File No. 230419 **Committee Item No.** 1
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use and Transportation **Date:** January 22, 2024
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Cmte Board

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Prepared by: John Carroll **Date:** January 18, 2024
Prepared by: _____ **Date:** _____
Prepared by: _____ **Date:** _____

[Street Encroachment Permit - 12th Street Plaza - 90-12th Street]

Resolution granting revocable permission to Otis Property Owner, LLC, to occupy and maintain the 12th Street Plaza on 12th Street at the corner of South Van Ness Avenue fronting 90 12th Street (Assessor's Parcel Block No. 3505, Lot No. 012); approving a nonexclusive public sidewalk easement for pedestrian access, passage, ingress, and egress for public sidewalk purposes; adopting environmental findings under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code Section 101.1.

WHEREAS, Pursuant to Public Works Code Sections 786 et seq., Otis Property Owner, LLC (hereafter referred to as "Permittee") requested permission to occupy a portion of the public right-of-way to maintain the 12th Street Plaza along 12th Street at the corner of South Van Ness Avenue fronting 90 12th Street (Assessor's Parcel Block No. 3505, Lot No. 012); and

WHEREAS, The improvements include a 7,200 square foot public plaza at the northwest corner of the intersection of 12th Street, South Van Ness Avenue, and Otis Street, which includes: irrigation lines, a warped sidewalk, concrete hardscape finishes, concrete sculptural features, and railings in front of the adjacent property; pedestrian throughway areas along South Van Ness Avenue and the adjacent building edge; and stairs and an accessible ramp to transition pedestrians from the plaza's two different elevations (collectively referred to as the "Encroachments"); and

WHEREAS, The Permittee has constructed the Encroachments in conjunction with its 30 Otis Project, which includes 416 residential units, 2,199 square feet of retail, 15,993

square feet of arts activities space, and a theater to be occupied by the City Ballet School; and

WHEREAS, The Permittee has proposed to maintain the Encroachments for the life of the permit; and

WHEREAS, The Encroachments shall be constructed in substantial conformity with the accompanying documents and plans, copies of which are on file in the office of the Clerk of the Board of Supervisors in File No. 230419 and incorporated herein by reference; and

WHEREAS, The Planning Commission, on September 27, 2018, in Resolution No. 20293, determined that the actions contemplated in this Resolution comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) and adopted findings in regard to the Encroachments ("Environmental Findings"); and

WHEREAS, The Planning Commission determination and Environmental Findings are on file with the Clerk of the Board of Supervisors in File No. 230419 and incorporated herein by reference; and

WHEREAS, On June 22, 2021, the Board of Supervisors conditionally accepted an offer of dedication of a nonexclusive public sidewalk easement for pedestrian access, passage, ingress, and egress for public sidewalk purposes (the "Sidewalk Easement") on the 12th Street Plaza, subject to subsequent approval by the Board of Supervisors; and

WHEREAS, A copy of the Sidewalk Easement is on file with the Clerk of the Board of Supervisors in File No. 230419 and incorporated herein by reference; and

WHEREAS, The Planning Department, in a letter dated December 4, 2023, found that the Encroachments and Sidewalk Easement are within the scope of the project evaluated in the Environmental Impact Report for the project, are in conformity with the General Plan, and are consistent with the eight priority policies of Planning Code Section 101.1; and

WHEREAS, A copy of said letter is on file with the Clerk of the Board of Supervisors in File No. 230419 and incorporated herein by reference; and

WHEREAS, The Permittee has submitted an irrevocable offer of improvements for the subject Permit in accordance with the terms of a Planning Commission In-Kind Agreement, dated January 21, 2021 (the "In-Kind Agreement"); and

WHEREAS, Copies of the Planning Commission Resolution approving the In-Kind Agreement and the irrevocable offer are on file with the Clerk of the Board of Supervisors in File No. 230419 and incorporated herein by reference; and

WHEREAS, The Transportation Advisory Staff Committee, at its meeting of August 27, 2020, recommended approval of the proposed Encroachments; and,

WHEREAS, After a public hearing on November 23, 2022, Public Works recommended to the Board of Supervisors ("Board") that it approve a street encroachment permit and associated encroachment permit and maintenance agreement (collectively, "Permit") for the maintenance of the Encroachments; and

WHEREAS, This recommendation is contained in PW Order No. 207438, dated December 2, 2022, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 230419 and incorporated herein by reference; and

WHEREAS, The Permit is on file with the Clerk of the Board of Supervisors in File No. 230419 and incorporated herein by reference; and

WHEREAS, The final approved Permit shall be in substantially the same form as that in the Clerk of the Board of Supervisor's file; and

WHEREAS, In Public Works Order No. 207438, the Director determined under Public Works Code Section 786.7 that the public right-of-way occupancy assessment fee shall be waived because the Encroachments provide a public benefit contemplated in the In-Kind Agreement; and

WHEREAS, The Permit for the Encroachments shall not become effective until:

(1) The Permittee executes and acknowledges the Permit and delivers said Permit and all required documents and fees to Public Works, and

(2) Public Works records the Permit ensuring maintenance of the Encroachments in the County Recorder's Office; and

WHEREAS, The Permittee, at its sole expense and as is necessary as a result of this permit, shall make the following arrangements:

(1) To provide for the support and protection of facilities under the jurisdiction of Public Works, the SFPUC, the San Francisco Fire Department, other City Departments, and public utility companies;

(2) To provide access to such facilities to allow said entities to construct, reconstruct, maintain, operate, or repair such facilities as set forth in the Permit;

(3) To remove or relocate such facilities if installation of Encroachments requires said removal or relocation and to make all necessary arrangements with the owners of such facilities, including payment for all their costs, should said removal or relocation be required;

(4) The Permittee shall assume all costs for the maintenance and repair of the Encroachments pursuant to the Permit and no cost or obligation of any kind shall accrue to Public Works by reason of this permission granted; and

WHEREAS, No structures shall be erected or constructed within the public right-of-way except as specifically permitted herein; now, therefore, be it

RESOLVED, The Board adopts the Environmental Findings and the further CEQA determination set forth in the December 4, 2023 letter of the Planning Department as its own; and, be it

FURTHER RESOLVED, That the Board finds that the Permit and Sidewalk Easement are consistent with the General Plan for the reasons set forth in the December 4, 2023 determination of the Planning Department; and, be it

FURTHER RESOLVED, Pursuant to Public Works Code Sections 786 et seq., the Board hereby grants revocable, personal, non-exclusive, and non-possessory permission to the Permittee, Otis Property Owner, LLC, to occupy the public right-of-way with the Encroachments and maintain said Encroachments under the terms of the Permit; and, be it

FURTHER RESOLVED, The Board accepts the recommendations of the PW Order No. 207438 and approves the Permit with respect to the Encroachments; and, be it

FURTHER RESOLVED, The Board hereby approves a nonexclusive public sidewalk easement for pedestrian access, passage, ingress, and egress for public sidewalk purposes as described in the motion in Board File No. 210718, and delegates to the Director of Property the authority to approve and record said easement agreement with Permitee on substantially the same terms as the draft on file with the Clerk of the Board in Board File No. 230419 and incorporated herein by reference; and, be it

FURTHER RESOLVED, That the Board directs the Director of Property to submit a copy of the recorded Sidewalk Easement agreement within 30 days of its recordation to the Clerk of the Board; and, be it

FURTHER RESOLVED, The Board hereby authorizes the Director of Property to modify or amend the terms of said easement agreement in a manner that the Director of Property, in consultation with the City's Risk Manager and the City Attorney, deems necessary or advisable and in the City's best interests; and, be it

FURTHER RESOLVED, The Board also authorizes the Director of Public Works to perform and exercise the City's rights and obligations with respect to the Encroachments

under the Permit and to enter into any amendments or modifications to the Permit with respect to the Encroachments; and, be it

FURTHER RESOLVED, Such actions may include without limitation, those amendments or modifications that the Director of Public Works, in consultation with the City Attorney, determines are in the best interest of the City, do not materially increase the obligations or liabilities of the City or materially decrease the obligations of the Permittee or its successors, are necessary or advisable to effectuate the purposes of the Permit or this resolution with respect to the Encroachments, and are in compliance with all applicable laws; and, be it

FURTHER RESOLVED, The Board, under Public Works Code Section 786.7, acknowledges waiver of the public right-of-way occupancy assessment fee in accordance with the Public Works Director's determination.

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30 OTIS STREET IN-KIND AGREEMENT
(PER ARTICLE 4 OF THE PLANNING CODE)

THIS IN-KIND AGREEMENT ("**Agreement**"), dated for reference purposes only as September 10, 2019, is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through the Planning Commission (the "**City**") and **Otis Property Owner, LLC** a Delaware limited liability company ("**Project Sponsor**"), with respect to a development project to be located at 30 Otis Street, San Francisco, California, and commonly known as 30 Otis (the "**Project**").

RECITALS

A. Article 4 of the San Francisco Planning Code authorizes the City, acting through the Planning Commission, and the sponsor of a development project in specified areas of the City to enter into an In-Kind Agreement that would allow the project sponsor to directly provide community improvements to the City as an alternative to payment of all or a portion of a fee that would be imposed on the development project in order to mitigate the impacts caused by the development project. Any undefined term used herein shall have the meaning given to such term in Article 4 of the Planning Code.

B. This Agreement shall not be effective until it has been signed by both the Project Sponsor and the City, is approved as to form by the City Attorney, is approved by the Planning Commission, and a duly executed Memorandum of Agreement in the form attached hereto as **Exhibit A** (the "**Memorandum of Agreement**") is recorded in the Official Records of San Francisco County. The date upon which the foregoing requirements have been satisfied shall be the "**Effective Date.**"

C. The property described in **Exhibit B** attached hereto and generally known as 74-90-98 12th Street and 14-18-30-32-38-40 Otis Street in San Francisco, California (Assessor's Block Number 3505 Lots 010/012/013/016/018 (the "**Land**") is owned by Project Sponsor. On March 8, 2018 the Project Sponsor submitted an application for the development of a project on the Land that is subject to a development impact fee under Section 421-421.6 and 424-424.5 of the Planning Code and is currently estimated to be $7,042,403, (the "**Fee**").

D. Pursuant to the provisions of Article 4 of the Planning Code, the Project Sponsor has requested that the City enter into an In-Kind Agreement associated with the Project in order to reduce its Fee obligation under Section 421-421.6 and 424-424.5 of the Planning Code. The in-kind improvements consist of certain open space improvements generally described in **Exhibit C,** ("**In-Kind Improvements**"), and which the Project Sponsor shall install on an approximately 12,165 square feet portion of the 12th Street public right-of-way between South Van Ness Avenue and Otis Street and 2,815 square feet portion of the west sidewalk along 12 Street north of 30 Otis (the "**ROW Area**") as further described in Schedule 1 attached hereto (the "**City Property**"), if Project Sponsor receives all of the required approvals described in Section 4.2 below. The In-Kind Improvements do not include the Project's public art under Section 429, the cost of which is not part of this In-Kind Agreement and is not included in the cost estimates provided but is generally described in **Exhibit C.**

E. The In-Kind Improvements meet the community needs as identified by the 2008 Market & Octavia Area Plan, are consistent with the 2008 Market & Octavia Area Plan, and the In-Kind Improvements for which the Project Sponsor is requesting an in-kind Fee Waiver are not a physical improvement or provision of space otherwise required by the Project entitlements or other City Code, including Planning Code Section 135 or 429.

F. On May 8, 2019, the Interagency Planning and Implementation Committee (IPIC) agreed to an In-Kind amount up to $3,000,000.

G. On May 20th, 2019, in Motion 2019-05-20-01, the Market & Octavia Citizens Advisory Committee passed a resolution supporting the proposed In-Kind Improvements in the amount of $3,000,000, and any eligible administrative and project management costs as to be determined with due diligence by the Planning Department.

H. City retains all rights to operate and manage the City Property and the In-Kind Improvements in its sole discretion, including any maintenance obligations that City may require of Project Sponsor under the Encroachment Permits (as defined in Section 4.2 below), if any, for the In-Kind Improvements. The parties to this Agreement acknowledge that the Project should qualify for the annual occupancy fee waiver provision of Public Works Code Section 786.7(f).

I. On September 27, 2018 (Motion No 20293), the Planning Commission approved the Project, and on June 6, 2019 (Motion No 20457), the Planning Commission authorized the Director of Planning to enter into this Agreement on the terms and conditions set forth below.

J. If the cost of the In-Kind Improvements exceeds the amount of the Fee waiver that would be made by the City pursuant to this Agreement, Project Sponsor has offered to make a gift of such excess cost as set forth in Section 5.2.1 below.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1
DEFINITIONS

Defined Terms. As used in this Agreement, the following words and phrases have the following meanings.

"**Agreement**" shall mean this Agreement.

"**City**" shall have the meaning set forth in the preamble to this Agreement.

"Date of Satisfaction" shall have the meaning set forth in Section 5.3 below.

"**Development impact fee**" or "**Fee**" shall mean the fee charged to development projects under Article 4, Section 421 of the Planning Code.

"**DBI**" shall mean the Department of Building Inspection.

"**Effective Date**" shall have the meaning set forth in Recital B.

"**First Construction Document**" shall have the meaning set forth in Section 401 of the Planning Code.

"**In-Kind Improvements**" shall have the meaning set forth in Recital D.

"**In-Kind Value**" shall have the meaning set forth in Section 3.2 below.

"**Land**" shall have the meaning set forth in Recital C.

"**Material Change**" shall have the meaning set forth in Section 3.2 below.

"**Memorandum of Agreement**" shall have the meaning set forth in Article 8 below.

"**Non-Material Change**" shall have the meaning set forth in Section 3.2 below.

"Notice of Satisfaction" shall have the meaning set forth in Section 5.3 below.

"**Payment Analysis**" shall have the meaning set forth in Section 5.2 below.

"**Payment Documentation**" shall have the meaning set forth in Section 5.1 below.

"**Plans**" shall have the meaning set forth in Section 4.2 below.

"**Project**" shall have the meaning set forth in the preamble to this Agreement.

"**Project Sponsor**" shall have the meaning set forth in the preamble to this Agreement.

"**Project Fee**" shall mean the Project Sponsor's share of the Development impact fee, as calculated pursuant to Section 3.1 below.

"**RED**" shall mean the Real Estate Division of City's Office of the City Administrator.

"**Remainder Amount**" shall have the meaning set forth in Section 3.3 below.

"Security" shall have the meaning set forth in Section 5.4 below.

"**SFPW**" shall mean the City's Department of Public Works.

ARTICLE 2
PROJECT SPONSOR REPRESENTATIONS AND COVENANTS

The Project Sponsor hereby represents, warrants, agrees and covenants to the City as follows:

2.1 The above recitals relating to the Project are true and correct.

2.2 Project Sponsor: (1) is a limited liability company duly organized and existing under the laws of the State of Delaware and authorized to own property and transact business in the State of California, (2) has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated to be conducted, (3) has the power to execute and perform all the undertakings of this Agreement, and (4) is the fee owner of the Land on which the Project is located.

2.3 The execution and delivery of this Agreement and other instruments required to be executed and delivered by the Project Sponsor pursuant to this Agreement: (1) have not violated and will not violate any provision of law, rule or regulation, any order of court or other agency or government, and (2) have not violated and will not violate any provision of any agreement or instrument to which the Project Sponsor is bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature.

2.4 No document furnished or to be furnished by the Project Sponsor to the City in connection with this Agreement contains or will contain any untrue statement of material fact, or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.

2.5 Neither the Project Sponsor, nor any of its principals or members, have been suspended, disciplined or debarred by, or prohibited from contracting with, the U.S. General Services Administration or any federal, state or local governmental agency during the past five (5) years.

2.6 Pursuant to Section 421.3(d)(5) of the Planning Code, the Project Sponsor shall reimburse all City agencies for their administrative and staff costs in negotiating, drafting, and monitoring compliance with this Agreement.

ARTICLE 3
CALCULATION OF FEE AND IN-KIND CREDIT

3.1 **Calculation of Fee.** The Project Fee shall be calculated in accordance with Section 421.3 and 424.3 of the Planning Code. Based on the Project approved by the Planning Commission, the Project Fee is estimated at $7,042,403.16 (For the fee calculations, see **Exhibit D**.) The final Fee shall be calculated on the estimated cost of the Project at the time of its First Construction Document.

3.2 **Calculation of In-Kind Value.** Based on two estimates provided by independent sources, as set forth in Schedules 2 and 3 to this Agreement, the Director of Planning determines the In-Kind Improvements have a value of approximately $3,000,000 (the "**In-Kind Value**"). Documentation establishing the estimated third-party eligible costs of providing the In-Kind Improvements in compliance with applicable City standards is attached hereto as **Exhibit E** (the "**Cost Documentation**"). Should the relocation of existing utility infrastructure no longer be required or necessary, the In-Kind Value shall be proportionately reduced by the amount listed in the Giacalone Design Services, Inc. Dry Utility Budget included in Schedules 2 and 3. The Project Sponsor may request an increase in the In-Kind Value by delivering written notice of such request to the Director, together with reasonable documentation of the third-party eligible costs exceeding the In-Kind Value. The Director shall have the sole discretion to approve or disapprove a requested increase of up to 15% of the In-Kind Value (a "**Non-Material Change**"), and the Planning Commission shall have the sole discretion to approve or disapprove any higher requested increase (a "**Material Change**"). If upon final completion the actual construction and development costs to the Project Sponsor of providing the In-Kind Improvements are lower than this amount, the provisions of Section 5.2 below shall apply.

