states:

There is no question the Project will allow substantial growth in the Central SOMA neighborhood; more than an increase of 450 percent for jobs and at least 300 percent for housing. Due to the Project's high employment to housing ratio regardless of which jobs growth assumption, the Project will result in additional demand for housing in the Project area or beyond. In addition, substantial new non-residential and residential growth will require additional public services, likely including expansion and therefore construction of facilities in the neighborhood or adjacent neighborhoods. Yet the DEIR neither discloses or analyzes these impacts. CEQA requires that if new construction of housing will occur to accommodate the Project's employees or services expanded, then the EIR must analyze the environmental impacts of that construction. The appropriate components for an adequate analysis include: (1) estimating the amount, location and time frame for growth that may result from the implementation of the Project (e.g., additional housing); (2) considering whether the new population would place additional demands on public services such as fire, police, recreation, emergency, health, childcare or schools; (3) applying impact assessment methodology to determine the significance of secondary or indirect impacts as a result of growth inducement; and (4) identifying mitigation measures or alternatives to address significant secondary or indirect impacts. CEQA Guidelines Appx. G Section XIII(a). The DEIR must be revised to provide this analysis.

E. The DEIR's Analysis of Population, Employment and Housing Impacts is Inadequate.

The DEIR concludes that population, employment and housing impacts of the Plan will be less than significant. (DEIR Appendix B, Initial Study at page 82, DEIR in

reliance on the Initial Study at page I-2). As discussed by Urban Planner Terrell Watt, AICP, this conclusion is untenable and not supported by substantial evidence. Watt explains:

Instead of providing an adequate analysis of these impacts based on the current Project, the DEIR refers to the discussion of Population and Housing in the Initial Study in reaching its conclusion that impacts will be less than significant. There are many reasons this approach is flawed. First, accurate and consistent existing and projected population, housing and job growth are essential facts to support this conclusion. The Project addressed in the Initial Study and the DEIR are different and therefore the Initial Study cannot adequately analyze the Project as currently proposed. See e.g., Table 4, 5 and 6 in the Initial Study and Table IV-1 in the DEIR at page IV-6. Second, the conclusion that impacts associated with both direct and indirect population growth in the area will be less than significant is not supported by analysis, facts or evidence as required. The Project (Plan) clearly will add significantly to the population and employment of the Project area, changing the character of the area and increasing the jobs to housing imbalance. The Initial Study states that the Project (Plan) allows up to 56,400 new jobs by 2040 and an increase in population of 23,400. New housing units under the Project (Plan) total approximately 13,200 according to the Initial Study. DEIR Appendix B, Initial Study at page 85.¹⁸ Despite this substantial increase in jobs, residents and housing, the Initial Study dismisses impacts as less than significant based on the assertion the growth is within projected growth for the City as a whole and that the Plan itself “would not result in direct physical changes to population or housing.” DEIR Appendix B, Initial Study at page 80. This is simply wrong. The Project (Plan) by allowing substantial development in the area including development projects proposed in reliance on the Plan and “that would be allowed under the Plan” will result in changes to the physical environment; changes that must be analyzed in the DEIR. (DEIR at page IV-8 to IV-10). The argument that the Project will result in less than significant impacts because growth is within regional and/or City-wide growth projections is contrary to CEQA’s requirement to analyze the significant impacts of a Project against existing conditions (setting) and for the project area. By any measure, the increase in growth as a result of the adoption of the Project is substantial and the numerous impacts associated with substantial new growth of jobs and housing significant as well.

The additional of 25,000 new residents and 63,000 jobs will certainly increase need for a full range of services including schools, day care, police, fire, medical

¹⁸ It is noteworthy these growth assumptions are vastly different than presented in the Central SOMA Plan, DEIR, Financial Analysis and policy papers. See discussion of Growth Inducement in this letter for examples of the vastly different descriptions of growth under the Project.

and more. This increased demand would also further induce businesses to expand and new businesses would crop up to serve the larger population. This would require new employees and draw new residents to the area, who in addition to the direct employment generated by the Project, would also need housing. Neither DEIR nor Initial Study analyze these impacts. In addition, the Project includes Plan objectives implemented through zone changes to favor non-residential development over other kinds of growth and favoring office space and hotels. DEIR at II-13. The result of favoring non-residential over residential development is likely to be an even greater than disclosed jobs housing imbalance. The direct and indirect impacts of this growth must be disclosed and analyzed in a revised and recirculated DEIR.