3.3 **Payment.** Pursuant to Section 421.3 of the Planning Code and Section 107A.13.3 of the San Francisco Building Code, the Project Sponsor shall pay to the Development Fee Collection Unit at DBI $4,042.403.16 (the "**Remainder Amount**"), which is an amount equal to the Project Fee (see **Exhibit D**) minus the In-Kind Value (see **Exhibit E**), prior to issuance of the Project's First Construction Document. On the Date of Satisfaction, the Project Sponsor shall receive a credit against the Project Fee in the amount of the In-Kind Value, subject to Section 5.1 below.

ARTICLE 4
CONSTRUCTION OF IN-KIND IMPROVEMENTS

4.1 **Conditions of Performance.** The Project Sponsor agrees to take all steps necessary to construct and provide, at the Project Sponsor's sole cost, the In-Kind Improvements for the benefit of the City and the public, and the City shall accept the In-Kind Improvements in lieu of a portion of the Project Fee under this Agreement if this Agreement is still in effect and each of the following conditions are met:

4.2 **Plans and Permits.** The Project Sponsor shall cause an appropriate design professional to prepare detailed plans and specifications for the In-Kind Improvements, which plans and specifications shall be submitted for review and approval by DBI and other applicable

City departments or agencies in the ordinary course of the process of obtaining a site or building permit for the Project (upon such approval, the "**Plans**"). The Project Sponsor shall be responsible for obtaining at its sole cost, the appropriate approvals, encroachment permits and agreements needed from SFPW (each, a "**SFPW Encroachment Permit**" and collectively, the "**SFPW Encroachment Permits**") for the construction and maintenance of the In-Kind Improvements in the ROW Area**,** and all other permits and approvals from other affected departments that are necessary to implement this proposal. The parties to this Agreement acknowledge that the Project should qualify for the annual occupancy fee waiver provision of Public Works Code Section 786.7(f). The Project Sponsor shall be responsible, at no cost to the City, for completing the In-Kind Improvements strictly in accordance with the approved Plans, which are consistent with the 2008 Market & Octavia Plan and approved as part of a Planning Commission approved In-Kind Agreement, and the SFPW Encroachment Permits, and shall not make any material change to the approved Plans during the course of construction without first obtaining the Director of Planning's written approval. Upon completion of the In-Kind Improvements, the Project Sponsor shall furnish the City with a copy of the final approved Plans for the In-Kind Improvements and documentation of any approved material changes or deviations therefrom that may occur during construction of the In-Kind Improvements.

4.3 **Construction.** All construction with respect to the In-Kind Improvements shall be accomplished prior to the first certificate of occupancy for the Project, including any temporary certificate of occupancy unless circumstances set forth in Section 5.4 have occurred and Security has been provided as set forth in Section 5.4. The improvements shall be accomplished and in accordance with good construction and engineering practices and applicable laws. The Project Sponsor, while performing any construction relating to the In-Kind Improvements, shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to the surrounding property, and the risk of injury to members of the public, caused by or resulting from the performance of such construction. All construction relating to the In-Kind Improvements shall be performed by licensed, insured and bonded contractors, and pursuant to a contract that includes a release and indemnification for the benefit of the City.

4.4 **Inspections.** The Project Sponsor shall request the customary inspections of work by DBI and all other applicable City departments or agencies during construction using applicable City procedures in accordance with the City's Building Code and other applicable law. Upon final completion of the installation of the In-Kind Improvements and the Project Sponsor's receipt of all final permit sign-offs, the Project Sponsor shall notify all applicable City departments or agencies that the In-Kind Improvements have been completed. Such City departments or agencies shall inspect the site to confirm compliance with applicable City standards for such installation. This condition will not be satisfied until all applicable City departments and agencies have certified that the In-Kind Improvements are complete and ready for their intended use, including the City Engineer's issuance of a Determination of Completion.

4.5 **Completion of In-Kind Improvements.** Upon final completion of the In-Kind Improvements and the Project Sponsor's receipt of all final permit sign-offs, the Project Sponsor shall notify the Director of Planning that the In-Kind Improvements have been completed. The Director of Planning, or his or her agent, shall inspect the In-Kind Improvements to confirm compliance with this Agreement, and shall promptly notify the Project Sponsor if there are any problems or deficiencies. The Project Sponsor shall correct any such problems or deficiencies and then request another inspection, repeating this process until the Director of Planning approves the In-Kind Improvements as satisfactory. Such approval shall be based on the requirements of this Agreement and shall not be unreasonably withheld.

4.6 **Irrevocable Offer of In-Kind Improvements.** The Project Sponsor shall irrevocably offer the In-Kind Improvements to City at or before, at City's sole election, the issuance of the Determination of Completion, as described in Section 4.4 above, or the Notice of Satisfaction, as defined in Section 5.3 below. Such offer shall be made by delivering an Irrevocable Offer of Improvements to SFPW in substantially the form attached to this Agreement as **Exhibit**

F, which shall be properly completed to describe the In-Kind Improvements in the ROW Area, duly executed by the Project Sponsor, and acknowledged.

ARTICLE 5
SATISFACTION OF OBLIGATIONS; PARTIAL REIMBURSEMENTS

5.1 **Evidence of Payment.** The Project Sponsor shall provide the Planning Department with documentation substantiating payment by the Project Sponsor of the cost of providing the In-Kind Improvements in the form of third-party checks and invoices and its or its general contractor's standard general conditions allocation (the "**Payment Documentation**"). The Payment Documentation shall include information necessary and customary in the construction industry to verify the Project Sponsor's costs and payments. The cost of providing the In-Kind Improvements shall not be significantly higher than the average capital costs for the City to provide comparable improvements, based on current value of recently completed comparable projects, as selected by the City in its sole discretion, with prior consultation with the Project Sponsor.

5.2 **Payment Analysis.** The City shall provide the Project Sponsor with a written report of its review of the Payment Documentation ("**Payment Analysis**") within ten (10) business days of its receipt thereof, which review shall be conducted for the exclusive purpose of determining whether the Payment Documentation substantially and reasonably documents that the cost of providing the In-Kind Improvements shall not be significantly higher than the average capital costs for the City to provide comparable improvements, based on current value of recently completed comparable projects, as selected by the City in its sole discretion, with prior consultation with the Project Sponsor.

5.2.1 If the Payment Analysis reasonably substantiates that the Project Sponsor made payments in respect of the In-Kind Improvements in an amount less than the In-Kind Value, the Project Sponsor shall, within sixty (60) days of the date of the Payment Analysis, pay the City an amount equal to the difference between the In-Kind Value and the actual amount paid in respect of the In-Kind Improvements by the Project Sponsor. If the Payment Analysis reasonably substantiates that the Project Sponsor made payments in respect of the In-Kind Improvements in an amount equal to or greater than the In-Kind Value, the Project Sponsor shall not be entitled to a refund of such overpayments and the City shall not be entitled to any additional funds related to the In-Kind Value.

5.2.2 The City and Project Sponsor shall endeavor to agree upon the Payment Analysis. If they are unable to so agree within thirty (30) days after receipt by Project Sponsor of the City's Payment Analysis, Project Sponsor and the City shall mutually select a third-party engineer/cost consultant. The City shall submit its Payment Analysis and Project Sponsor shall submit the Payment Documentation to such engineer/cost consultant, at such time or times and in such manner as the City and Project Sponsor shall agree (or as directed by the engineer/cost consultant if the City and Project Sponsor do not promptly agree). The engineer/cost consultant shall select either the City's Payment Analysis or Project Sponsor's determination pursuant to the Payment Documentation, and such determination shall be binding on the City and Project Sponsor.

5.3 **Satisfaction of Obligations.** Upon agreement of the Payment Analysis and completion of the In-Kind Improvements, and following Project Sponsor's delivery of the Irrevocable Offer of Improvements to City pursuant to Section 4.6 above, the Director of Planning shall provide the Project Sponsor with a Notice of Satisfaction of Obligations (the "**Notice of Satisfaction**") that certifies that the In-Kind Improvements have been inspected and been determined to be ready for use by the public based on current City standards, and constitute the full satisfaction of the obligation to provide In-Kind Improvements in the form required hereunder, and that the City has received full payment in an amount equal to the difference between the In-Kind Value and the actual amount paid in respect of the In-Kind Improvements by the Project Sponsor, subject to City's rights under Section 5.6 below. The Project Sponsor shall not receive final credit for the In-Kind Improvements until the Notice of Satisfaction is delivered, the City

receives any additional payments as may be required under this Article 5, and all other obligations of the Project Sponsor under this Agreement have been satisfied (the "**Date of Satisfaction**").

5.3.1 Notwithstanding the provisions of Article 7 of this Agreement, the notices given by the parties under this Section 5.3 may be in the written form and delivered in the manner mutually agreed upon by the parties.

5.3.2 The Project Sponsor assumes all risk of loss during construction, and shall not receive final credit for the In-Kind Improvements until the Date of Satisfaction.

5.4 **Security.** If the Planning Director has not issued the Notice of Satisfaction under Section 5.3 above prior to issuance of the first certificate of occupancy for the Project, including any temporary certificate of occupancy, the Project Sponsor shall provide a letter of credit, surety bond, escrow account, or other security reasonably satisfactory to the Planning Director in the amount of one hundred percent (100%) of the Cost Documentation applicable to the In-Kind Improvements that have yet to have been determined to satisfy the obligations as set forth in Section 5.3 above (the "**Security**") to be held by the City until issuance of the Notice of Satisfaction, at which date it shall be returned to the Project Sponsor. If the Project Sponsor is required to post a bond for the Project with the Department of Public Works under the Subdivision Map Act and that security covers the In-Kind Improvements to be provided under this Agreement, the Subdivision Map Act bond may be substituted for the Security required by this Section and the Project Sponsor is not required to provide additional Security for the In-Kind Improvements.

In the event that any delay to the construction of the In-Kind Improvements occurs due to unforeseen circumstances not the fault of the Project Sponsor including delay in issuance of permits or completion of inspections by the City or other regulatory agencies with oversight over the work, or such as the discovery of an artifact that requires excavation or an act of God, the issuance of the Certificate of Occupancy for the Project will not be withheld from the Project Sponsor solely by reason of such delay in constructing the In-Kind Improvements unless such delay is caused by the Project Sponsor's failure to timely provide all items required in applying for such permit or inspection. In such an event the Security shall be delivered prior to the issuance of the first certificate of occupancy for the Project, including any temporary certificate of occupancy.

5.5 **Additional Obligations.** Notwithstanding anything in this Agreement to the contrary:

5.5.1 On and after the Effective Date defined in Article 1, for so long as this Agreement remains in effect and the Project Sponsor is not in breach of this Agreement, the City shall not withhold the issuance of any additional building or other permits necessary for the Project due to the Project Sponsor's payment of less than the full Project Fee amount in anticipation of the In-Kind Improvements ultimately being accepted and credited against the Project Fee under the terms and conditions set forth in this Agreement.

5.5.2 The City shall not issue or renew any further certificates of occupancy for the Project until the City receives payment of the full Project Fee (in some combination of the payment of the Initial Amount, the acceptance of In-Kind Improvements having the value described under this Agreement, receipt of the Security, and/or the acceptance of other cash payments received by the City directly from Project Sponsor for payment of the Project Fee or completion of the In-Kind Improvements), or Security pursuant to Section 5.4, above, before issuance of the first certificate of occupancy for the Project, including any temporary certificate of occupancy, subject to the delays in construction that occur due to unforeseen circumstances as provided in Section 5.4 above.

5.5.3 The City's issuance of a certificate of final completion or any other permit or approval for the Project shall not release the Project Sponsor of its obligation to pay the full

Project Fee (with interest, if applicable), if such payment has not been made at the time the City issues such certificate of final completion.

5.5.4 If the Payment Analysis in Section 5.2 determines a payment is required from the Project Sponsor for the difference between the In-Kind Value and the actual amount paid in respect of the In-Kind Improvements, and if thirty (30) days after payment is due following notice by the City the payment remains outstanding, DBI shall institute lien proceedings to recover the amount of the Fee due plus interest pursuant to Section 408 of the Planning Code and Section 107.13.15 of the Building Code.

5.5.5 The Project Sponsor understands and agrees that any payments to be credited against the Project Fee shall be subject to the provisions set forth in San Francisco Administrative Code Sections 6.80-6.83 relating to false claims. Pursuant to San Francisco Administrative Code Sections 6.80-6.83, a party who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A party who submits a false claim shall also be liable to the City for the cost of a civil action brought to recover any of those penalties or damages and may be liable to the City for a civil penalty of up to $10,000 for each false claim. A party will be deemed to have submitted a false claim to the City if the party: (a) knowingly presents or causes to be presented to any officer or employee of the City a false claim; (b) knowingly makes, uses or causes to be made or used a false record or statement to get a false claim approved by the City; (c) conspires to defraud the City by getting a false claim allowed by the City; (d) knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the City; or (e) is beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim. The Project Sponsor shall include this provision in all contracts and subcontracts relating to the In-Kind Improvements, and shall take all necessary and appropriate steps to verify the accuracy of all payments made to any such contractors and subcontractors.

5.6 **Reimbursement of Waived Fee.** Project Sponsor acknowledges the In-Kind Improvements can only remain in the ROW Area pursuant to the applicable SFPW Encroachment Permit. If such SFPW Encroachment Permit is terminated by Project Sponsor or revoked for cause by City before the twentieth (20^{th}) anniversary of the Notice of Satisfaction (the end of the useful life of the In-Kind Improvements) and SFPW requires Project Sponsor to restore the ROW Area to City standards at such time, Project Sponsor or any successor interest in the Project at such time shall pay DBI's Development Fee Collection Unit an amount equal to (i) the In-Kind Value allocated to the In-Kind Improvements pursuant to Article 3 less (ii) the proportionate value of the In-Kind Improvements allocated to the period they were in the ROW Area after the Notice of Satisfaction. For purpose of this section, a revocation for cause shall be a revocation of the SFPW Encroachment Permit, based on an uncured default by Permittee, as defined in the SFPW Major Encroachment Permit. By way of example only, if the allocated In-Kind Value of the In-Kind Improvements was $500,000 and on the tenth anniversary of the Notice of Satisfaction due to a termination of the SFPW Encroachment Permit for the In-Kind Improvements by the Project Sponsor or by the City, for cause, DBI's Development Fee Collection Unit would be owed $250,000. If the Project Sponsor fails to pay such amount within thirty (30) days following notice by the City, DBI shall institute lien proceedings to recover the amount of the Fee due plus interest pursuant to Section 408 of the Planning Code and Section 107.13.15 of the Building Code.

ARTICLE 6
MAINTENANCE AND LIABILITY

6.1 **Management and Liability**. The Project Sponsor acknowledges the SFPW Encroachment Permits, if any, will require that Project Sponsor maintain the In-Kind Improvements during the term of the SFPW Encroachment Permits and remove the In-Kind Improvements and return the ROW Area to City standards if the SFPW Encroachment Permits are

terminated or revoked. Further, Project Sponsor, on behalf of itself and all future fee owners of the Land, agrees to assume full responsibility for the construction of In-Kind Improvements contemplated in this Agreement and all liability relating to such construction. City agrees that the In-Kind Improvements contemplated in this Agreement are consistent with the 2008 Market & Octavia Plan, and were approved as part of a Planning Commission approved In-Kind Agreement. The parties to this Agreement acknowledge that the Project should qualify for the annual occupancy fee waiver provision of Public Works Code Section 786.7(f). Project Sponsor acknowledges this Agreement does not create any City responsibility or liability with respect to the construction or maintenance of the In-Kind Improvements. Project Sponsor shall obtain all permits and approvals from other affected departments that are necessary to implement this proposal and shall abide by any conditions associated with such permits including the posting and maintenance of insurance and security. The City would not be willing to enter into this Agreement without this provision and the Project Sponsor's acceptance of all liability relating to construction of the In-Kind Improvements in accordance with this Article is a condition of the Planning Commission's approval of the terms of this Agreement. Project Sponsor acknowledges that City retains ownership of the City Property and retains the rights to manage and operate or designate responsibility for such management and operation to any party, and Project shall have no right to manage and operate the City Property.

6.2 **Contracts for Maintenance**. The City and the Planning Commission acknowledge that the Project Sponsor may hire third parties to perform Project Sponsor's maintenance obligations with respect to the In-Kind Improvements, if permitted under the SFPW Encroachment Permit, as long as Project Sponsor retains full responsibility at all times to perform such maintenance obligations to the standards required in such SFPW Encroachment Permit, if any. Any such hiring is subject to the review and consent of the City departments with primary jurisdiction over the In-Kind Improvements in consultation with the Planning Director and shall comply with all applicable laws. The City may condition such hiring in a manner that it deems reasonable.

ARTICLE 7
NOTICES

Except as may otherwise be mutually agreed upon by the parties in writing, all notices given under this Agreement shall be effective only if in writing and given by delivering the notice in person or by sending it first-class mail or certified mail with a return receipt requested or by overnight courier, return receipt requested, addressed as follows:

CITY:

Director of Planning
City and County of San Francisco
1660 Mission St.
San Francisco, CA 94103

with a copy to:

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Deputy City Attorney

PROJECT SPONSOR:

Otis Property Owner, LLC
c/o Align Real Estate
255 California Street
Suite 525
San Francisco, CA 94111

or to such other address as either party may from time to time specify in writing to the other party. Any notice shall be deemed given when actually delivered if such delivery is in person, two (2) days after deposit with the U.S. Postal Service if such delivery is by certified or registered mail,

and the next business day after deposit with the U.S. Postal Service or with the commercial overnight courier service if such delivery is by overnight mail.

ARTICLE 8
RUN WITH THE LAND

The parties understand and agree that this Agreement shall run with the Project Sponsor's Land and shall burden and benefit every successor owner of the Land. The City would not be willing to enter into this Agreement without this provision, and the parties shall record the Memorandum of Agreement on or before the Effective Date. On the Date of Satisfaction or the date this Agreement is terminated pursuant to Section 9.4 below, this Agreement shall terminate, and the City shall execute and deliver to the Project Sponsor a release of the Memorandum of Agreement, which the Project Sponsor may record.

ARTICLE 9
ADDITIONAL TERMS

9.1 This Agreement contemplates the installation and transfer of In-Kind Improvements as authorized under Article 4 of the Planning Code and is not intended to be a public works contract; provided, however, the Project Sponsor agrees to pay no less than the prevailing wages as set forth in Section 10.1 and otherwise comply with the requirements of applicable State law as to the In-Kind Improvements work only. By entering this Agreement, the Project Sponsor is not obligated to pay prevailing wages for the construction of the Project.

9.2 The City shall have the right, during normal business hours and upon reasonable notice, to review all books and records of the Project Sponsor pertaining to the costs and expenses of providing the In-Kind Improvements.

9.3 This instrument (including the exhibit(s) hereto) contains the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

9.4 This Agreement may be effectively amended, changed, modified, altered or terminated only by written instrument executed by the parties hereto except that the Project Sponsor may terminate this Agreement by written notice to the City at any time prior to issuance of the Project's First Construction Document, in which event the Project Sponsor shall have no obligations or liabilities under this Agreement and the City would have no obligation to issue the First Construction Document unless and until this Agreement is reinstated, another agreement is executed by the parties, or the Project Sponsor's obligations under Article 4 of the Planning Code are satisfied in another manner. Any material amendment shall require the approval of the City's Planning Commission, in its sole discretion. The Planning Director may approve Non-Material Change to the In-Kind Value as set forth in Section 3.2 of this Agreement.

9.5 No failure by the City to insist upon the strict performance of any obligation of Project Sponsor under this Agreement or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of payments during the continuance of any such breach, shall constitute a waiver of such breach or of the City's right to demand strict compliance with such term, covenant or condition. Any waiver must be in writing and shall be limited to the terms or matters contained in such writing. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver

of a subsequent default or performance. In the event of any breach of this Agreement by either party, the non-breaching party shall have all rights and remedies available at law or in equity.

9.6 This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of California.

9.7 The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. Time is of the essence in all matters relating to this Agreement.

9.8 This Agreement does not create a partnership or joint venture between the City and the Project Sponsor as to any activity conducted by the Project Sponsor relating to this Agreement or otherwise. The Project Sponsor is not a state or governmental actor with respect to any activity conducted by the Project Sponsor hereunder. This Agreement does not constitute authorization or approval by the City of any activity conducted by the Project Sponsor. This Agreement does not create any rights in or for any member of the public, and there are no third party beneficiaries.

9.9 Notwithstanding anything to the contrary contained in this Agreement, the Project Sponsor acknowledges and agrees that no officer or employee of the City has authority to commit the City to this Agreement unless and until the Planning Commission adopts a resolution approving this Agreement, and it has been duly executed by the Director of Planning and approved as to form by City Attorney.

9.10 The Project Sponsor, on behalf of itself and its successors, shall indemnify, defend, reimburse and hold the City harmless from and against any and all claims, demands, losses, liabilities, damages, injuries, penalties, lawsuits and other proceedings, judgments and awards and costs by or in favor of a third party, incurred in connection with or arising directly or indirectly, in whole or in part, out of: (a) any accident, injury to or death of a person, or loss of or damage to property occurring in, on or about the site of the In-Kind Improvements during their construction, provided that such accident, injury, death, loss or damage does not result from the gross negligence of the City; (b) any default by the Project Sponsor under this Agreement , (c) the condition of the In-Kind Improvements constructed by or on behalf of the Project Sponsor; and (d) any acts, omissions or negligence of the Project Sponsor or its agents under this Agreement on the City Property. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigation. The Project Sponsor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the Project Sponsor by City and continues at all times thereafter. The Project Sponsor's obligations under this Section shall survive the expiration or sooner termination of this Agreement.

ARTICLE 10
CITY CONTRACTING PROVISIONS

10.1 The Project Sponsor agrees that any person performing labor in the construction of the In-Kind Improvements shall be paid not less than the Prevailing Rate of Wage (as defined in San Francisco Administrative Code Section 6.1) consistent with the requirements of Section 6.22(e) of the San Francisco Administrative Code, and shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco County. The Project Sponsor shall include, in any contract for construction of such In-Kind Improvements, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. The Project Sponsor shall require any contractor to maintain, and shall deliver to the City upon request, weekly certified payroll reports with respect to all persons performing labor in the construction of the In-Kind Improvements. The requirements of this Section only apply to the

In-Kind Improvements, and nothing in this Agreement obligates the Project Sponsor to pay the Prevailing Rate of Wage to any person performing labor in the construction of the Project.

10.2 The Project Sponsor understands and agrees that under the City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the State Public Records Law (Gov't Code Section 6250 et seq.), this Agreement and any and all records, information, and materials submitted to the City hereunder are public records subject to public disclosure. The Project Sponsor hereby acknowledges that the City may disclose any records, information and materials submitted to the City in connection with this Agreement.

10.3 In the performance of this Agreement, the Project Sponsor covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee or any City employee working with or applicant for employment with the Project Sponsor, in any of the Project Sponsor's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Project Sponsor.

10.4 Through execution of this Agreement, the Project Sponsor acknowledges that it is familiar with the provisions of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provision and agrees that if it becomes aware of any such fact during the term, the Project Sponsor shall immediately notify the City.

10.5 Through execution of this Agreement, the Project Sponsor acknowledges that it is familiar with Section 1.126 of City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City, whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer, a candidate for the office held by such individual, or a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until negotiations terminate or twelve (12) months after the date the contract is approved by the City elective officer or the board on which that City elective officer serves. San Francisco Ethics Commission Regulation 1.126-1 provides that negotiations are commenced when a prospective contractor first communicates with a City officer or employee about the possibility of obtaining a specific contract. This communication may occur in person, by telephone or in writing, and may be initiated by the prospective contractor or a City officer or employee. Negotiations are completed when a contract is finalized and signed by the City and the contractor. Negotiations are terminated when the City and/or the prospective contractor end the negotiation process before a final decision is made to award the contract.

Project Sponsor further acknowledges that the **(i)** prohibition on contributions applies to Project Sponsor; each member of its board of directors, and its chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten percent (10%) in Project Sponsor; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Project Sponsor; and **(ii)** within thirty (30) days of the submission of a proposal for the contract, the City department with whom Project Sponsor is contracting was obligated to submit to the Ethics Commission the parties to the contract and any subcontractor. Additionally, Project Sponsor certifies that it has informed each of the persons described in the preceding sentence of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the Planning Department.

10.6 The City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages then to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et eq. The City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. The Project Sponsor acknowledges that it has read and understands the above statement of the City concerning doing business in Northern Ireland.

10.7 The City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product.

10.8 If City's Office of Economic and Workforce Development ("OEWD") determines that the In-Kind Improvements are subject to the requirements of San Francisco Local Hiring Policy for Construction set forth in Chapter 82 of the San Francisco Administrative Code, the Project Sponsor shall comply with such requirements and execute a Local Hire Agreement with OEWD, in a form mutually agreeable to the parties, before this In-Kind Agreement is fully executed. The Project Sponsor's failure to comply with its obligations under Chapter 82, and the Local Hire Agreement shall constitute a material breach of this In-Kind Agreement and may subject the Project Sponsor and its contractors and subcontractors to the consequences of noncompliance specified in Chapter 82, and the Local Hire Agreement, including but not limited to penalties.

10.9 If OEWD determines that the In-Kind Improvements are subject to the First Source Hiring Program established in Chapter 83 of the San Francisco Administrative Code, the Project Sponsor shall comply with the requirements of Chapter 83 and execute a First Source Hiring Agreement with OEWD, in a form mutually agreeable to the parties, before this In-Kind Agreement is fully executed. The Project Sponsor's failure to comply with its obligations under Chapter 83 and the requirements of the First Source Hiring Agreement shall constitute a material breach of this In-Kind Agreement and may subject the Project Sponsor and its contractors and subcontractors to the consequences of noncompliance specified in Chapter 83 and the First Source Hiring Agreement, including but not limited to liquidated damages.

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NOW THEREFORE, the parties hereto have executed this In-Kind Agreement as of the date set forth above.

CITY:

CITY AND COUNTY OF SAN FRANCISCO, acting by and through its Planning Commission

By: _____
Director of Planning

APPROVED:

DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

ACKNOWLEDGED:

Public Works

By: _____
Authorized Representative

PROJECT SPONSOR:

OTIS PROPERTY OWNER, LLC,
a Delaware limited liability company

By: _____
Name: David Balfour
Title: Authorized Signatory

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City and County of San Francisco
Department of Planning
49 South Van Ness Ave, Suite 1400
San Francisco, CA 94103
Attn: Director

(Free Recording Requested Pursuant to
Government Code Section 27383)

APN: 3505-010, 3505-012, 3505-013, 3505-016, 3505-018
Address: 74-90-98 12th Street and 14-18-30-32-38-40 Otis Street; San Francisco

Memorandum of In-Kind Agreement

This Memorandum of In-Kind Agreement (this "Memorandum"), dated for reference purposes only as of September 10, 2019, is by and between the City and County of San Francisco, a municipal corporation, acting and through the Planning Commission (the "City"), and **Otis Property Owner, LLC**, a Delaware limited liability company (the "Project Sponsor").

1. The property described in Exhibit A attached hereto (the "Land") and generally known as 30 Otis Street, San Francisco, California, is owned by Project Sponsor.

2. Under San Francisco Planning Code Section 421 ("Section 421") and Planning Code Section 424 ("Section 424") , the Project Sponsor must pay to the City a development impact fee (the "Fee") on or before the issuance of the First Construction Document for the Land; provided, however, the City can reduce such payment under Section 421.3(d) and 424.3(c) if the Project Sponsor enters into an agreement with the City to provide in-kind improvements.

3. In accordance with Section 421.3 and 424.3, the City and the Project Sponsor have entered into an in-kind agreement dated for reference purposes only as September 10, 2019 (the "In-Kind Agreement"), which permits the Project Sponsor to receive construction documents with the satisfaction of certain conditions in return for the Project Sponsor's agreement to provide certain in-kind improvements under the terms and conditions set forth therein.

4. Upon the Project Sponsor's satisfaction of the terms of the In-Kind Agreement, the In-Kind Agreement shall terminate and the City will execute and deliver to the Project Sponsor a termination of this Memorandum in recordable form.

5. The Project Sponsor and the City have executed and recorded this Memorandum to give notice of the In-Kind Agreement, and all the terms and conditions of the In-Kind Agreement are incorporated herein by reference as if they were fully set forth herein. Reference is made to the In-Kind Agreement itself for a complete and definitive statement of the rights and obligations of the Project Sponsor and the City thereunder.

6. This Memorandum shall not be deemed to modify, alter or amend in any way the provisions of the In-Kind Agreement. In the event any conflict exists between the terms of the In-Kind Agreement and this Memorandum, the terms of the In-Kind Agreement shall govern.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum as of the date first written above.

CITY: CITY AND COUNTY OF SAN FRANCISCO,
acting by and through its Planning Commission

By: _____
Director of Planning

PROJECT SPONSOR: OTIS PROPERTY OWNER, LLC,
a Delaware limited liability company

By: _____
Name: David Baldacci
Title: Authorized Signatory

Name of Notary: Europa Banis Baldevia

Europa Banis Baldevia

EUROPA BANIS BALDEVIA
Notary Public – California
San Francisco County
Commission # 2204058
My Comm. Expires Jul 3, 2021

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

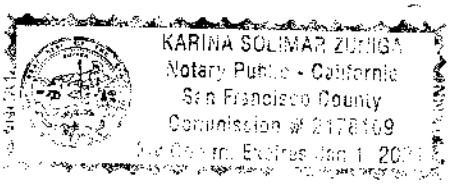
State of California)
) ss
County of San Francisco)

On 6/19/2020, before me, Karina Solimar Zuniga, a notary public in and for said State, personally appeared Richard Hillis., who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Salimar (Seal)



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of San Francisco)

On June 8, 2020, before me, Europa Banis Baldevia, a notary public in and for said State, personally appeared David Balducci, who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Europa Banis Baldevia (Seal)

EUROPA BANIS BALDEVIA
Notary Public – California
San Francisco County
Commission # 2204058
My Comm. Expires Jul 3, 2021

Exhibit B

Legal Description of Land

The Land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL ONE:

BEGINNING AT A POINT ON THE SOUTHWESTERLY LINE OF 12TH STREET, DISTANT THEREON 100 FEET NORTHWESTERLY FROM THE NORTHWESTERLY LINE OF OTIS STREET, AND RUNNING THENCE NORTHWESTERLY ALONG SAID LINE OF 12TH STREET 50 FEET; THENCE SOUTHWESTERLY PARALLEL WITH SAID NORTHWESTERLY LINE OF OTIS STREET 156 FEET, 5 INCHES; THENCE EASTERLY 55 FEET, 2 INCHES TO THE INTERSECTION OF A LINE DRAWN SOUTHWESTERLY 133 FEET AND 1-1/4 INCHES FROM THE SOUTHWESTERLY LINE OF 12TH STREET, MEASURED AT RIGHT ANGLES THERETO FROM THE POINT OF BEGINNING; THENCE NORTHEASTERLY ALONG THE LINE SO DRAWN 133 FEET AND 1-1/4 INCHES TO THE POINT OF BEGINNING.

BEING A PORTION OF MISSION BLOCK NO. 13.

ASSESSOR'S LOT 010; BLOCK 3505

PARCEL TWO:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHWESTERLY LINE OF OTIS (FORMERLY WEST MISSION) STREET WITH THE SOUTHWESTERLY LINE OF TWELFTH STREET, AND RUNNING THENCE SOUTHWESTERLY ALONG SAID LINE OF OTIS STREET 66 FEET; THENCE AT A RIGHT ANGLE NORTHWESTERLY 100 FEET, THENCE AT A RIGHT ANGLE NORTHEASTERLY 66 FEET TO THE SOUTHWESTERLY LINE OF TWELFTH STREET; AND THENCE AT A RIGHT ANGLE SOUTHEASTERLY ALONG SAID LINE OF TWELFTH STREET 100 FEET TO THE POINT OF BEGINNING.

BEING A PART OF MISSION BLOCK NO. 13.

ASSESSOR'S LOT 012; BLOCK 3505

PARCEL THREE:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF OTIS STREET, DISTANT THEREON 66 FEET SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF 12TH STREET; RUNNING THENCE SOUTHWESTERLY ALONG SAID LINE OF OTIS STREET 50 FEET,· THENCE AT A RIGHT ANGLE NORTHWESTERLY 100 FEET; THENCE AT A RIGHT ANGLE NORTHEASTERLY 50 FEET; AND THENCE AT A RIGHT ANGLE SOUTHEASTERLY 100 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF MISSION BLOCK NO. 13.

ASSESSOR'S LOT 013; BLOCK 3505

PARCEL FOUR:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF OTIS STREET, DISTANT THEREON 116 FEET SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF TWELFTH STREET; RUNNING THENCE SOUTHWESTERLY ALONG SAID NORTHWESTERLY LINE OF OTIS STREET 82 FEET; THENCE AT RIGHT ANGLE NORTHWESTERLY 150 FEET TO THE SOUTHEASTERLY LINE OF CHASE (FORMERLY COLTON) COURT; THENCE NORTHEASTERLY ALONG SAID SOUTHEASTERLY LINE OF CHASE COURT 47 FEET AND 1/2 OF AN INCH TO THE NORTHEASTERLY LINE OF COLUSA (FORMERLY COLTON) PLACE; THENCE NORTHWESTERLY ALONG SAID NORTHEASTERLY LINE OF COLUSA PLACE, 8 FEET TO A POINT THEREON WHICH IS 150 FEET AND 11 INCHES SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF TWELFTH STREET, MEASURED AT RIGHT ANGLES THERETO; THENCE SOUTHEASTERLY 42 FEET AND 1-3/4 INCHES, MORE OR LESS, TO A POINT WHICH IS 100 FEET NORTHWESTERLY FROM THE NORTHWESTERLY LINE OF OTIS STREET, MEASURED AT RIGHT ANGLES THERETO, AND DISTANT 133 FEET AND 1-1/4 INCHES SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF TWELFTH STREET MEASURED AT RIGHT ANGLES THERETO; THENCE NORTHEASTERLY PARALLEL WITH THE NORTHWESTERLY LINE OF OTIS STREET 17 FEET AND 1-1/4 INCHES TO A POINT WHICH IS 116 FEET SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF TWELFTH STREET, MEASURED AT RIGHT ANGLE THERETO; THENCE AT A RIGHT ANGLE SOUTHEASTERLY 100 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF MISSION BLOCK NO. 13.