F. The Plan will have Significant Adverse Open Space Impacts that are not Disclosed or Analyzed in the DEIR.

The DEIR admits that the Plan area suffers from an extreme lack of open space. South Park is the only Rec and Park property in the Plan area. (DEIR, p. II-31). However, the Plan creates almost no new open space area. Worse, it degrades existing open space areas by casting shadows on existing parks and POPOS throughout the Plan area, in violation of the General Plan. (See discussion above). Therefore the DEIR's conclusion that the Plan has no adverse open space impacts is arbitrary and capricious.

The DEIR should be revised to propose specific new open space areas. One prime opportunity for a new open space area is the parking lot located at 350 Second Street. The DEIR should consider other potential open space areas and parks, and also new POPOS throughout the area. This would support the Plan's own Objective, 5.2, "Create new public parks." (DEIR, p. II-31).

The DEIR should also require implantation of the Reduced Height Alternative as a way to reduce shadow impacts on South Park and other public open spaces in the Plan area.

G. The Plan will have Significant Adverse Shadow Impacts that are not Disclosed or Analyzed in the DEIR.

The DEIR erroneously concludes that the Plan does not have significant shadow impacts. (DEIR, p. IV.H-21). This finding ignores the Plan's inconsistency with the General Plan. As discussed above, The Plan is inconsistent with the Recreation and Open Space Element of the General Plan, Policy 1.9: Preserve sunlight in public open spaces. (DEIR, p. III-11). The DEIR admits that the Plan will create new shadow on several parks under the jurisdiction of the Recreation and Park Department, including South Park, Victoria Manalo Draves Park and Gene Friend Recreation Center, as well as several public open spaces. (DEIR, p. III-11). For example the DEIR admits that the

Plan will create new shadows on the only Rec & Park property in the Plan area, South Park, and "could increase shadow on portions of South Park during early morning and late afternoon hours from the spring equinox to the fall equinox (March through September). (DEIR, p. IV.H-35). In other words, the Plan will cast shadows on South Park for half of the year! Similarly, the DEIR admits that the Plan will cast shadows on the heavily used privately owned public open space (POPOS) located at 303 Second Street from noon "through much of the afternoon," and shading up to one-third of the POPOS. (DEIR p. IV.H-38).

Given these conflicts with the General Plan, the DEIR's finding that the Plan has no significant shadow impacts is arbitrary and capricious. The Reduced Height Alternative would reduce this impact and is feasible and would achieve all project goals.

H. The Plan will have Significant Adverse Pedestrian Safety Impacts that are not Disclosed or Analyzed in the DEIR.

The DEIR erroneously concludes that the Plan would have less than significant impacts related to pedestrian safety. (DEIR, p. IV.D-57). This conclusion is arbitrary and capricious and lacks substantial evidence. The Plan would triple the population and number of jobs in the Plan area, adding 25,000 new residents and 63,000 new jobs. This increase alone will increase the number of vehicles and pedestrians in the area, directly increasing the number of conflicts leading to pedestrian safety issues (accidents).

As a threshold matter, the DEIR fails to analyze the already severe pedestrian safety problem in the area that forms the CEQA baseline. The neighborhood has one of the highest incidences of pedestrian injuries in the City. As DPH stated, "The incidence of severe injuries and deaths related to collisions between vehicles and pedestrians, cyclists, and other vehicles is amongst the highest in the City. The situation for pedestrians is especially troubling, as the average annual number of pedestrian injuries and fatalities per 100 road miles is six times higher in the Plan area compared to the City as a whole (48 vs. 8)."¹⁹ Tripling the number of pedestrians and increasing the number of vehicles will clearly increase pedestrian injuries.

The table on pages IV.D-58-59 of the DEIR clearly shows that the number of pedestrian at certain intersections in the Plan area will increase by as much as 6 times – 600%. For example the number of pedestrians at Fourth and King Streets will increase from a current level of 246 at peak hour to 1680. (DEIR, p. IV.D-58). Several other intersections will see increases in pedestrian traffic ranging from 2 to 7 times. At the same time, the Plan will drastically increase traffic congestion. The DEIR states, "The average delay per vehicle at the study intersections would increase with the addition of vehicle trips associated with development under the Plan... more vehicles

¹⁹ Id. p. 3.

would use Mission, Harrison, Fifth, and Sixth Streets, thereby increasing congestion on these streets.” (DEIR, p. IV.D-42). Increasing both pedestrian traffic and vehicle congestion is a recipe for increased pedestrian injuries. The DEIR conclusion to the contrary defies logic and is arbitrary and capricious. (See, SWAPE comment, p. 4-5). As pointed out by SWAPE, pedestrian safety impacts will be much worse than set forth in the DEIR because the document fails to consider all reasonably foreseeable projects, such as Pier 70, and 72 other specific project, all of which will add traffic to the area. Id.

Traffic Engineer Daniel T. Smith, PE, concludes that the Plan will have significant impacts on pedestrian and bicycle safety that are not disclosed or analyzed in the DEIR. Mr. Smith concludes that the Plan will drastically increase vehicle, bicycle and pedestrian traffic in the Plan area. As a direct result, it will increase risks to pedestrian safety. The EIR’s conclusion to the contrary is untenable. Mr. Smith states:

All these hazards clearly increase with the increase of incidence of conflicts, a product of motor vehicle, bike, and pedestrian volumes. These are ultimately a function of the intensity of resident and employment population in the Project area. The DEIR is flat wrong in concluding that increased potential for conflict does not represent a hazard in the study area, especially when the areas of conflict are also areas of undisclosed increases in traffic congestion that intensify the failure to perceive the conflict or induce behavior that results in crashes.

The DEIR is further unreasonable and unsupported in its assertion on page IV.D-41 that street network changes would reduce the potential for conflicts to the extent that it would reduce the incidence of conflict to levels such that would make the traffic hazards of implementation of the plan less than significant. It has conducted no analysis of conflict incidence with and without the Plan Project and with and without the Project’s purported roadway improvements. In fact, it has not relied in any way on the statistical records of accidents by location, type, movement pattern, and participant actions and impairments that are readily available to the City²⁰. The entire analysis on this topic is inadequate and must be revised and recirculated in draft status. (Smith Comment, pp. 6-7).

I. The Plan will have Significant Adverse Displacement Impacts that are not Disclosed or Analyzed in the DEIR.

The DEIR erroneously concludes that displacement is not an environmental impact under CEQA. (DEIR, p. V-10). As a result, the DEIR does not analyze this impact. As discussed by Urban Planner Terrell Watt, AICP, the Plan is likely to result in

²⁰ We refer to the Statewide Integrated Traffic Records System (SWITRS) in which the California Highway Patrol receives all traffic reports from all jurisdictions in the state and produces summaries by jurisdiction, by road segment and intersection location, by types of vehicle involved, movements, and causal factors including operator impairments or road deficiencies.

the displacement of large numbers of low and moderate income residents of the Plan area. These residents will be forced to move elsewhere, perhaps replacing short current commutes with long commutes to distant suburbs. This is an environmental impact that must be analyzed under CEQA.

CEQA requires the lead agency to determine whether the “environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly,” (PRC § 21083(b)(3), (d)), and to “take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached.” See PRC §21000 et seq.

CEQA Guidelines Appendix G, Section XII provides that a project will have significant impacts where it will:

- Induce substantial population growth or concentration of population in an area, either directly (for example, by proposing new housing or businesses), or indirectly (for example, through extension of roads or other infrastructure);
- **Displace substantial numbers of existing housing** necessitating the construction of replacement housing elsewhere; or
- **Displace substantial numbers of people**, necessitating the construction of replacement housing elsewhere. See CEQA Guidelines Appendix G, Section XII.

Therefore, contrary to the DEIR’s position, displacement is an environmental impact that must be analyzed under CEQA. See also, See Kalama D. Harris, Attorney General, “Environmental Justice at the Local and Regional Level,” May 8, 2012, http://oag.ca.gov/sites/all/files/pdfs/environment/ej_fact_sheet_final_050712.pdf. (Exhibit E).

Here, the Plan is likely to displace numerous residents and commuters who currently live, work, commute, and recreate in the area. These residents will move to other areas, resulting in longer commutes and suburban sprawl. This impact must be analyzed in a revised DEIR. Mitigation measures should be considered, such as requiring additional low income housing.

Urban Planner Terrell Watt, AICP, concludes that the Plan will displace low-income current residents. Watt states:

The Project will inevitably lead to the displacement of low and moderate income residents because of the incentives provided through zoning and other mechanisms for new non-residential development in the Project area. Currently over 10,000 people live in the Central SOMA neighborhood or Project area in approximately 7800 housing units. These residents are among the most ethically

and economically diverse in the City with about 60% of residents people of color.²¹ Although the median household income is slightly higher than the City average, the neighborhood has one of the highest levels of poverty with 31% of the population living at or below 200% of the poverty threshold.²² Yet, the DEIR concludes that the Project (Plan) would not displace a large number of housing units or necessitate construction of replacement housing outside the Plan area finding this impact less than significant. DEIR Appendix B, Initial Study at page 86. The DEIR reaches this conclusion despite acknowledgement that the Project (Plan) could require the demolition of existing housing units within the Plan Area. The basis of the DEIR's conclusion is in short:

“From the perspective of the City's housing stock, the loss of housing units as a result of development under the Plan would be offset by the production of up to approximately 13,200 net new housing units (Initial Study page 86) within the Plan area in addition to residential development elsewhere in San Francisco as has been occurring and is expected to occur in the future, in addition to the fees paid for the jobs/housing linkage program and Inclusionary Affordable Housing.” DEIR Appendix B, Initial Study at pages 86-87.