APN: LOT 016, BLOCK 3505

PARCEL FIVE:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF OTIS STREET DISTANT THEREON 198 FEET SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF TWELFTH STREET; RUNNING THENCE SOUTHWESTERLY AND ALONG SAID LINE OF OTIS STREET 53 FEET 1/2 OF AN INCH; THENCE AT A RIGHT ANGLE NORTHWESTERLY 81 FEET 2-3/8 INCHES; THENCE AT A RIGHT ANGLE SOUTHWESTERLY 7 FEET 3-1/2 INCHES; THENCE AT A RIGHT ANGLE NORTHWESTERLY 48 FEET 9-5/8 INCHES TO THE SOUTHEASTERLY LINE OF CHASE COURT; THENCE NORTHEASTERLY AND ALONG SAID LINE OF CHASE COURT 60 FEET 4 INCHES; THENCE AT A RIGHT ANGLE SOUTHEASTERLY 130 FEET TO THE POINT OF BEGINNING.

BEING A PART OF MISSION BLOCK NO. 13.

APN: LOT 018; BLOCK 3505

Exhibit C

In-Kind Improvements Description

The In-Kind Improvements consist of the following:

1. **Public Plaza (12,165 sq.ft.)**

   A new public plaza will be created at the southern end of 12th Street, adjacent to the new 30 Otis building. The plaza will be created via the reconfiguration of the southern end of 12th Street where it meets South Van Ness Avenue as is consistent with the approved Van Ness Improvement and Bus Rapid Transit (BRT) Project design. The realignment consolidates the 12th Street intersection with South Van Ness eliminating the bifurcated access to 12th Street from South Van Ness and the separate exit from to 12th Street to Otis Street that resulted from a large median island. This consolidation of realignment creates the space in the public right-of-way for the new plaza.

   The plaza will also provide under Planning Code section 429 public art in the form of custom seating and a centerpiece sunken bowl, which may also serve as a small reflecting pool. The public art portion of the plaza is outside the scope of this IKA as shown on cost estimates for the work. Interlocking stone pavers will be the predominant paving material and will stretch from the property line to the South Van Ness and 12th Street curbs as a unifying design feature. Pedestrian throughway areas are provided along the South Van Ness and building edge. Stairs and an accessible ramp are provided to transition pedestrians from the plaza's two different elevations. Planted areas are provided throughout the plaza to provide dedicated green space with the South Van Ness edge densely planted to provide a green buffer from traffic and interspersed with bike racks, streetlights, and MUNI poles. The north edge of the plaza will be open which will allow vehicles to access the 30 Otis parking garage.

2. **West Sidewalk Repairs (2,815 sq.ft.)**

   The deteriorating 12th Street sidewalk, north of the approved 30 Otis Street project to Stevenson Street will be removed and replaced in front of the existing 40 Otis, 42 Otis, and 68 Otis buildings. This will include planting areas and a new sidewalk.

Exhibit D

Calculation of Impact Fees

Development Impact Fees (2019 fee register)	**Quantity**	**Rate**	**Fee**	
Market & Octavia Community Infrastructure Fee (Sec. 421)				
New Residential	345,135 sf	$13.49/sf	$4,655,871.15	
Change of Use (Non-res to Res)	17,253 sf	$8.40/sf	$144,925.20	
Change of Use (Non-res to Res)	20,030 sf	$10.95/sf	$219,328.50	
Subtotal			$5,020,124.85	
Van Ness & Market Infrastructure Fee (Sec. 424)				
FAR > 9:1	89,919 sf	$22.49/sf	$2,022,278.31	
Subtotal			$2,022,278.31	
Total Infrastructure Impact Fees			**$7,042,403.16**	

Exhibit E

Cost Documentation

Determining the Value of Required Improvements
Fee waivers cannot be made for improvements that the Project Sponsor is already legally required to undertake. In this instance, the Project Sponsor acknowledges the requirement to self-fund mandatory improvements on the Project site or used to meet Project Open Space requirements. Such improvements are required to comply with design standards for "Better Streets" and publicly accessible Open Space.

Determining the Value of Proposed Improvements
To help determine the value of the proposed In-Kind Improvements, the Project Sponsor provided two estimates of the anticipated hard costs $1,954,247and $1,765,450 (attached as Schedules 2 and 3), and an estimate for the utility relocation $1,748,695 and $1,796,764.

The Project Sponsor calculated additional development costs, such as design and engineering fees, and site preparation, to determine the full value of the proposed In-Kind Improvements. This estimate for total soft costs came to $504,281. Based on these calculations, the overall value of the In-Kind Improvement is estimated at between $4,052,335.00 and $4,255,291. These estimates are subject to change over time, but the Project Sponsor acknowledges that it is responsible for any cost overruns. Determining the Specific Improvements that would be provided via this In-Kind.

Agreement
The approval of this In-Kind Agreement would commit the Project Sponsor to improving the City Property with the proposed In-Kind Improvements. Therefore, the $3,000,000 that the Project Sponsor would be required to contribute will instead be directed towards the construction of the In-Kind Improvements in return for a reduction in the Project's Market & Octavia/Van Ness Market Street Infrastructure Impact Fee of the same amount.

Exhibit F

Form of Irrevocable Offer of Dedication

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City and County of San Francisco
Director of Public Works
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place
San Francisco CA 94102

(Free Recording Requested Pursuant to
Government Code Section 27383)

IRREVOCABLE OFFER OF IMPROVEMENTS
(30 Otis Plaza)

Otis Property Owner, LLC does hereby irrevocably offer to the City and County of San Francisco, a municipal corporation ("City"), and its successors and assigns, those certain public improvements comprised of a new publicly accessible Plaza on Otis Street and 12th Street and streetscape improvements on the west side of 12th Street between Stevenson Street and Otis Street and adjacent to Assessor's Block-Lot 3505-012, 3505-010, 3505-009, 3505-005, 3505-004 more particularly described and depicted in Public Works Permit No. _____ and as shown on site diagrams, attached as **Exhibits A-1 and B-1**, respectively, to this instrument.

With respect to this offer of improvements, it is understood and agreed that: (i) upon acceptance of this offer of public improvements, the City shall own and be responsible for public facilities and improvements, subject to the maintenance obligation of fronting property owners or other permittees pursuant to the Public Works Code, including, but not limited to, Public Works Code Sections 706 and 786, and (ii) the City and its successors and assigns shall incur no liability or obligation whatsoever hereunder with respect to such offer of public improvements, and, except as may be provided by separate instrument, shall not assume any responsibility for the offered improvements, unless and until such offer has been formally accepted by the Director of Public Works or the Board of Supervisors.

The provisions hereof shall inure to the benefit of and be binding upon the heirs, successors, assigns and personal representatives of the respective parties hereto.

IN WITNESS WHEREOF, the undersigned has executed this instrument this __ day of _____, 20 .

Otis Property Owner, LLC
a Delaware limited liability company

By: _____
Name: _____
Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of San Francisco)

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A-1

Permit Information

EXHIBIT B-1

Diagram of Permit Location

Schedule 1

Description of the Property

The land referred to is situated in the City and County of San Francisco, State of California, and is described as follows:

The City Property shall mean 12,165 square feet of the existing 12th Street portion of the Right-of-Way (ROW) between South Van Ness Avenue and Otis Street and 2,815 square feet of the existing sidewalk portion of the ROW along 12 Street north of 30 Otis Street adjacent to Assessor's Block-Lot 3505-012, 3505-010, 3505-009, 3505-005, 3505-004.

Schedule 2

Cost Estimate (Build Group)

BUILDGROUP

Build Group Inc.
San Francisco, CA

Project: 30 Otis Street
Location: San Francisco, CA
Owner: Align
Architect: SCB
Type: Sitework Budget
Est. Date: 10/18/2018 - *5/1/19 Update*
Drawings: IPIC 30 Otos Public Art Plaza dated 10.10.18, *4.23.19 Updated Drawings*

Project Type: Plaza Construction

Total Gross SF 12,200 gsf

Build Group Inc
457 Minna St, San Francisco, Ca

ITEM	DESCPRTION	QUANTITY	UNIT	UNIT PRICE	Total Project	$/sf	Notes
	General Conditions	**12,200**	**gsf**	**$19.67**	**$ 240,000**		
01020	General Conditions	3	mo	$75,000.00	$ 225,000	$18.44	Supervision/Temp Facilities
01020	Mobilizatoin	1	ls	$15,000.00	$ 15,000	$1.23	Supervision/Temp Facilities
	Sitework	**12,200**	**gsf**	**$77.27**	**$ 942,700**		
02200	Demo Site	12,200	sf	$7.00	$ 85,400	$7.00	
02200	Grade Site	12,200	sf	$10.50	$ 128,100	$10.50	
02600	Underground Utilities Allowance	1	allw	$125,000.00	$ 125,000	$10.25	
02710	City Curb and Gutter	280	lf	$75.00	$ 21,000	$1.72	
02710	CIP Concrete Planter	15	lf	$1,250.00	$ 18,750	$1.54	
02710	CIP Concrete Curb	182	lf	$85.00	$ 15,470	$1.27	
02710	CIP Concrete Stairs	225	lf	$350.00	$ 78,750	$6.45	
02740	Unit Pavers on Grade	4,024	sf	$45.00	$ 181,080	$14.84	
02740	Concrete Paving	2,750	sf	$38.00	$ 104,500	$8.57	
02750	Bollards	4	ea	$4,500.00	$ 18,000	$1.48	
02750	Truncated Domes	75	lf	$120.00	$ 9,000	$0.74	
02775	Relocate Muni Poles	0	ea	$80,000.00	$ -	$0.00	
02775	Light Poles	0	ea	$37,000.00	$ -	$0.00	
02900	Trees on Grade	12	ea	$1,600.00	$ 19,200	$1.57	
02900	Trees Grates	12	ea	$1,500.00	$ 18,000	$1.48	
02900	Planting Allowance	1,606	sf	$50.00	$ 80,300	$6.58	
02900	Irrigation Allowance	1,606	sf	$25.00	$ 40,150	$3.29	
	Metals	**12,200**	**gsf**	**$6.45**	**$ 78,650**		
05510	Handrail at Stairs	187	lf	$325.00	$ 60,775	$4.98	
05510	Handrail, other	55	lf	$325.00	$ 17,875	$1.47	
	General Requirements	**12,200**	**gsf**	**$26.75**	**$ 326,389**		
22000	General Requirements	12,200	gsf	$25.00	$ 305,000	$25.00	
20000	Sub Guard Bonding	1	ls	$21,389.06	$ 21,389	$1.75	1.35% of subcontractor costs
	SUBTOTAL DIRECT CONSTRUCTION (W/GC'S)				$ 1,587,739	$130.14	
	PERMITS AND ASSESSMENTS, UTILITY FEES	0.00%			by owner		
	BUSINESS TAX	0.41%			$ 6,510	$0.53	
	LIABILITY INSURANCE	1.25%			$ 19,847	$1.63	
	CONTINGENCY	10.00%			$ 158,774	$13.01	
	CONTRACTOR'S FEE	5.00%			$ 88,318	$7.24	
	ESCALATION	5.00%			$ 93,059		
	TOTAL				**1,954,247**	**$160.18**	

BID REQUESTED ALTERNATES:	QUANTITY	UNIT	UNIT PRICE	EXTENSION	$/SF gross

Alternates:

Qualifications:

1 Bonding is not included.
2 No Phase 1 or Phase 2 report provided
3 Assumes major utility upgrades are not required
4 Owner to provide all meters and utilities required for this space to complete work.
5 The cost for identifying or removal of any hazardous material is not included.
6 Price does not include unforeseen discovery or hidden defects/flaws.
7 Special Inspection Excluded. We will schedule and coordinate, but contract should be through owner

GIACALONE
DESIGN SERVICES, INC.

3/4/2019

Job #: 16-184

Re: Dry Utility Budget (REVISED)

Otis - Relocation And Temp Power Joint Trench Budget

Scope

1. Relocate Existing 4KV and 12KV primary electrical facilities to accommodate Plaza construction.
2. This budget also includes all equipment necessary for Temp Power scope. Because the two jobs need to be installed at the same time, I have combined the two scopes in one budget.
3. AT&T contract costs are associated with splicing (1) 300, (2) 100, (3) 50 pair copper cables a 48 fiber cable and a 24 fiber cable.

Contractor Costs

1. Trenching - 400 LF		**$180,000.00**
2. Vaults and Splice Boxes (Supply, Install & Excavation UON)		**$204,900.00**
a. PG&E		$113,500.00
b. Telephone		$89,400.00
c. CATV		$2,000.00
3. Conduits - Supply and Install		**$220,000.00**
a. PG&E		$108,000.00
b. Telephone		$84,000.00
c. CATV- Installed by CATV		$28,000.00
4. PG&E Electrical System		**$362,000.00**
5. PG&E Gas System		**NIC**
	Total Construction Costs:	**$966,900.00**

Utility Contract Costs and Consulting Fees	**Low**	**High**
1. PG&E Contract Costs - 10 Year Option	**NA**	**$481,795.00**
2. AT&T Contract Costs	**$75,000.00**	**$300,000.00**
Total Utility Contract Costs and Consulting Fees:		**$781,795.00**
Total Construction and Utility Contract Costs/Fees:		**$1,748,695.00**

Budget Summary

Total Cost Per Foot - 400 Feet	**$4,371.74**

5820 Stoneridge Mall Rd., #345 | Pleasanton, California 94588
t 925.467.1740 | f 925.467.1741 | www.giacalonedesign.com

Schedule 3

Cost Estimate (Turner)

30 OTIS
Schematic Site Plan
Triangular Park Area

Turner

Item	IKA Qty	Unit	Unit Price	IKA Extension
General Conditions/General Requirements/ Precon	1,257,250	pct	20%	251,450
Clear Site	15,000	sf	6.00	90,000
Grade Site	15,000	sf	12.00	180,000
Mobilization	75%	allow	50,000	37,500
A - Tree Planting	12	ea	2,000	24,000
B - Planted Areas	1,451	sf	40	58,040
C - Concrete Planter - Seating	11	lf	1,000	11,000
J - Truncated Domes	73	sf	100	7,300
K - Curb	272	lf	80	21,760
M - Slot Drain	72	lf	250	18,000
P - Bollard	4	ea	1,500	6,000
S - Interlocking Stone Pavers on Grade	2,073	sf	80	165,840
T - Linear Interlocking Stone Pavers on Grade	542	sf	80	43,360
WW - Handrails	180	lf	250	45,000
W - Stairs	180	lf	300	54,000
X - Black Basalt Flamed Top Pavers on Grade	1,853	sf	100	185,300
Allow Utilities	75%	ls	100,000	75,000
Allow Irrigation	75%	ls	60,000	45,000
Pour in Place Concrete with Integral Color	2,543	sf	50	127,150
Curb or Wall for Stairs and Blackened Elements	180	lf	350	63,000
DIRECT COSTS				**1,508,700**
GENERAL CONDITIONS				**0**
Sub Guard	1.15%			17,350
General Liability	0.00%			0
Payment and Performance Bonds	0.00%			0
INSURANCE AND BONDS SUBTOTAL				**17,350**
SF Business Tax (.0035 thru GC's Books)	0.0035			4,461
GC Construction Contingency	12.00%			150,870
GENERAL MARKUPS SUBTOTAL				**155,331**
TOTAL HARD COSTS				**1,681,381**
Escalation (1 yr)	5.00%			84,069
TOTAL HARD COSTS (w/ Escalation)				**1,765,450**

GIACALONE
DESIGN SERVICES, INC.

3/4/2019

Job #: 16-184

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Otis - Relocation And Temp Power Joint Trench Budget

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Budget Summary

Total Cost Per Foot - 400 Feet	**$4,371.74**

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San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

GENERAL PLAN CONSISTENCY DETERMINATION AND CEQA FINDINGS

December 11, 2023

Ms. Carla Short
Director
San Francisco Public Works
49 South Van Ness Avenue
San Francisco, CA 94103

Project Title:	30 Otis Street Project (Approval of Encroachments and Sidewalk Easement)
Assessor's Blocks(s)/Lot(s):	3505/084; 3505/085; and 3505/086
Record No.	2015-010013ENVDNXVARSHD
Zoning District(s):	C-3-G (Downtown – General) Zoning District; NCT-3 Moderate-Scale Neighborhood Commercial Transit Zoning District; 85/250-R-2 Height and Bulk District; 85-X Height and Bulk District; Van Ness & Market Downtown Residential Special Use District
Staff Contact:	Amnon Ben-Pazi; 628.652.7428; Amnon.Ben-Pazi@sfgov.org

Dear Ms. Short:

This letter addresses the Board of Supervisors' proposed approval of a public sidewalk easement ("Easement Agreement") and encroachment permit and maintenance agreement ("Encroachment Agreement") associated with the construction of a public plaza as part for the 30 Otis Street Project (Planning Department Record No. 2015-010013ENVDNXVARSHD), which is located on the following Assessor's Parcels: Block 3505, Lots 084, 085, and 086.

On September 27, 2018 and June 6, 2019, the San Francisco Planning Commission issued a series of approvals for the 30 Otis Street Project. These approval actions included certification of the Final Environmental Impact Report ("FEIR") for the Project by Motion No. 20291, adoption of California Environmental Quality Act ("CEQA") findings by Motion No. 20292, adoption of a Downtown Project Authorization by Motion No. 20293, and approval of an impact fee waiver for the cost of constructing the encroachments by Motion No. 20457, including General Plan and Planning Section 101.1 consistency findings.

On December 8, 2023, the Project sponsor agreed to satisfy its obligation under Project Mitigation Measure TR-1a to reimburse the San Francisco Municipal Transportation Agency for the cost of constructing the bus-boarding island and cycle track on Otis Street between South Van Ness Avenue and Brady Street. Planning Department staff has reviewed the Encroachment Agreement and Easement Agreement and considered the other actions comprising the Board of Supervisors legislation and finds them consistent with the Planning Commission's approvals. Therefore, Planning Department staff finds that the Board of Supervisors approval actions are within the scope of the FEIR and the CEQA

findings of Planning Commission Motion Nos. 20291 and 20292, and, on balance, consistent with the General Plan and Planning Code Section 101.1 consistency findings of Motion Nos. 20293 and 20457. For purposes of the Board of Supervisors action identified in this letter, the Planning Department Staff relies on and incorporates by reference these Planning Commission Motions and their associated findings.

Sincerely,

Amnon Ben-Pazi

Amnon Ben-Pazi
Senior Planner

cc: (via email)

Madison Tam, Legislative Aide, Office of Supervisor Matt Dorsey
Javier Rivera, Public Works
WorksJoshua Switzky, Acting Director of Citywide Planning, Planning Department
Peter R. Miljanich, Deputy City Attorney, Office of City Attorney David Chiu

San Francisco Public Works
General – Director's Office
49 South Van Ness Ave., Suite 1600
San Francisco, CA 94103
(628) 271-3160 www.SFPublicWorks.org

Public Works Order No: 207160

Notice is hereby given that the Director of Public Works will hold a remote public hearing via teleconference to consider the item(s) listed below and that said public hearing will be held as follows:

DATE: November 23, 2022

Time: 10:00 AM Pacific Time (US and Canada)

Location: REMOTE MEETING VIA VIDEOCONFERENCE

You are invited to a Zoom webinar. When: November 23, 2022 10:00 AM Pacific Time	https://us06web.zoom.us/j/86463600702
Or iPhone one-tap :	+16694449171,,86463600702# or +16699006833,,86463600702#
Telephone	+1 669 444 9171 or +1 669 900 6833
Webinar ID	864 6360 0702

PUBLIC HEARING TO CONSIDER A REQUEST FROM THE PROPERTY OWNER OF 30 OTIS STREET, FOR A MAJOR SIDEWALK ENCROACHMENT PERMIT FOR THE CONSTRUCTION OF AN APPROXIMATELY 7,200-SQUARE FOOT PUBLIC PLAZA AT THE CORNER OF 12TH STREET AND SOUTH VAN NESS AVENUE, FRONTING THE SUBJECT PROPERTY AT **30 OTIS STREET (BLOCK 3505, LOTS 010, 012, 013, 016 AND 018).**

As the COVID-19 virus situation evolves, please visit the Public Works website (sfpublicworks.org) regularly to be updated on the current situation as it affects public hearings and the department.

Persons unable to participate in the videoconference may submit written comments regarding the subject matter to Bureau of Street Use and Mapping at 49 South Van Ness Avenue. Suite 300, San Francisco, CA 94103 or email to Berhane. Gaime at Berhane.gaime@sfdpw.org or SFPW-BSM BSMpermitdivision@sfdpw.org. Comments received before the hearing will be brought to the attention of the hearing officer and made a part of the official public record.

Further information, if desired, on this matter may be obtained prior to the hearing by contacting Berhane Gaime at Berhane.gaime@sfdpw.org Or BSMpermitdivision@sfdpw.org.

X DocuSigned by: David A. Steinberg
D69ABE625C5AD458...

Steinberg, David
Exec Asst to the Director

SAN FRANCISCO PUBLIC WORKS HEARING

Wednesday, November 23rd, 2022 – 10:00am

Hearing Officer Recommendations (Jon Swae)

Order No. 207160

Major Sidewalk Encroachment Permit (30 Otis Street)

Public Works Staff: Berhane Gaime

Description: To consider a request from the property owner of 30 Otis Street, for a major sidewalk encroachment permit for the construction of an approximately 7,200-square foot public plaza at the corner of 12th Street and South Van Ness Avenue, fronting the subject property at 30 Otis Street (block 3505, lots 010, 012, 013, 016 and 018).

Recommendation: Approve BSM's encroachment permit for the proposed public plaza at 12th Street and South Van Ness Avenue.

This project will create a large public plaza outside the new 30 Otis building at the corner of South Van Ness and 12th Street. The project will create a new public space and beautify the area with decorative paving, landscaping and a water feature. The proposed plaza would be maintained by the Project Sponsor. There was no public opposition to this proposal received at the hearing or in writing.

San Francisco Public Works
General – Director's Office
49 South Van Ness Ave., Suite 1600
San Francisco, CA 94103
(628) 271-3160 www.SFPublicWorks.org

Public Works Order No: 207438

DIRECTOR'S RECOMMENDATION APPROVAL OF MAJOR (STREET) ENCROACHMENT PERMIT TO CONSTRUCT IMPROVEMENTS WITHIN 12th STREET BETWEEN OTIS STREET AND SOUTH VAN NESS AVENUE FRONTING THE SUBJECT PROPERY AT 30 OTIS STREET (BLOCK 3505, LOTS 010, 012, 013, 016 AND 018).

APPLICANT: Otis Property Owner, LLC, a Delaware limited liability company
c/o Align Real Estate,
255 California Street, Suite 525,
San Francisco, CA 94111

PROPERTY IDENTIFICATION: LOTS 010, 012, 013, 016 AND 018 in Assessor's Block 3505
30 Otis Street
San Francisco, CA 94103

DESCRIPTION OF REQUEST: Major (Street) encroachment permit No. 19ME-00006 to occupy a portion of the public right-of-way to improve, construct and maintain a public plaza that will include irrigation lines, a warped sidewalk, reflection pool, concrete hardscape finishes, concrete sculptural features, planting areas and railing within the public right-of-way area at the northwest corner of the intersection of 12th Street, South Van Ness Avenue, and Otis Street, and as shown in Street Improvement Permit 18IE-0815.

LOCATION: Corner of the intersection of 12th Street, South Van Ness Avenue, and Otis Street, and as show in Street Improvement Permit 18IE-0815.

BACKGROUND:

1. The applicant filed a letter with San Francisco Public Works (SFPW) to consider approval of a Major (Street) Encroachment Permit to improve and construct a new public open space/Plaza. The proposed public plaza is part of the development of 30 Otis Street and is an in-kind agreement.
2. The street encroachment area is generally defined as the right of way located at westerly corner of the intersection of Otis St., 12th St., and South Van Ness Ave. as shown in Street Improvement Permit 18IE-0815.
3. The Street Encroachment Permit includes the following encroachments: a public plaza, irrigation lines, a warped sidewalk, a reflection pool, concrete hardscape finishes, concrete sculptural features, planting areas and railing.
4. Construction of the proposed encroachments is permitted under Street Improvement Permit 18IE-0815
5. The Planning Department, by letter dated July 16, 2019, found the project, on balance, and in conformity with the General Plan.
6. The Transportation Advisory Staff Committee (TASC), at its meeting of August 27, 2020, had no objection and recommended the proposed encroachment for approval.
7. The proposed encroachments identified under this Street Encroachment Permit have either been described in or are consistent with the project described in the Street Improvement Permit 18IE-0815.

8. SFPW scheduled a public hearing for November 23, 2022, to consider the proposed encroachment. On November11, 2022, the applicant mailed and posted hearing notices for the Public Hearing to all property owners within a 300-foot radius of the subject location.
9. One public comment was received during the notification period.
10. Public Works held a public hearing on the Major Street Encroachment Permit on 11//23/2022 in accordance with Public Works Code Sections 786 et seq.
11. Hearing Officer Jon Swae conducted the public hearing on the merits of the Major (Street) Encroachment Permit
12. Logan William representing Otis Property Owner, LLC, the developer/owner of the subject property attended the public hearing. Mr. William testified that the renderings have been updated since the original submittal and Hearing Office Jon Swae request that Mr. William submit the revised renderings.
13. Mr. Phillip Wong in supports of the project attended the hearing.
14. No other testimony was presented at the public hearing in favor or in opposition to the encroachment.
15. On **12/2/2022**, the Hearing Officer made his recommendation after the hearing and reviewing application, plans, and other documents contained in the Public Works files and receiving updated rendering.
16. The Hearing Officer considered and reviewed all SFPW's files on this encroachment, revised rendering. Based on the information the Hearing Officer made his decision on December 2, 2022, to recommend the proposed Major (Street) Encroachment to the Board of Supervisors for approval.

HEARING OFFICER RECOMMENDATION: APPROVAL of the request for a Major (Street) Encroachment Permit based on the following findings:

FINDING 1. Recommendation for approval by TASC.

FINDING 2. Finding by Planning Department's and its Commission that the proposed infrastructure improvements are consistent with objectives and policies of the General Plan.

FINDING 3. Said encroachments comply with the Market Street Hub Public Realm Plan.

FINDING 4. Said encroachments will create a large public plaza outside the new 30 Otis Street building at the corner of South van ness and 12th Street. The project will create a new public space and beautify the area with decorative paving landscaping and a water future provides a safe and comfortable public right-of-way for shared use and improves the quality of life in the neighborhood.

FINDING 5. Said encroachments will be fully maintained in perpetuity by the Permittee, subject to the terms of the 12th Street Plaza (90 12th Street) encroachment agreement and the maintenance agreement.

Director's Recommendation:
The Director concurs with the Hearing Officer and conditionally recommends to the Board of Supervisors to approve the subject Major Encroachment Permit with consideration of the following conditions and findings, and waive the public right-of-way occupancy assessment fee pursuant to Public Works Code Section 786.7(f)(4).
CONDITION OF RECOMMENDATION: The Applicant shall submit and fulfill all Major Encroachment Permit requirements to the Department, including but not limited to the following conditions.

CONDITION 1: The Applicant shall sign encroachment agreement accepting responsibility for the construction, maintenance, and liability of the proposed and conditionally approved encroachment.

CONDITION 2: The Applicant shall submit evidence of General Commercial Liability Insurance as required by the Department.

CONDITION 3: Following approval by the Board of Supervisors, the Applicant shall construct the encroachments with a separate Street Improvement Permit issued by Public Works.

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Huff, Nicolas
Bureau Maganger

X DocuSigned by: Nicolas Huff C0A758C115B741C...

Ko, Albert J
Deputy Director and City Engineer

X DocuSigned by: 073CF73A4EA6486...

Short, Carla
Interim Director of Public Works)

SAN FRANCISCO
PLANNING DEPARTMENT

General Plan Referral

1650 Mission St.
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San Francisco,
CA 94103-2479

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Date:	July 16, 2019
Case No.	**Case No. 2015-010013GPR** **30 Otis Street Improvements**
Block/Lot No.:	3505/010, 012, 013, 016, 018
Project Sponsor:	Michael Abella San Francisco Public Works 1155 Market Street, 3rd Floor San Francisco, CA 94103
Applicant:	Align Otis, LLC c/o Reuben, Junius, & Rose, LLP One Bush Street, Suite 600 San Francisco, CA 94104 (415) 567-9000 ttunny@reubenlaw.com
Staff Contact:	Ben Caldwell – (415) 575-9131 *Ben.caldwell@sfgov.org*
Recommendation:	Finding the project, on balance, is **in conformity** with the General Plan
Recommended By:	John Rahaim, Director of Planning

PROJECT DESCRIPTION

The General Plan Referral Application is for street improvements to public rights-of-ways (ROWs) adjacent to the 30 Otis Project site (30 Otis St), at the corner of 12th Street, Otis Street, and South Van Ness Avenue. Improvements would be made to the ROWs of 12th St, and South Van Ness Avenue, and 12th Street would be realigned, consistent with the approved plans for this intersection as part of the Van Ness Improvement and Bus Rapid Transit (BRT) project, currently under construction, as well as with the concepts design for this intersection created during the Market Octavia Plan Amendment ("The Hub"). The project would expand the existing 15-foot-wide sidewalk on the west side of 12th Street and join it with the existing

median island along South Van Ness Avenue to create an approximately 7,200-sq. ft. public plaza, ranging from 17 to 77 feet wide, at the corner of 12th Street and South Van Ness Avenue.

On September 27, 2018, the Planning Commission approved the 30 Otis project, through Motion No. 20293. The project consists of a consists a new 250' tall mixed-use building containing 416 residential units, 2,199 square feet of retail, 15,993 square feet of arts activities space and a theater to be occupied by the City Ballet School.

On June 6th, 2019, the Planning Commission approved, through Motion No. 20457, an impact fee waiver for the 30 Otis Project in the amount of $3,000,000 to provide the new pedestrian plaza and public space improvements at the corner of 12th St, Otis Street, and South Van Ness Avenue, based on the completion of an in-kind agreement between the project sponsor and the City

The submittal is for a General Plan Referral to recommend whether the Project is in conformity with the General Plan, pursuant to Section 4.105 of the Charter, and Section 2A.52 and 2A.53 of the Administrative Code.

ENVIRONMENTAL REVIEW

The project received CEQA clearance under the 30 Otis Project EIR, certified by the Planning Commission on September 27, 2018, Motion No. 20293, Case No. 2015-010013ENV.

GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

On September 27, 2018, the Planning Commission took the following actions regarding the 30 Otis Project:

- Certified the Final Environmental Impact Report (Motion No. 20293)
- Adopted CEQA Finding including a statement of overriding considerations (Motion No. 20293)
- Adopted Findings of Consistency with the General Plan and Planning Code Section 101.1 (Motion No. 20293)

Because the street improvements of public rights-of-ways (ROWs) within the 30 Otis Project site would further the Project, the Planning Commission's actions regarding CEQA consistency with the General Plan and Planning Code Section 101.1 are applied here.

RECOMMENDATION:	**Finding the Project, on balance, in-conformity with the General Plan**

Attachments

Street Improvement Concept Design Plans
Planning Commission Motion 20293

SAN FRANCISCO
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Planning Commission Motion No. 20293

HEARING DATE: SEPTEMBER 27, 2018

Record No.:	**2015-010013ENVDNXVARSHD**
Project Address:	**30 OTIS STREET**
Zoning:	C-3-G (Downtown – General) Zoning District NCT-3 Moderate-Scale Neighborhood Commercial Transit Zoning District 85/250-R-2 Height and Bulk District 85-X Height and Bulk District Van Ness & Market Downtown Residential Special Use District
Block/Lot:	Block 3505; Lots 010, 012, 013, 016, and 018
Project Sponsor:	Jessie Stuart, Align Real Estate 255 California Street, Suite 525 San Francisco, CA 94111
Staff Contact:	Andrew Perry – (415) 575-9017 andrew.perry@sfgov.org
Reviewed by:	Claudine Asbagh – (415) 575-9165 claudine.asbagh@sfgov.org

ADOPTING FINDINGS TO APPROVE A SECTION 309 DETERMINATION OF COMPLIANCE AND REQUEST FOR EXCEPTIONS FOR LOT COVERAGE (SECTION 249.33) AND REDUCTION OF GROUND-LEVEL WIND CURRENTS (SECTION 148) AND ADOPTING FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE PROJECT WOULD DEMOLISH FIVE EXISTING BUILDINGS AND CONSTRUCT A 398,365 SQUARE FOOT MIXED USE BUILDING WITH A 9-STORY (85-FOOT TALL) PODIUM ACROSS THE ENTIRE SITE AND A 26-STORY (250-FOOT TALL) TOWER. THE PROJECT WOULD CONTAIN 416 DWELLING UNITS, APPROXIMATELY 2,199 SQUARE FEET OF GROUND FLOOR RETAIL, APPROXIMATELY 15,993 SQUARE FEET OF ARTS AND ACTIVITIES SPACE, APPROXIMATELY 31,290 SQUARE FEET OF USEABLE OPEN SPACE, 256 BICYCLE PARKING SPACES (224 CLASS 1, 32 CLASS 2), AND 95 VEHICULAR PARKING SPACES AND THREE CAR-SHARE SPACES WITHIN THE DOWNTOWN–GENERAL (C-3-G) ZONING DISTRICT, THE MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT (NCT-3), THE 85/250-R-2 AND 85-X HEIGHT AND BULK DISTRICTS, AND THE VAN NESS AND MARKET DOWNTOWN RESIDENTIAL SPECIAL USE DISTRICT.

PREAMBLE

On September 23, 2015, Align Real Estate (hereinafter "Project Sponsor") filed an Environmental Evaluation application (2015-010013ENV) with the Planning Department (hereinafter "Department") for a project at 30 Otis Street, to include the properties at Block 3505, Lots 010, 012, 013, 016 and 018 (hereinafter "Project Site").

On May 10, 2016, the Project Sponsor filed an application requesting approval of a Downtown Project Authorization pursuant to Section 309 of the San Francisco Planning Code.

On July 20, 2016, the Project Sponsor filed an application requesting a Shadow Determination.

On June 19, 2017, the Project Sponsor filed an application requesting approval of a Transportation Demand Management Program pursuant to Section 169 of the San Francisco Planning Code.