The Initial Study contradicts this statement at page 85, noting that the project demand for housing created by the Project would be about 19,900 units, far surpassing the potential addition of about 11,700 units projected to be created in the Plan area by 2040. The current Project is projected to produce fewer housing units – approximately 7,500 -- resulting in an even larger gap between new employees in the Project area and new housing units. There is no question the Project will generate a demand for housing beyond that proposed by the Project. A revised DEIR must acknowledge this impact and provide further evidence housing need will be met and where.

For these reasons the approach the DEIR takes to analysis of this potential impact falls short of CEQA's requirements for analysis, facts and evidence to support conclusions concerning impact significance.

J. The Plan will have Significant Adverse Public Service Impacts that are not Disclosed or Analyzed in the DEIR.

The DEIR concludes that the Plan will not have significant public service impacts on police, fire protection, and other public services. (DEIR, p. S-46). The DEIR states:

²¹ SF Dept of Public Health, Environmental Health, Sustainable Communities Health Assessment: Central Corridor Plan, page 6 (11-30-12).

²² Id. p. 21

Development under the Plan and proposed street network changes would not increase the demand for police service or fire protection service such that new or physically altered facilities, the construction of which could cause significant environmental impacts, would be required in order to maintain acceptable levels of service. (DEIR, p. S-46).

The DEIR relies on the Initial Study for this conclusion. However, as discussed above, the project described in the Initial Study was entirely different from the Plan. It therefore provides no basis for the DEIR's conclusion.

This conclusion defies reason and is arbitrary and capricious. The Plan will triple the resident population if the area, and more than double the number of workers – adding 25,000 permanent residents and 63,000 workers. This is essentially like adding a population the size of a medium suburb to the City. It is preposterous to conclude that these 90,000 new workers and residents will not require any police, fire or other social services.

Urban Planner Terrell Watt explains, that the Plan will have highly significant public service impacts. The Initial Study acknowledges that specific development projects allowed under the Plan and associated increases in population and land use intensity would result in an increased demand for public services noting that the Southern Station (in 2013) receives approximately 25 % of the City's call for service. (Initial Study at page 120). The Central SOMA Neighborhood (Project area) faces "amongst the highest violent and property crime rates in the City"²³. There is no question the addition of over 63,000 new jobs and 23,400 residents will result in significant demand for additional police and fire personnel and likely facilities and equipment. In addition, increased congestion on the Project area roads will likely result in reduced response times unless additional resources are provided in the area (e.g., sub-stations, other). A revised analysis of these impacts must be prepared and recirculated in a new DEIR.

K. The DEIR Fails to Adequately Mitigate Significant Adverse Impacts to Public Transit.

The DEIR admits that:

Transportation and Circulation, growth pursuant to the Plan would result in Muni ridership that would exceed Muni's capacity utilization standard on one corridor crossing the southeast screenline, as well as on two corridors crossing Plan-specific cordon lines. As described in Chapter II, Project Description, the Plan would also result in transit delay on a number of Muni lines, due to increased congestion. (DEIR, p. III-9).

²³ SF Department of Public Health, Environmental Health, Sustainable Communities Health Assessment: Central Corridor Plan, p. 4.

The DEIR admits that the Plan would have significant and unavoidable impacts to public transit, and that “substantial increase in transit demand that would not be accommodated by local transit capacity.” (DEIR, p. IV.D-43).

Despite admitting this impact, the DEIR improperly defers mitigation. The DEIR states that “during the design phase, the SFMTA shall review each street network project ... and incorporate feasible street network design modifications.” (DEIR, p. IV.D-53). The DEIR also states that the City will “establish fee-based sources of revenue such as parking benefit district,” and shall “establish a congestion-charge scheme for downtown San Francisco.” (Id.) None of these mitigation measures are defined in the least. There is no way for the public to review the adequacy of these measures. They are classic deferred mitigation that is prohibited under CEQA. (See section above on deferred mitigation).