On March 8, 2018, the Project Sponsor filed an application for and an In-Kind Fee Waiver Agreement for public realm improvements pursuant to Planning Code Sections 421.3(d) and 424.3(c).

On August 24, 2018, the Project Sponsor submitted applications requesting approval of a.) Variances for Awning obstructions (Planning Code Section 136.1), Dwelling Unit Exposure (Planning Code Section 140), and Ground Floor Ceiling Height (Planning Code Section 145.1(c)(4)); b.) a Rear Yard Modification pursuant to Planning Code Section 134(e)(1); and, c.) an Elevator Penthouse Height Exemption, pursuant to Planning Code Section 260(b)(1)(B).

On July 19, 2018 the San Francisco Planning Commission (hereinafter "Commission") held a duly noticed public hearing on the Draft Environmental Impact Report ("DEIR"), at which opportunity for public comment was given, and public comment was received on the DEIR. The period for commenting on the DEIR ended on July 27, 2018. The Department prepared responses to comments on environmental issues received during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected clerical errors in the DEIR.

On September 13, 2018, the Planning Department published a Response to Comments ("RTC") on the DEIR. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the public review process, any additional information that became available, and the RTC document, all as required by law.

On September 27, 2018, the Commission reviewed and considered the FEIR and found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. ("CEQA"), particularly Section 21081 and 21081.5, the Guidelines for Implementation of CEQA, 14 California Code of Regulations Section 15000 et seq. ("CEQA Guidelines"), Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The FEIR was certified by the Commission on September 27, 2018 by adoption of its Motion No. 20291.

At the same hearing and in conjunction with this motion, the Commission made and adopted findings of fact and decisions regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, a statement of overriding considerations and a mitigation and monitoring reporting program, based on substantial evidence in the whole record of this proceeding and pursuant to CEQA, the CEQA Guidelines, and Chapter 31 by its Motion No. 20292. The

Commission adopted these findings as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting these CEQA findings. The Commission hereby incorporates by reference the CEQA findings set forth in Motion No. 20292.

On September 5, 2018 the Capital Committee of the Recreation and Park Commission, and on September 20, 2018, the full Recreation and Park Commission conducted duly noticed public hearings at regularly scheduled meetings and recommended that the Planning Commission find that the shadows cast by the Project would be insignificant to the use of the proposed park at 11th and Natoma Streets.

On September 27, 2018, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting regarding the Downtown Project Authorization, Variance and Rear Yard Modification applications 2015-010013ENVDNXVARSHD. At the same hearing, the Commission determined that the shadow cast by the Project would not have any adverse effect on parks within the jurisdiction of the Recreation and Parks Department. The Commission heard and considered the testimony presented to it at the public hearing and further considered written materials and oral testimony presented on behalf of the applicant, Department staff and other interested parties, and the record as a whole.

The Planning Department Commission Secretary is the custodian of records; the File for Record No. 2015-010013ENVDNXVARSHD is located at 1650 Mission Street, Suite 400, San Francisco, California.

MOVED, that the Commission hereby approves the Downtown Project Authorization as requested in Application No. 2015-010013ENVDNXVARSHD, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.

2. **Project Description.** The Project would demolish the five existing buildings and construct a new 398,365 gross square-foot mixed-use building containing 416 residential units, 2,199 square feet of retail, 15,993 square feet of arts activities space and a theater to be occupied by the City Ballet School. The project provides 95 residential parking spaces, three car-share spaces, a total of 224 Class 1 bicycle parking spaces and 32 Class 2 bicycle parking spaces. The building consists of a 9-story, 85-foot tall podium across the entire site and a 26-story, 250-foot tall tower located at the southeast corner of the site, at the Otis and 12th Street intersection. The project provides approximately 31,290 square feet of usable open space including a privately owned public space along Otis Street. Additionally, the project would expand the 15-foot wide sidewalk on the west side of 12th Street to create an approximately 7,200 square foot public plaza ranging from 17 to 77 feet wide at the corner of 12th Street and South Van Ness Avenue.

3. **Site Description and Present Use.** The Project Site is located at 30 Otis Street at the intersection of Otis and 12th Streets and South Van Ness Avenue (U.S. 101) in the South of Market ("SoMa") neighborhood, within both the Downtown and the Market/Octavia Area Plan; the Project Site is also located within the pending Hub Area of the Market/Octavia Area Plan.

   The Project Site is made up of five contiguous lots within Assessor's Block 3505, Lots 010, 012, 013, 016 and 018; in total, a 36,042 square-foot (sf) site with frontage along Otis Street to the north, 12st Street to the west, and Colusa Alley and Chase Court to the south. The Project Site measures about 251 feet along the Otis Street frontage, 150 feet along 12th Street, and 120 feet along the Colusa Alley and Chase Court frontage. The parcel at 74 12th Street (Lot 010) is developed with a one-story building occupied by an automotive auto body repair use. 90-98 12th Street (Lot 012) is developed with a one-story plus mezzanine building used for retail sales. The parcel at 14-18 Otis Street (Lot 013) is developed with a three-story building occupied by office use. The largest parcel, 30 Otis (Lot 016), houses a two-story building used for automotive glass repair on the first floor and a ballet school (City Ballet School) on the second floor. The last parcel, 38 Otis (Lot 18) is occupied by a one-story building used for automotive repair.

   In addition to the building site, the Project site also includes surrounding areas within the adjacent public rights-of-way in which streetscape improvements including a public plaza would be constructed as part of the proposed Project.

4. **Surrounding Properties and Neighborhood.** The Project site is located in the C-3-G (Downtown Commercial, General) District, characterized by a variety of retail, office, hotel, entertainment, and institutional uses, and high-density residential. A portion of the Project site is also located in the NCT-3 (Moderate-Scale Neighborhood Commercial Transit) District, which is intended in most cases to offer a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood, additionally providing convenience goods and services to the surrounding neighborhoods.

   The existing buildings on the surrounding block are mostly smaller structures, one- to three-stories in height and predominantly occupied by commercial and industrial uses, including multiple automotive shops. To the west of the site along Brady Street are a limited number of residential buildings, two- to four-stories in height. There is also an existing five-story residential hotel (Civic Center Hotel) to the north at 20 12th Street (a.k.a. 1601 Market Street).

   There are several proposed developments within the immediate vicinity that will significantly alter the existing neighborhood character, most notably through a significant increase in residential units. Not including the subject project, it is anticipated that these developments would result in approximately 2,200 new dwelling units. The anticipated developments include: a) 1629 Market Street – five new buildings, approx. 584 units and rehabilitation of the Civic Center Hotel, new retail and assembly space, and the new Brady Park; b) 42 Otis – 24 SRO units and ground floor retail; c) 10 South Van Ness – approx. 850 units; d) 1500 Mission Street –

approx. 550 dwelling units and a City office building; and e) 1601 Mission Street – approx. 220 dwelling units.

The Project Site is bounded by Otis Street to the south and 12th Street and South Van Ness Avenue to the east, all of which are proposed for extensive streetscape improvements and redesign, including major transit improvements in the way of new bicycle lanes, a bus island, and most notably, construction of the Van Ness Bus Rapid Transit (BRT) project.

5. **Public Outreach and Comments.** To date, the Department has not received any public comments on the proposal, outside of the comments that have already been documented and incorporated into the Environmental Impact Report.

   The Project has been in the pipeline since September 2015 when the Environmental Evaluation Application was first submitted. On April 19, 2016, the Project Sponsor hosted a pre-application/community meeting, which was held at 95 Brady Street. Since time of submittal in September 2015, the Project Sponsor has been actively engaged with neighbors and community groups and has presented at or hosted more than 40 large, small, and one-on-one meetings to review the proposed project and streetscape design. The Project Sponsor has reviewed the project with all adjacent neighbors and project sponsors of proposed projects within the vicinity.

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

   A. **Floor Area Ratio.** Pursuant to Sections 123, 249.33 and 424 of the Planning Code, Projects in the C-3-G Zoning District and the Van Ness and Market Downtown Residential Special Use District have a base floor area ratio ("FAR") of 6.0:1 and may reach a FAR of 9.0:1 with payment into the Van Ness and Market Affordable Housing Fund as set forth in Sections 249.33 and 424. To exceed a floor area ratio of 9.0:1, all such projects must contribute to the Van Ness and Market Neighborhood Infrastructure Fund. Pursuant to Sections 124 and 752 of the Planning Code, Projects in the NCT-3 District have a base FAR of 3.6:1.

   The Project Site has a lot area of approximately 36,042 square feet, with approximately 7,251 square feet located within the NCT-3 District and 28,791 square feet within the C-3-G District. As shown in the conceptual plans, the Project includes 398,365 gross square feet of development. Within the NCT-3 District, residential uses do not count toward the stated FAR limit. For the Project, 6,010 gross square feet of non-residential uses within the NCT-3 District contribute toward the FAR limit, a ratio of 0.83:1. Within the C-3 District, the Project contains 349,037 gross square feet, an FAR of 12.12:1. Since the portion of the Project within the C-3-G District exceeds a FAR of 6.0:1, the Project would make a payment pursuant to Section 249.33 and 424 to the Van Ness and Market Affordable Housing Fund for the Floor Area exceeding the base FAR ratio of 6.0:1 up to a ratio of 9.0:1 and make a payment pursuant to Section 424 to the Van Ness and Market Neighborhood Infrastructure Fund for the Floor Area exceeding the FAR ratio of 9.0:1.

B. **Rear Yard Requirement.** For the portion of the Project site located within the NCT-3 District, Planning Code section 134(a)(1) requires a rear yard equal to 25 percent of the total depth of the lot, but in no case less than 15 feet. Within the Van Ness and Market Downtown Residential Special Use District, pursuant to Planning Code Section 249.33(b)(5), Rear Yard requirements do not apply. Rather, lot coverage is limited to 80 percent at all residential levels, except on levels in which all residential units face onto a public right-of-way.

For the portion of the site within the NCT-3 District, the required rear yard depth ranges from 32 feet, 6 inches to 15 feet at a small portion of the site, for a total rear yard area of 1,833 square feet. The Project is providing a rear yard that will vary in depth from 20 feet, 9 inches to 29 feet, 6 inches, and will contain approximately 1,305 square feet. The provided rear yard setback does not comply with Planning Code section 134(a)(1); therefore, a modification is requested.

The Project proposes residential uses at the second floor and above. The Project must comply with maximum lot coverage restrictions at floors three and above for the portion of the building located within the Van Ness and Market Downtown Residential SUD. At floors 3-9, the Project proposes lot coverage of 81.6 percent, and lot coverage of 33.9 percent at floors 10-26. Therefore, a Section 309 exception is requested. (See Section 7, below, for 309 findings.)

C. **Residential Open Space.** Planning Code Section 135 requires that private open space be provided at a ratio of 36 square feet per dwelling unit in the C-3-G District and 80 square feet per dwelling unit in the NCT-3 District; if provided as common usable open space, these ratios increase to 48 and 100 square feet per dwelling unit, respectively. Open space meeting the requirements of Privately-Owned Public Open Spaces (POPOS) and the requirements of common usable open space for residential uses may be used to count towards the open space requirements of both Sections 135 and 138. Projects within the Van Ness and Market Downtown Residential Special Use District may satisfy the requirement by locating up to 40 percent of the open space off-site if the space is located within the Special Use District or 900 feet of the project site, and meets standards described in Section 249.33.

The Project includes 416 dwelling units, of which 46 are located within the NCT-3 District portion of the site and 370 within the Van Ness and Market Downtown Residential Special Use District. The Project would provide private open space for 4 units within the NCT-3 District and 103 units within the Van Ness and Market Residential Special Use District in the form of private terraces and balconies. The remaining 42 units in the NCT-3 District require 4,200 square feet of common usable open space, and the remaining 267 units in the C-3-G District require 12,816 square feet, for a total of 17,016 square feet.

The Project would provide 19,013 square feet of common useable open space in the form of outdoor terraces and decks and an enclosed solarium; these common areas are located throughout the building at floors 2, 3, 9, 10, and 27. Additionally, privately-owned public open space would be provided in a 960-square-foot ground floor plaza along Otis Street.

The Project Sponsor will enter into an in-kind agreement with the City to expand the existing 15-foot-wide sidewalk on the west side of 12th Street to create an approximately 7,200-sf public plaza at the corner of 12th Street and South Van Ness Avenue ("12th Street Plaza"), which is located within 900 feet of the Project Site. This plaza has not been included in the open space calculations above.

D. **Public Open Space.** New buildings in the C-3-G District must provide public open space at a ratio of one square feet per 50 gross square feet of all uses, except residential uses, institutional uses, and uses in a predominantly retail/personal services building, pursuant to Planning Code Section 138. This public open space must be located on the same site as the building or within 900 feet of it within a C-3 district. There is no privately-owned public open space requirement in the NCT-3 District.

Ground floor retail space in the C-3 Districts that is less than 5,000 sq. ft. is excluded from gross floor area and is therefore not required to provide the associated publicly accessible open space. The Project includes approximately 2,199 square feet of ground floor retail space, and thus the provision of public open space is not required for the ground floor retail uses.

The Project also includes 15,993 square feet of arts activity space and is therefore required to provide 320 square feet of privately-owned public open space. The Project will provide 960-square feet of privately-owned public open space in a ground floor plaza along Otis Street. Additionally, the Project Sponsor will enter into an in-kind agreement with the City to expand the existing 15-foot-wide sidewalk on the west side of 12th Street to create an approximately 7,200-sf public plaza at the corner of 12th Street and South Van Ness Avenue ("12th Street Plaza"), which is located within 900 feet of the Project Site.

E. **Streetscape Improvements.** Planning Code Section 138.1 requires that when a new building is constructed on a lot that is greater than half an acre in area and contains 250 feet of total lot frontage, pedestrian elements in conformance with the Better Streets Plan shall be required.

The Project is located on an assemblage of five lots that measure 36,042 square feet (approximately 0.83 acres) with 401 feet of frontage along Otis and 12th Streets. Physical widening along the Otis Street frontage is not possible. However, the Project proposes improvements in the Otis and 12th streets public rights-of-way that would include new publicly accessible open spaces, and new street trees and landscaped areas. The streetscape improvements would create a 960-square-foot plaza fronting the podium lobby on Otis Street. In addition, the proposed Project would create the 12th Street Plaza. Therefore, the Project complies with Planning Code Section 138.1.

F. **Exposure.** Planning Code Section 140 requires all dwelling units in all use districts to face onto a public street at least 20 feet in width, side yard at least 25 feet in width or open area which is unobstructed and is no less than 25 feet in every horizontal dimension for the floor at which the dwelling unit is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor.

The majority of the dwelling units in the proposed project comply with exposure requirements by facing onto one of the public streets bordering the site. Of those units that do not immediately face onto a public street, the majority are able to meet exposure by facing onto a 25' by 25' expanding open area, which for many units comes through provision of an inner court within the podium beginning at the third floor level. However, three units on the second level within the NCT-3 District do not meet exposure requirements; these units face onto a modified rear yard and do not overlook the public alley beyond due to the presence of a garage exhaust vent. The Project requests and meets the criteria for a rear yard modification in that the Project provides a comparable amount of usable open space elsewhere on the lot, and will not adversely affect the light and air to adjacent properties or the interior midblock open space. A variance from dwelling unit exposure is requested for these three units, which represent less than one percent of the total units in the project.

G. **Street Frontage in Commercial Districts: Loading and Driveway Width.** Section 145.1(c)(2) limits the width of parking and loading entrances to no more than one-third the width of the street frontage of a structure, or 20 feet, whichever is less.

The Project accommodates all parking and off-street loading via a single 15-foot, 6-inch-wide curb cut along 12th Street; two 10-foot wide garage doors provide access to the basement residential parking and at-grade off-street loading. As no more than 20 feet is devoted to parking and loading entrances, the Project complies with Section 145.1(c)(2).

H. **Street Frontage in Commercial Districts: Active Uses.** Planning Code Section 145.1(c)(3) requires that space for "active uses" shall be provided within the first 25 feet of building depth on the ground floor, and the first 15 feet above the ground floor.

At the ground floor, the Project includes an entry for the ballet school, three retail spaces (two along Otis, and one wrapping the corner of Otis and 12th Streets), residential amenity space, the leasing office for the building, and a residential lobby. Both the residential amenity space and the leasing office will have access directly to the public sidewalk, and therefore meet the intent of this section since they are considered active uses. The residential lobby along 12th Street would be limited to 40 feet in width, in compliance with the Code requirement. The remainder of the ground floor would be for parking and loading access, building egress, and access to mechanical systems, spaces which are exempt from the active use requirement. Above the ground floor, all building frontages contain residential uses and are considered active uses. Therefore, the Project complies with Section 145.1(c)(3).

I. **Street Frontage in Commercial Districts: Ground Floor Ceiling Height.** Planning Code Section 145.1(c)(4) requires that ground floor non-residential uses in all C-3 and NCT Districts have a minimum floor-to-floor height of 14 feet, as measured from grade.

The Project proposes various floor-to-floor heights along the Otis and 12th Street frontages which contain non-residential uses, ranging from 12'-9" to 21' 10" at the residential lobby and corner retail space. The Project Site has a 13-foot grade change between Otis Street and Chase Court at the rear. In

order to accommodate the grade change and also keep the non-residential uses along Otis and 12th Streets at grade level (as required per Section 145.1(c)(5)), the Project is not able to provide the full 14' height as required by Code; therefore a variance is required.