In addition, the “fee-based” mitigation has been held inadequate under CEQA, unless the specific source of the fee is identified and the specific measures to be funded are set forth in the EIR. The DEIR fails both of these tests. Mitigation fees are not adequate mitigation unless the lead agency can show that the fees will fund a specific mitigation plan that will actually be implemented in its entirety. *Napa Citizens for Honest Gov. v. Bd. Of Supervisors* (2001) 91 CallApp.4th 342 (no evidence that impacts will be mitigated simply by paying a fee); *Anderson First Coal. v. City of Anderson* (2005) 130 Ca.App.4th 1173 (traffic mitigation fee is inadequate because it does not ensure that mitigation measure will actually be implemented); *Kings Co. Farm Bureau v. Hanford* (1990) 221 Cal.App.3d 692. But see, *Save Our Peninsula Comm v. Monterey Co.* (2001) 87 Cal.App.4th 99 (mitigation fee allowed when evidence in the record demonstrates that the fee will fund a specific mitigation plan that will actually be implemented in its entirety). *California Native Plant Society v. County of El Dorado et al.* (2009) 170 Cal. App. 4th 1026, held that the fee program had to have gone through CEQA review for an agency to say that the payment of the fee alone is adequate CEQA mitigation.

The DEIR fails to describe any specific mitigation measures to reduce the acknowledged impact to public transit, and fails to specify what measures will be funded. A revised DEIR is required to provide specific mitigation measures to reduce the Plan’s transit impacts.

L. The Plan will have Significant Biological Impacts Related to Bird Strikes that are Inadequately Analyzed in the DEIR.

The DEIR concludes that the Plan will not have significant biological impacts. Wildlife biologist, Dr. Shawn Smallwood, Ph.D. concludes that the DEIR’s conclusion ignores substantial evidence and that the Plan will have significant impacts on several species. (Smallwood Comment). In particular, placing large number of buildings,

particularly tall buildings, in the Plan area will result in thousands of bird deaths due to building collisions.

First, Dr. Smallwood concludes that the DEIR uses an improper baseline. The Initial Study and DEIR conclude that there will be insignificant impacts because the area is already urbanized. Dr. Smallwood points out that many protected species live in urbanized areas, and will have conflicts with the tall buildings proposed by the Plan. The DEIR ignores these impacts. The Initial Study relies on the California Natural Diversity Database to conclude that many species are not present in the area. Dr. Smallwood points out that the database is only used to confirm the presence of species, not the absence. Dr. Smallwood points out that the eBird database confirms the presence in the area of several protected bird species, including yellow warbler, brown pelican, and California gull, as well as multiple other species protected by the International Migratory Bird Treaty Act. A review of eBird also reveals the use of the area by many species of bird, including additional special-status species such as double-crested cormorant, tricolored blackbird, Peregrine falcon and Cooper's hawk. The eBird records reveal what any biologist should expect of San Francisco, and that is the use of the peninsula as a migration route by many species of bird. Building glazed or glass-facaded high-rises in the middle of this migration route will obviously destroy many migrating birds, and those birds not colliding with the buildings will have to exert extra energy during migration to fly around the buildings. Dr. Smallwood concludes that thousands of birds will be killed by collisions with buildings proposed to be built under the Plan, as well as by house cats owned by residents. These impacts are neither analyzed nor mitigated in the DEIR.

Dr. Smallwood concludes that while the San Francisco bird ordinance is laudatory, it is not sufficient to mitigate the bird-strike impact to less than significant. This impact should be analyzed in a revised DEIR to determine feasible mitigation measures and alternatives. A plainly feasible alternative would be to limit the number of very tall buildings, or to adopt the Reduced Height alternative.

M. DEIR Fails to Adequately Analyze Cumulative Impacts.

The DEIR has a patently inadequate cumulative impact section because it fails to consider the Plan's impacts together with almost 72 other projects that are reasonably foreseeable in the area. Clearly, the Plan's impacts will be much more significant when viewed together with these 72 other projects. SWAPE identifies 72 projects that are not accounted for in the DEIR, including the massive Pier 70 project, which will be in very close proximity to the Plan area (Dogpatch). Failure to analyze these cumulative projects renders the DEIR inadequate. (SWAPE Comment, p. 6-8).

An EIR must discuss significant cumulative impacts. CEQA Guidelines section 15130(a). This requirement flows from CEQA section 21083, which requires a finding that a project may have a significant effect on the environment if "the possible effects of

a project are individually limited but cumulatively considerable. . . . 'Cumulatively considerable' means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." "Cumulative impacts" are defined as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." CEQA Guidelines section 15355(a). "[I]ndividual effects may be changes resulting from a single project or a number of separate projects." CEQA Guidelines section 15355(a).

"The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." *Communities for a Better Environment v. Cal. Resources Agency* ("CBE v. CRA"), (2002) 103 Cal.App.4th 98, 117. A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand. "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." CEQA Guidelines § 15355(b).

As the court stated in *CBE v. CRA*, 103 Cal. App. 4th at 114:

Cumulative impact analysis is necessary because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.

(Citations omitted).

In *Friends of Eel River v. Sonoma County Water Agency*, (2003) 108 Cal. App. 4th 859, the court recently held that the EIR for a project that would divert water from the Eel River had to consider the cumulative impacts of the project together with other past, present and reasonably foreseeable future projects that also divert water from the same river system. The court held that the EIR even had to disclose and analyze projects that were merely proposed, but not yet approved. The court stated, CEQA requires "the Agency to consider 'past, present, and probable future projects producing related or cumulative impacts . . .'" (Guidelines, § 15130, subd. (b)(1)(A).) The Agency must interpret this requirement in such a way as to 'afford the fullest possible protection of the environment.'" *Id.*, at 867, 869. The court held that the failure of the EIR to analyze the impacts of the project together with other proposed projects rendered the

document invalid. “The absence of this analysis makes the EIR an inadequate informational document.” *Id.*, at 872.

A revised DEIR is required to consider the impacts of the Plan together with other reasonably foreseeable projects, including Pier 70.

VIII. THE DEIR ALTERNATIVES ANALYSIS IS LEGALLY DEFICIENT.

The DEIR’s alternatives analysis is legally deficient because it fails to acknowledge that the Reduced Height Alternative is the environmentally superior alternative. The Reduced Height Alternative would reduce almost all of the Plan’s significant impacts, while still achieving all of the Plan’s objectives. It is therefore the environmentally superior alternative.

An EIR must describe a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. “An EIR’s discussion of alternatives must contain analysis sufficient to allow informed decision making.” (*Laurel Heights I*, 47 Cal.3d at 404.) An EIR must also include “detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.” (*Id.* at 405.)

One of CEQA’s fundamental requirements is that the DEIR must identify the “environmentally superior alternative,” and require implementation of that alternative unless it is infeasible. (14 Cal.Code Regs. §1526.6(e)(2); Kostka & Zischke, *Practice Under the California Environmental Quality Act* §15.37 (Cont. Educ. Of the Bar, 2008).) Typically, a DEIR identifies the environmentally superior alternative, which is analyzed in detail, while other project alternatives receive more cursory review.

The analysis of project alternatives must contain an accurate quantitative assessment of the impacts of the alternatives. In *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 733-735, the court found the EIR’s discussion of a natural gas alternative to a coal-fired power plant project to be inadequate because it lacked necessary “quantitative, comparative analysis” of air emissions and water use.

A “feasible” alternative is one that is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. (Pub. Res. Code § 21061.1; 14 Cal. Code Regs. § 15364.) California courts provide guidance on how to apply these factors in determining whether an alternative or mitigation measure is economically feasible.

The lead agency is required to select the environmentally preferable alternative unless it is infeasible. As explained by the Supreme Court, an environmentally superior alternative may not be rejected simply because it is more expensive or less profitable:

The fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project.

(*Citizens of Goleta Valley v. Bd. of Supervisors* (1988) 197 Cal.App.3d 1167, 1180-81; see also, *Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322 (county's approval of 80 unit hotel over smaller 64 unit alternative was not supported by substantial evidence).)

The expert consultants at SWAPE conclude that the Reduced Heights Alternative is environmentally superior in that it reduces almost all of the Plan's significant impacts while still achieving all project goals. (SWAPE Comment, pp. 9-10). SWAPE includes a chart of impacts:

A summary of the impacts and percent reduction (if applicable) the Alternative would result in are provided in the table below.

Reduced Heights Alternative Impact Reductions	
Impact	Percent Reduction from Proposed Plan
Transit Ridership	(8%)
Pedestrian and Bicycle Operations	(8%)
Pedestrian Crowding in Crosswalks	<i>Significantly Reduced</i>
Bicycle Travel	<i>Significantly Reduced</i>
Demand for Off-Street Freight Loading Spaces	<i>Significantly Reduced</i>
On-Street Commercial Loading Spaces	<i>Significantly Reduced</i>
Curb Space for Passenger Loading/Unloading Zones	<i>Significantly Reduced</i>
Parking Demand	(10%)
Construction Activities	<i>Significantly Reduced</i>
Emissions of Criteria Air Pollutants, Greenhouse Gases (GHGs), and Traffic-Generated Toxic Air Contaminants (TACs)	<i>Significantly Reduced</i>

We have prepared the analysis below showing that the Reduced Heights Alternative is environmentally superior to all other alternatives. The chart relies on the DEIR's own conclusions for each impact.