J. **Street Frontage in Commercial Districts: Ground Floor Transparency.** Planning Code Section 145.1(c)(6) requires that frontages with active uses that are not residential or PDR must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building.

The Project complies with the Ground Floor Transparency requirements of the Planning Code. Approximately 84 percent of the Project's frontage on Otis Street, and 68 percent of the Project's frontage along 12th Street are fenestrated with transparent windows and doorways. Therefore, the Project complies with Section 145.1(c)(6).

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

The shadow analysis determined that the Project may cast additional shadow on two public plazas or accessible open spaces, other than those protected under Section 295 – McCoppin Hub and the future Brady Park. The potential shadow cast upon McCoppin Hub is very minimal, occurring only on June 21st in the morning, lasting approximately six and a half minutes and covering an area of approximately 19.6 square feet, relative to the overall 6,454 square foot park.

Brady Park would be an approximately 21,000-square foot park, constructed as part of the private development at 1629 Market Street. The park is expected for passive recreation use, however, the exact design and layout of the park is unknown at this time, as is its timing for construction and opening. When constructed, Brady Park will have existing shading from the five buildings that were approved as part of the 1629 Market Street project, estimated at roughly 46.5% of the Theoretically Available Annual Sunlight (TAAS). The Project at 30 Otis, taken by itself, would increase shading to the park by about 6.5%; however, when analyzed cumulatively with other reasonably foreseeable projects in the vicinity, the potential net contribution of new shadow on the future Brady Park from the 30 Otis project would be minimal. Under CEQA, the Project's shadow on the future Brady Park would not constitute an adverse effect because it would not be expected to substantially and adversely affect the use of the park. Therefore, the Project complies with the requirements of Section 147.

L. **Ground Level Wind.** Planning Code Section 148 requires that new construction in Downtown Commercial Districts will not cause ground-level wind currents to exceed pedestrian comfort levels. This standard requires that wind speeds not exceed 11 miles per

hour in areas of substantial pedestrian use for more than 10 percent of the time year-round, between 7:00 AM and 6:00 PM. The requirements of this Section apply either when preexisting ambient wind speeds at a site exceed the comfort level and are not being eliminated as a result of the project, or when the project may result in wind conditions exceeding the comfort criterion.

Exceptions from the comfort criterion may be granted through the 309 process, but no exception may be granted where a project would cause wind speed to reach or exceed the hazard level of 26 mph for a single hour of the year. Fifty-three (53) test points were selected by Planning Department staff to measure wind speeds around the Project site at ground level. Under existing conditions (without the Project), 2 of the 53 test points exceed the hazard level. These two locations collectively exceed the hazard criterion for a duration of 9 hours annually. With the proposed Project, 1 of the 53 test points exceeds the hazard level – a decrease compared to existing conditions. This one location would exceed the hazard criterion for a duration of four hours annually, which is a five hour decrease compared to existing conditions.

Under existing conditions, 29 of the 53 test points exceed the Planning Code's comfort criterion at ground level more than 10 percent of the time. These 29 test points had average wind speeds of approximately 11.4 miles per hour (mph). With the proposed Project, two additional test points exceeded the comfort criterion (31 of 53 points) with average wind speeds increasing slightly to 12.1 mph. Taken as a whole, the Project does not substantially change wind conditions.

After nearly 2 1/2 years of wind sculpting, the Planning Department and the Project Sponsor concluded that the 250-foot-tall tower cannot be sculpted in a manner that would eliminate all 29 existing comfort exceedances or the 2 new comfort exceedances caused by the Project without unduly restricting the site's high-rise development potential or causing new hazardous conditions. The Project Sponsor therefore requests a Section 309 exception because the Project would not eliminate the existing locations that meet or exceed the Planning Code's comfort criterion despite a lengthy process of iterative wind testing. (See Section 7, below, for 309 findings.)

M. **Parking.** Planning Section 151.1 principally permits up to one car for each four dwelling units (0.25 ratio) within the Van Ness and Market Residential SUD. Pursuant to interim zoning controls passed under Board of Supervisors Resolution 448-17, parking in excess of a 0.25 ratio is not permitted. Parking for the proposed retail use shall not exceed 7% of gross floor area for that use.

The Project contains 416 dwelling units. Thus, a total of 104 spaces are principally permitted (416 x 0.25 = 104) for the dwelling units. The Project proposes 95 parking spaces for the residential use, which is within the principally permitted 104 parking spaces. The Project proposes no parking for the retail uses. Additionally, the Project proposes 3 car-share spaces, 6 motorcycle spaces, and 3 scooter-share spaces, none of which factor into the project's overall parking ratio under Code.

N. **Off-Street Freight Loading.** Planning Code Section 152.1 requires that projects in the C-3 District that include between 200,001 and 500,000 square feet of residential development

must provide two off-street freight loading spaces. The same requirement applies in the NCT-3 District pursuant to Planning Code Section 152. Pursuant to Section 153, two service vehicles may be substituted for each off-street freight loading space, provided that a minimum of 50 percent of the required number of spaces are provided for freight loading.

The Project includes 398,365 gross square feet of development, and thus requires two off-street loading spaces. One off-street freight loading space is provided and the second required loading space is substituted with two service vehicle spaces as permitted by Section 153 of the Planning Code. Accordingly, the Project complies with Section 152.1 of the Planning Code.

O. **Bicycle Parking.** For buildings with more than 100 dwelling units, Planning Code Section 155.2 requires 100 Class 1 spaces plus one Class 1 space for every four dwelling units over 100, and one Class 2 space per 20 units. For unidentified retail uses, 1 Class 1 space is required for every 7,500 square feet of Occupied Floor Area ("OFA") and one Class 2 space is required for every 2,500 square feet of OFA, with a minimum of 2 spaces required. For arts activities uses, a minimum of two Class 1 spaces, or one Class 1 space for every 5,000 square feet of OFA are required, and a minimum of two Class 2 spaces, or one Class 2 space for every 2,500 square feet of OFA are required.

With 416 dwelling units, the Project requires 179 Class 1 spaces for the residential use. The proposed retail spaces, totaling 2,199 square feet would not require any Class 1 bicycle parking. The ballet school arts activity use, with 15,993 square feet requires 3 Class 1 spaces. The Project proposes to provide 216 Class 1 spaces to be made available to residents of the project in a secure bicycle parking room accessed from grade at the rear along Chase Court, and additionally proposes 2 Class 1 spaces for the retail uses, and 6 Class 1 spaces for the ballet school, for a total of 224 Class 1 spaces, in excess of the Code requirement.

For Class 2 spaces, the Project requires 21 spaces for the residential use, the minimum two spaces for the retail uses, and six spaces for the arts activity use, a total of 29 Class 2 spaces. The Project proposes two areas of Class 2 bicycle parking, along the Otis Street frontage and adjacent to the proposed 12th Street Plaza, and would provide a total of 32 spaces within these two areas. Therefore, the Project complies with the Class 1 and Class 2 bicycle parking requirements of the Planning Code.

P. **Car Share.** Planning Code Section 166 requires two car share parking spaces for residential projects with 201 dwelling units plus an additional parking space for every 200 dwelling units over 200. The required car share parking spaces may be provided on the building site or on another off-street site within 800 feet of the building site.

With 416 proposed residential dwelling units, the Project requires a total of three car share spaces. Three spaces will be provided in the on-site garage. Therefore, the Project complies with Planning Code Section 166.

Q. **Transportation Demand Management (TDM) Plan.** Pursuant to Planning Code Section 169 and the TDM Program Standards, any development project resulting in 10 or more dwelling units, or 10,000 occupied square feet or more of any use other than residential, shall be required to comply with the City's TDM Program, and shall be required to finalize a TDM Plan prior to Planning Department approval of the first Building Permit or Site Permit. Development projects with a development application filed or an environmental application deemed complete on or before September 1, 2016 shall be subject to 50% of the applicable target, as defined in the TDM Program Standards.

The Project would include 416 residential units with a total of 95 vehicle parking spaces (0.23 spaces per unit ratio), 2,199 square feet of ground-floor retail use, and 15,993 square feet of arts and activities use. No parking is proposed for the retail or arts activity uses. Therefore, the 95 residential parking spaces for the 416 residential units are used to calculate the TDM Program target points, which for this project is a total of 21 points under the residential land use category. Because the proposed Project's development and environmental applications were deemed complete before September 4, 2016, the Project is only required to meet 50 percent of its applicable target, or 11 points.

The project sponsor has preliminarily identified the following TDM measures from TDM Program Standards: Appendix A to meet the 11 target points.

- ***Parking-1: Unbundled Parking, Location D – 4 points** (residential neighborhood parking rate less than or equal to 0.65, and all spaces leased or sold separately from the retail or purchase fee).*
- ***Parking-4: Parking Supply, Option G – 7 points** (residential parking less than or equal to 70 percent, and greater than 60 percent of the neighborhood parking rate).*
- ***Active-1: Improve Walking Conditions, Option A – 1 point** (streetscape improvements consistent with Better Streets Plan).*
- ***Active-2: Bicycle Parking, Option A – 1 points** (providing Planning Code required Class 1 and Class 2 bicycle parking)*
- ***Active-5A: Bicycle Repair Station – 1 point** (bicycle repair station within a designated, secure area within the building, where bicycle maintenance tools and supplies are readily available on a permanent basis).*
- ***Car Share-1: Option A – 1 point** (car share parking as required by Planning Code).*
- ***Info-2: Real Time Transportation Display – 1 point** (provide real time transportation information screen in a prominent location on-site).*

The Project Sponsor could choose to revise the selected TDM measures to exceed the target points prior to issuance of a Site Permit, or to further reduce the parking supply to meet or exceed the target point requirement, but would not be required to do so.

R. **Height and Bulk.** The Project falls within the 85/250-R-2 and 85-X Height and Bulk Districts. In height district 85/250-R-2, there are no bulk limitations below 85 feet in height, and structures above 85 feet in height must meet the bulk limitations described in subsections 270(e)(2)(A) - (F) of the Planning Code. Pursuant to subsection 270(e)(2)(B), buildings

between 241 and 300 feet in height may not exceed a plan length of 100 feet and a diagonal dimension of 125 feet, and may not exceed a maximum average floor area of 8,500 gross square feet. Pursuant to subsection 270(e)(2)(F), to encourage tower sculpting, the gross floor area of the top one-third of the tower shall be reduced by 10 percent from the maximum floor plates described in subsection 270(e)(2)(B).

The Project proposes a tower of 250 feet in height, with various features such as mechanical structures, and parapets extending above the 250-foot height limit in accordance with the height exemptions allowed through Planning Code Section 260(b). The tower would include a 36-foot elevator penthouse and the podium would include a 23-foot elevator overrun, both of which are required to meet state or federal laws and regulations, and which would require an exemption from the Zoning Administrator per Planning Code Section 260(b)(1)(B).

Consistent with the bulk control, the Project has a maximum plan length of 100 feet and a maximum plan diagonal of 125 feet. Above the podium level, the average floor area of the tower is 8,472 square feet, and the top one-third of the tower (or top six floors) has been reduced by at least ten percent from the maximum floor plate area, with these floors containing 7,639 square feet.

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

Section 146(a) does not apply to construction on Otis and 12th streets, and therefore does not apply to the Project. With respect to Section 146(c), the Project would replace five underutilized commercial buildings with a 9-story podium and 26-story tower residential structure. Although the Project would create new shadows on sidewalks and pedestrian areas adjacent to the site, the Project's shadows would be limited in scope and would not increase the total amount of shading above levels that are commonly accepted in urban areas. The Project is proposed at a height that is consistent with the zoned height for the property and could not be further shaped to reduce substantial shadow effects on public sidewalks without creating an unattractive design and without unduly restricting development potential. Therefore, the Project complies with Section 146.

T. **Shadows on Parks (Section 295).** Section 295 requires any project proposing a structure exceeding a height of 40 feet to undergo a shadow analysis in order to determine if the project would result in the net addition of shadow to properties under the jurisdiction of the Recreation and Park Department or designated for acquisition by the Recreation and Park Commission.

A technical memorandum was prepared by FastCast City dated February 2018 ("Shadow Study"), which analyzed the potential shadow impacts of the project to parks subject to Section 295 (in addition to other open spaces under public jurisdiction and privately owned, publicly accessible open spaces).

As detailed in the Shadow Study, the proposed project would not cast shadow on existing parks subject to Planning Code Section 295, but would cast shadow on the proposed 11th and Natoma Park under the jurisdiction of the Recreation and Park Department. Specifically, the proposed project would add 199,590 sfh of net new shadow resulting in 0.27 percent increase in annual shadow as a percentage of TAAS. Under existing plus project conditions, the total annual shadow coverage on the proposed 11th and Natoma Park would be 15,359,868 sfh. Therefore, under this scenario, the proposed 11th and Natoma Park would be shaded 21 percent annually, as a percentage of TAAS.

Shadow from the proposed project on the future Natoma & 11th Street Park would occur between February 15th – March 29th, and September 13th – October 25th. During these periods, the largest new shadow by area would occur on October 4th and March 8th at 5:47 pm, lasting approximately 8 minutes 24 seconds, and would cover an area of approximately 11,984 sf. The average duration of new shadow resulting from the proposed project would be 30 minutes and 21 seconds. The longest new shadow duration resulting from the proposed project would occur on September 27th and March 15th for approximately 50 minutes and 24 seconds.

On September 5, 2018 the Capital Committee of the Recreation and Park Commission, and on September 20, 2018, the full Recreation and Park Commission conducted duly noticed public hearings at regularly scheduled meetings and recommended that the Planning Commission find that the shadows cast by the Project would be insignificant to the use of the proposed park at 11th and Natoma Streets.

U. **Inclusionary Affordable Housing Program (Section 415).** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, the current percentage requirements apply to projects that consist of ten or more units. Pursuant to Planning Code Section 415.5, the Project must pay the Affordable Housing Fee ("Fee"). This Fee is made payable to the Department of Building Inspection ("DBI") for use by the Mayor's Office of Housing and Community Development for the purpose of increasing affordable housing citywide. The applicable percentage is dependent on the number of units in the project, the zoning of the property, and the date that the project submitted a complete Environmental Evaluation Application. A complete Environmental Evaluation Application was submitted on September 23, 2015; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the Affordable Housing Fee is at a rate equivalent to an off-site requirement of 30%.

The Project Sponsor has submitted an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program through payment of the Fee, in an amount to be established by the Mayor's Office of Housing and Community Development. The applicable percentage is dependent on

the total number of units in the Project, the zoning of the property, and the date that the Project submitted a complete Environmental Evaluation Application. A complete Environmental Evaluation Application was submitted on September 23, 2015; therefore, pursuant to Planning Code Section 415.3, the Inclusionary Affordable Housing Program requirement for the Affordable Housing Fee is at a rate of 30%.

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

The Project would comply with this Section by dedicating one percent of the Project's construction cost to a sculpture in the 12th Street Plaza to be commissioned by the Project Sponsor.

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

A. **Section 249.33: Lot Coverage.** Within the Van Ness and Market Downtown Residential Special Use District, Rear Yard requirements do not apply pursuant to Planning Code Section 249.33; however, lot coverage is limited to 80 percent at all residential levels, except on levels in which all residential units face onto a public right-of-way. Exceptions pursuant to Section 309 may be permitted. The criteria for granting a rear yard exception in the C-3 districts is set forth in Section 134(d): "C-3 Districts, an exception to the rear yard requirements of this Section may be allowed, in accordance with the provisions of Section 309, provided that the building location and configuration assure adequate light and air to windows within the residential units and to the usable open space provided."

The project proposes residential uses at the second floor and above. The project must comply with maximum lot coverage restrictions at floors three and above for the portion of the building located within the Van Ness and Market Downtown Residential SUD. At floors 3-9, the Project proposes lot coverage of 81.6 percent, and lot coverage of 33.9 percent at floors 10-26. Despite the overall lot coverage exceedance at floors 3-9, the Project provides adequate exposure to air and light for all units. Units fronting Otis Street, 12th Street, Chase Court, and Colusa Place all possess substantial frontage overlooking City Streets, particularly along Otis Street and South Van Ness Avenue. In addition, the Project provides open space at the rear of the building that will help define a new mid-block open space that was approved as part of the 1629 Market Street project, northwest of the site.

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

hour equivalent wind speed in areas of substantial pedestrian use and seven miles per hour equivalent wind speed in public seating areas.

When preexisting ambient wind speeds exceed the comfort level, or when a proposed building or addition may cause ambient wind speeds to exceed the comfort level, the building shall be designed to reduce the ambient wind speeds to meet the requirements. An exception may be granted, in accordance with the provisions of Section 309, allowing the building or addition to add to the amount of time that the comfort level is exceeded by the least practical amount if (1) it can be shown that a building or addition cannot be shaped and other wind-baffling measures cannot be adopted to meet the foregoing requirements without creating an unattractive and ungainly building form and without unduly restricting the development potential of the building site in question, and (2) it is concluded that, because of the limited amount by which the comfort level is exceeded, the limited location in which the comfort level is exceeded, or the limited time during which the comfort level is exceeded, the addition is insubstantial.

No exception shall be granted and no building or addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard level of 26 miles per hour (mph) for a single hour of the year.