DEIR: S-55	CENTRAL SOMA	NO PROJECT ALT by 2040	REDUCED HEIGHT	MODIFIED TODCO	LANDUSE VAR Excludes Residential Uses	LANDUSE ONLY Excludes street network

							changes
JOBS + HOUSING	HOUSEHOLDS	14,400	9,200	12,400	12,700	12,900	14,400
	RESIDENTS	25,500	16,300				25,500
	JOBS	63,600	27,200	55,800	56,700	66,200	63,600
	TOTAL FLOOR AREA	31.7M SqFt	17.7M SqFt	27.6M SqFt	28.2M SqFt	30.5M SqFt	31.7M SqFt
GOALS	ABILITY TO MEET OBJECTIVES	ALL	SOME	MOST	MOST	MOST	MOST
LAND USE	PHYSICAL DIV OF COMMUNITY	LTS	=	=	=	=	=
	LAND USE CONFLICT	SUM	<	=	=	=	<
	CUM. LAND USE CONFLICT	SUM	<	=	=	=	<
AESTHETICS	VISUAL CHARACTER	LTS	<	=	=	=	=
	VIEWS / VISTAS	LTS	<	=	=	=	=
	LIGHT / GLARE	LTS	<	=	=	=	=
	CUM. AESTHETICS	LTS	<	=	=	=	=
CULTURAL	HISTORICAL RESOURCES	SUM	<	=	<	=	=
	HISTORICAL RESOURCES	LTS	NI	=	<	=	<
	HISTORICAL RESOURCES	LTSM	<	=	=	=	=
	ARCHEOLOGICAL RESOURCES	LTSM	<	=	=	=	=
	TRIBAL CULTURAL RESOURCES	LTSM	<	=	=	=	=
	PALEONTOLOGICAL RESOURCES	LTS	<	=	=	=	=
	HUMAN REMAINS	LTS	<	=	=	=	=
	CUM. HISTORICAL RESOURCES	SUM	<	=	=	=	=
	CUM. HISTORICAL RESOURCES	LTS	NI	=	<	=	<
	CUM. ARCH. RESOURCES	LTSM	<	=	=	=	=
	CUM. PALEONTOLOGICAL RESOURCES	LTS	<	=	=	=	=

TRANSPORT ATION + CIRCULATIO N	VMT	LTS	<	<	<	=	>	
	TRAFFIC HAZZARDS	LTS	<	<	<	=	>	
	TRANSIT	SUM	<	<	<	=	=	
	PEDESTRIANS	SUM	<	<	<	=	=	
	BICYCLISTS	LTS	>	=	=	=	>	
	LOADING	SUM	<	<	=	=	=	
	PARKING	LTS	<	<	<	=	=	
	EVERGENCY VEHICLE ACCESS	LTSM	<	<	<	=	<	
	CONSTRUCTI ON	SUM	<	<	<	=	<	
	CUM. VMT	LTS	<	<	<	=	>	
	CUM. TRAFFIC HAZZARD	LTS	<	<	<	=	>	
	CUM. TRANSIT	SUM	<	<	<	=	=	
	CUM. PEDESTRIANS	SUM	<	<	<	=	=	
	CUM. BICYCLISTS	LTS	>	=	=	=	>	
	CUM. LOADING	SUM	<	<	<	=	=	
	CUM. PARKING	LTS	<	<	<	=	=	
	CUM. EMERGENCY VEH. ACCESS	LTSM	<	<	<	=	<	
	CUM. CONSTRUCTI ON	LTS	<	<	<	=	<	
	NOISE + VIBRATION	TRAFFIC NOISE	SUM	<	<	<	=	<
		CONSTRUCTI ON NOISE	SUM	<	<	<	<	=
CONSTRUCTI ON VIBRATION		LTSM	<	<	<	<	=	
CUM TRAFFIC NOISE		SUM	<	<	<	<	<	
AIR QUALITY	CONFLICT WITH CLEAN AIR PLAN	LTS	<	<	<	<	=	
	CRITERIA AIR POLLUTANTS (PLAN)	LTS	<	<	<	<	=	
	CRITERIA AIR POLLUTANTS (DEV)	SUM	<	<	<	<	=	
	CRITERIA AIR POLLUTANTS (CONSTR)	LTSM	<	<	<	<	=	
	PM2.5 + TACS (OPERATIONA	SUM	<	<	<	<	=	

L)							
	PM2.5 + TACS (CONSTRUCTION)	LTSM	<	<	<	<	=
	ODORS	LTS	<	=	=	=	=
	CUM. CRITERIA AIR POLLUTANTS	SUM	<	<	<	<	=
	CUM. PM2.5 + TACS	SUM	<	<	<	<	=
WIND	WIND	SUM	<	<	<	=	=
	CUM. WIND	LTS	<	<	<	=	=
SHADOW	SHADOW	LTS	<	<	=	=	=
	CUM. SHADOW	LTS	<	<	<	=	=
HYDROLOGY + WATER QUALITY	FLOODING	LTS	=	=	=	=	=
	CUM. WASTEWATER	LTS	=	=	=	=	=
	CUM. FLOODING	LTS	=	=	=	=	=

Since the Reduced Heights Alternative reduces most Project impacts, while achieving almost all Project goals, the DEIR is arbitrary and capricious for failing to identify the Reduced Heights Alternative as environmentally superior.

IX. A REVISED DRAFT EIR MUST BE PREPARED AND RECIRCULATED FOR PUBLIC COMMENT.

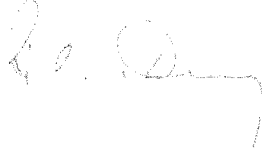
Recirculation of an EIR prior to certification is required “when the new information added to an EIR discloses: (1) a new substantial environmental impact resulting from the project or from a new mitigation measure proposed to be implemented (cf. Guidelines, § 15162, subd. (a)(1), (3)(B)(1)); (2) a substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance (cf. Guidelines, § 15162, subd. (a)(3)(B)(2)); (3) a feasible project alternative or mitigation measure that clearly would lessen the environmental impacts of the project, but which the project's proponents decline to adopt (cf. Guidelines, § 15162, subd. (a)(3)(B)(3), (4)); or (4) **that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the draft was in effect meaningless.**” *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal. 4th 1112, 1130, citing *Mountain Lion Coalition v. Fish & Game Comm’n* (1989) 214 Cal.App.3d 1043.

The DEIR is so fundamentally and basically inadequate, that recirculation of a new draft EIR will be required to allow the public to meaningfully review and comment on the proposed project.

X. CONCLUSION.

The DEIR is woefully inadequate. A revised and recirculated draft EIR will be required to remedy the myriad defects in the document. The revised draft EIR should identify the Reduced Height (Mid-Rise) Alternative as the environmentally superior alternative, and consider it on equal footing to the Plan, as was done in the Central Corridor Plan. The City should also consider an alternative that limits building height to no more than 130 feet in the block bounded by I-80 and Folsom, and Second and Third Streets, and places a park at the current parking lot located at 350 Second Street. This modification will make the Plan much more consistent with the goals to limit tall buildings to the area near CalTrain and BART, while maintaining the mid-rise character of the rest of the neighborhood, and increasing much needed open space.

Sincerely,



Richard Toshiyuki Drury
LOZEAU | DRURY LLP
Counsel for Central SoMa Neighbors and SFBlu

BOARD of SUPERVISORS



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

MEMORANDUM

TO: John Rahaim, Director, Planning Department
Ed Reiskin, Executive Director, Municipal Transportation Agency
Kate Hartley, Acting Director, Mayor's Office of Housing and Community Development

FROM: Erica Major, Assistant Clerk
Land Use and Transportation Committee

DATE: September 5, 2017

SUBJECT: HEARING MATTER INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following hearing request, introduced by Supervisor Kim on September 5, 2017:

File No. 170961

Hearing on the proposed Central SoMa Plan, divided into different presentations on: general overview of the Plan; housing overview including discussion on affordability, jobs/housing link, developer obligations, and density bonus; infrastructure and the public realm including but not limited to discussion on open space, transportation, and streetscaping; and Community building and neighborhood stabilization; and requesting the Planning Department, San Francisco Municipal Transportation Agency, and the Mayor's Office of Housing and Community Development to report.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Lisa Gibson, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Laura Lynch, Planning Department
Janet Martinsen, San Francisco Municipal Transportation Agency
Kate Breen, San Francisco Municipal Transportation Agency
Dillon Auyoung, San Francisco Municipal Transportation Agency
Eugene Flannery, Mayor's Office of Housing and Community Development
Amy Chan, Mayor's Office of Housing and Community Development

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 SEP -5 PM 4:37

Time stamp
or meeting date

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

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

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

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

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

Sponsor(s):

Kim


Subject:

Hearing on the Proposed Central SoMa Plan

The text is listed:

Hearing on the proposed Central SoMa Plan, divided into different presentations on: 1) general overview of the Plan; 2) housing overview including a discussion on affordability, jobs/housing link, developer obligations, and density bonus; 3) Infrastructure and the public realm including but not limited to discussion on open space, transportation, and streetscaping; and 4) Community building and neighborhood stabilization. Department presentations from (but not limited to) Planning, SFMTA, MOHCD.

Signature of Sponsoring Supervisor:



For Clerk's Use Only