Independent consultants analyzed ground-level wind currents in the vicinity of the Project Site by working with Department staff to select 53 test points throughout public areas in the general vicinity of the Project Site. A wind tunnel analysis, the results of which are included in a technical memorandum prepared by BMT Fluid Mechanics, was conducted using a scale model of the Project Site and its immediate vicinity. The study concluded that the Project would not result in any substantial change to the wind conditions of the area.

Comfort Criterion

Under existing conditions, 29 of the 53 locations tested currently exceed the pedestrian comfort level of 11 mph at grade level more than 10% of the time. Average wind speeds measured close to 11.4 mph. With the Project, 31 of 53 locations tested exceeded the pedestrian comfort level of 11 mph more than 10% of the time. Average wind speeds increased by 0.7 mph to approximately 12.1 mph.

The Project does not result in substantial change to the wind conditions. However, since comfort exceedances are not entirely eliminated by the Project, an exception is required under Planning Code Section 309. The tower has been substantially reshaped through a rigorous and iterative series of wind tests and street trees have been added to further diffuse pedestrian-level winds near the site. The Project could not be designed in a manner that could eliminate all 29 of the existing comfort exceedances or the 2 comfort exceedances caused by the Project, without unduly restricting the site's development potential, resulting in an ungainly building form or creating new hazard exceedances.

Hazard Criterion

The Wind Study indicated that the Project does not cause any net new hazardous conditions. Overall, the Project would decrease number of test points that exceed the hazard criterion from 2 under existing conditions to 1 under existing plus Project conditions. The hours per year in which the hazard

criterion would be exceeded would decrease from 9 hours under existing conditions to 4 hours with the Project, an improvement of five fewer hours of hazardous wind conditions. Therefore, the Project would comply with the hazard criterion of Section 148.

8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1:
IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.8
Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

Policy 1.10
Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

OBJECTIVE 5:
ENSURE THAT ALL RESIDENTS HAVE EQUAL ACCESS TO AVAILABLE UNITS.

Policy 5.4
Provide a range of unit types for all segments of need, and work to move residents between unit types as their needs change.

OBJECTIVE 11:
SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.1
Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.3
Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.6
Foster a sense of community through architectural design, using features that promote community interaction.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 1:
MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT, AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.3
Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs particularly those of commuters.

Policy 1.6
Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate.

OBJECTIVE 2:
USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

Policy 2.1
Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development.

OBJECTIVE 11:
ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

Policy 11.3
Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:
EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3
Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 3:

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

Policy 3.1
Promote harmony in the visual relationships and transitions between new and older buildings.

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

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:
MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1
Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

DOWNTOWN AREA PLAN

Objectives and Policies

OBJECTIVE 1:
MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1
Encourage development which produces substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences which cannot be mitigated.

OBJECTIVE 7:
EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

Policy 7.1
Promote the inclusion of housing in downtown commercial developments.

Policy 7.2
Facilitate conversion of underused industrial and commercial areas to residential use.

OBJECTIVE 16:
CREATE AND MAINTAIN ATTRACTIVE, INTERESTING URBAN STREETSCAPES.

Policy 16.4
Use designs and materials and include amenities at the ground floor to create pedestrian interest.

MARKET AND OCTAVIA AREA PLAN

Objectives and Policies

OBJECTIVE 1.1:
CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A MIXED- USE URBAN NEIGHBORHOOD.

Policy 1.1.2
Concentrate more intense uses and activities in those areas best served by transit and most accessible on foot.

Policy 1.1.4
As SoMa West evolves into a high-density mixed-use neighborhood, encourage the concurrent development of neighborhood-serving uses to support an increasing residential population.

OBJECTIVE 1.2:
ENCOURAGE URBAN FORM THAT REINFORCES THE PLAN AREA'S UNIQUE PLACE IN THE CITY'S LARGER URBAN FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.

Policy 1.2.2
Maximize housing opportunities and encourage high□quality commercial spaces on the ground floor.

Policy 1.2.3
Limit heights along the alleys in order to provide ample sunlight and air in accordance with the plan principles that relate building heights to street widths.

OBJECTIVE 2.2:
ENCOURAGE CONSTRUCTION OF RESIDENTIAL INFILL THROUGHOUT THE PLAN AREA.

Policy 2.2.2
Ensure a mix of unit sizes is built in new development and is maintained in existing housing stock.

Policy 2.2.4
Encourage new housing above ground□floor commercial uses in new development and in expansion of existing commercial buildings.

OBJECTIVE 4.1:
PROVIDE SAFE AND COMFORTABLE PUBLIC RIGHTS-OF-WAY FOR PEDESTRIAN USE AND IMPROVE THE PUBLIC LIFE OF THE NEIGHBORHOOD.

Policy 4.1.1
Widen sidewalks and shorten pedestrian crossings with corner plazas and boldly marked crosswalks where possible without affecting traffic lanes. Where such improvements may reduce lanes, the improvements should first be studied.

Policy 4.1.4
Encourage the inclusion of public art projects and programs in the design of streets and public spaces.

OBJECTIVE 5.1:
IMPROVE PUBLIC TRANSIT TO MAKE IT MORE RELIABLE, ATTRACTIVE, CONVENIENT, AND RESPONSIVE TO INCREASING DEMAND.

Policy 5.1.2
Restrict curb cuts on transit-preferential streets.

Policy 5.1.4
Support innovative transit solutions that improve service, reliability, and overall quality of the transit rider's experience.

OBJECTIVE 5.3:
ELIMINATE OR REDUCE THE NEGATIVE IMPACT OF PARKING ON THE PHYSICAL CHARACTER AND QUALITY OF THE NEIGHBORHOOD.

Policy 5.3.1
Encourage the fronts of buildings to be lined with active uses and, where parking is provided, require that it be setback and screened from the street.

OBJECTIVE 7.2:
ESTABLISH A FUNCTIONAL, ATTRACTIVE AND WELL-INTEGRATED SYSTEM OF PUBLIC STREETS AND OPEN SPACES IN THE SOMA WEST AREA TO IMPROVE THE PUBLIC REALM.

Policy 7.2.5
Make pedestrian improvements within the block bounded by Market, Twelfth, Otis, and Gough Streets and redesign Twelfth Street between Market and Mission Streets, creating a new park and street spaces for public use, and new housing opportunities.

The Project supports the objectives and policies of the General Plan, along with the Market and Octavia and Downtown Area Plans. The Project would replace the existing underutilized commercial structures with a 416-unit residential structure containing ground floor retail and arts activity uses that are more consistent and compatible with the anticipated development within the area and the Van Ness and Market Downtown Residential Special Use District. The Project is located in close proximity to multiple forms of public transportation that future tenants would be encouraged to use. The Project has been thoughtfully designed and will be compatible with the adjacent buildings and neighborhood, and will greatly enhance the character of the existing neighborhood particularly through creation of 12th Street Plaza.

The Project would create 416 dwelling units, of which 212 (51%) are studios, 98 (24%) are one bedroom, and 106 (25%) are two bedrooms. Additionally, the Project is subject to the City's Inclusionary Affordable Housing Program (Planning Code Section 415) and is electing to meet the requirement through payment of a fee at a rate of 30 percent. The current estimated fee payment would contribute over $32 million towards the development of permanently affordable housing within the City. The Project will also pay additional fees through the Market-Octavia Affordable Housing Fee and Van Ness & Market SUD Affordable Housing Fee.

The Project supports the City's transit-first policy, including enhancement and support of the pedestrian environment and bicycle infrastructure. Located just one block south of Market Street, the Project Site is within walking distance of BART (Civic Center Station) and MUNI rail lines (Van Ness Station), and is also within a quarter-mile of several MUNI bus lines (6, 7, 7R, 7X, 9, 9R, 14, 14R, 47 and 49). Currently under construction, the Van Ness Bus Rapid Transit (BRT) line will terminate adjacent to the project at the Mission and South Van Ness Avenue intersection, and the project team has been working with SFMTA

on construction coordination between the two projects. As part of the Project's Transportation Demand Management Plan, the lobby will include real-time information displays for nearby transit stops.

In addition to providing bicycle parking, amenities such as a bicycle repair workshop, and a separate bicycle storage room for larger, cargo bikes or trailers, make cycling a convenient transit option, even for families. A relatively small amount of vehicle parking at a ratio of 0.23 spaces per dwelling unit will be provided at the basement levels of the building, accessed through a single garage entry so as to minimize the impact on the physical character of the public right-of-way. Three spaces will be equipped for electric vehicle charging, and the garage will also have three dedicated car-share spaces.

The proposed streetscape and plaza improvements enhance both the safety and attractiveness of the pedestrian environment. In particular, 12th Street has been redesigned to minimize the number curb cuts as points of possible pedestrian-vehicle conflict, as well as minimize the distance of pedestrian crossings. Along Otis Street, the Project will remove all existing curb cuts, enhancing this transit- and bike-preferential street. Perhaps most noticeable is the proposed 12th Street Plaza, which will create a new public space, enhanced visually through incorporation of a public art piece by Frida Escobedo.

The proposed building has been designed thoughtfully and utilizes high-quality materials; it will be compatible with and enhance the neighborhood character, particularly as the surrounding vicinity continues to develop, consistent with the Market and Octavia and proposed Hub plans. The building's form is characterized by a 9-story, 85-foot tall podium and 26-story, 250-foot tall tower, excluding the parapet and elevator penthouse. The height and bulk of the Project are consistent with zoning controls, relevant area plans, and other buildings proposed in the vicinity, including the 380-foot tall residential tower being constructed at 1500 Mission Street. The tower form has been shaped by wind mitigation efforts in addition to zoning requirements and a desire for an iconic sculptural, yet simple curved form. Conceptually the building is expressed as a glass tower and more solid podium base. The tower is consistent with fundamental design principles, incorporating both horizontal articulation and a change in the vertical plane to differentiate the tower element along the Otis façade. In contrast to the podium, the tower has a primarily glass façade, giving a lightness and airiness to the structure. At the podium, the depth and spacing of the punched window openings give visual interest, and reflect different individual residential configurations functioning within the building.

The building's massing gives consideration to light and air both for the units within the project, but also to surrounding properties and future development of many of those sites. The raised courtyard at the rear of the property provides an open space amenity and helps a number of units meet exposure requirements; programmatically, this is also the same location where the long spans are required for the ballet theater performance space below. At the rear of the building, the building massing steps back from the alley at upper floors, providing light and air onto these narrower public sidewalks and contributing positively to the envisioned mid-block open space, which includes Brady Park.

At the ground floor, the ballet school entry along 12th Street is materially differentiated from the residential portions of the podium, and its location will activate that portion of 12th Street, also fostering a direct connection with the proposed 12th Street Plaza as a gathering or potential performance space. The

remainder of the ground floor contains a mix of retail space and residential amenity space. Internal stairs and passages connect common spaces and amenities at the first three floors in a natural way, and results in a convenient path of travel through the building from Otis or 12th Streets, to the rear of the property at Chase and Colusa, in order to provide access to the proposed Brady Park.

Lastly, the Project will create three retail spaces for the provision of neighborhood-serving goods and services, particularly as more residential development is anticipated in the vicinity. A substantial portion of the ground floor is also provided to the City Ballet School; this arts activity use currently operates at the site, and one of the primary goals for the Project Sponsor has been to create an improved and permanent home for this school, and have also worked with the business on relocation efforts during the construction phase of the Project.

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project complies with said policies in that:

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

   The Project will add approximately 2,199 square feet of retail space across three tenant spaces to allow for provision of neighborhood-serving retail uses and employment. These businesses would be supported by the demand from the 416 proposed residential units, and would be further enhanced by the POPOS space along Otis Street and by the 12th Street Plaza, which will attract pedestrian interest and provide space for seating and gathering.

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

   The Project Site does not possess any existing housing. The Project would provide 416 new dwelling units, thus resulting in an overall increase in the neighborhood housing stock. In addition, the Project's retention of an existing arts activity use, and creation of a new public plaza and streetscape improvements will help to retain and enhance the existing neighborhood character. The project design is compatible with the scale and form of surrounding buildings and incorporates high-quality materials and detailing to provide visual interest.

   C. That the City's supply of affordable housing be preserved and enhanced,

   The Project Site does not currently possess any existing affordable housing. The Project will comply with the City's Inclusionary Housing Program by contributing to the Inclusionary Housing Fund at a rate of 30 percent, currently estimated to at least $32 million. The Project will also require payments into the Market-Octavia Affordable Housing Fee and Van Ness & Market SUD Affordable Housing Fee. These affordable housing fees will help fund construction of new, permanently affordable housing throughout the City.

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

The Project would not impede MUNI transit service or overburden local streets or parking. The Project is located near a major transit corridor with access to BART and MUNI rail and bus service that would promote rather than impede the use of MUNI transit service. All existing curb cuts along Otis Street will be removed, further enhancing this transit-preferential street. The Project also provides a sufficient amount of off-street parking for future residents so that neighborhood parking will not be overburdened by the addition of new residents. The entrance to the proposed garage would be located on 12th Street where no transit lines exist.

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

The Project would displace industrial uses but not for commercial office development since it is a residential project; the provision of housing, particularly near transit, is a top priority for the City. Further, the proposed ground-floor retail spaces provide future opportunities for resident employment and ownership in service-sector businesses.

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

The Project will be designed and will be constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake. The proposed Project would replace older buildings that do not comply with current seismic safety standards.

G. That landmarks and historic buildings be preserved.

The proposed Project would demolish the 14-18 Otis Street building, which is a historical resource as defined in CEQA Guidelines section 15064.5. The Project will mitigate impacts to the building by documenting the history of the building, providing a permanent display of interpretive materials concerning the history and architectural features of the building, and preparing video documentation of the building and its setting.

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

The proposed project will create shadow on two proposed parks – 11th and Natoma Park, under jurisdiction of the Recreation and Park Department, and Brady Park, proposed through the private development of 1629 Market Street. For both parks, the amount of additional shadow that would occur

as a result of the Project has not been found to be significant or adverse to the proposed use of the parks.

10. The Commission made and adopted environmental findings by its Motion No. 20292, which are incorporated by reference as though fully set forth herein, regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, a statement of overriding considerations and a mitigation and monitoring reporting program, based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission adopted these findings as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting the CEQA findings.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

12. The Commission hereby finds that approval of the Downtown Project Authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Downtown Project Authorization Application No. 2015-010013ENVDNXVARSHD** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated August 22, 2018, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

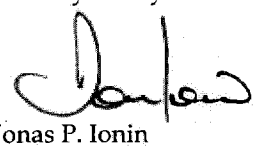
The Planning Commission has reviewed and considered the FEIR and the record as a whole and incorporates by reference herein the CEQA Findings contained in Motion No. 20292 and MMRP, included as Attachment B. All required mitigation and improvement measures identified in Attachment B of Motion No. 20292 are included as conditions of approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Downtown Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on September 27, 2018.



Jonas P. Ionin
Commission Secretary

AYES: Hillis, Melgar, Fong, Johnson, Koppel, Moore, Richards

NAYS: None

ABSENT: None

ADOPTED: September 27, 2018

EXHIBIT A

AUTHORIZATION

This authorization is for a **Downtown Project Authorization and Request for Exceptions** to allow demolition of the five existing buildings currently located at the project site, and new construction of a residential building with a 9-story podium and 26-story, 250-foot tall tower, containing 416 dwelling units, approximately 2,199 square feet of retail space, 15,993 square feet of arts activities space to be occupied by City Ballet School, 31,290 square feet of usable open space, 95 accessory residential parking spaces, 3 car-share spaces, and construction of an approximately 7,200 square foot public plaza at the corner of 12th Street and South Van Ness Avenue, located at 30 Otis Street, on Assessor's Block 3505, Lots 010, 012, 013, 016, and 018 pursuant to Planning Code Section(s) 309, 134, 249.33(b)(5), and 148 within the C-3-G (Downtown-General) Zoning District, the NCT-3 (Moderate-Scale Neighborhood Commercial Transit Zoning District), the Van Ness and Market Downtown Residential Special Use District, and both the 85-X and the 85/250-R-2 Height and Bulk Districts; in general conformance with plans, dated August 22, 2018, and stamped "EXHIBIT B" included in the docket for Case No. 2015-010013ENVDNXVARSHD and subject to conditions of approval reviewed and approved by the Commission on September 27, 2018 under Motion No. 20293. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on September 27, 2018 under Motion No. 20293.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 20293 shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference the Downtown Project Authorization and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.
   For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.
   For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.
   For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.
   For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.
   For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

6. **Additional Project Authorization.** The Project Sponsor must obtain a Shadow Determination under Section 295 that the net new shadow cast by the Project on the proposed 11th and Natoma Park will be insignificant to the use of the park, a Variance under Section 305 from Planning Code requirements for Awning Obstructions (Section 136.1), Dwelling Unit Exposure (Section 140), and Ground Floor Ceiling Height (Section 145.1(c)(4)), a Rear Yard Modification (Section 134(e)(1)), and an Elevator Height Exemption Waiver (Section 260(b)(1)(B)), and satisfy all the conditions thereof. Additionally, in order to construct the proposed 12th Street Plaza, the Project Sponsor must obtain an In-Kind Fee Waiver Agreement. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

7. **Improvement and Mitigation Measures.** Improvement and Mitigation measures described in the MMRP and found as Attachment B contained within Motion No. 20292 are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN – COMPLIANCE AT PLAN STAGE

8. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Specifically, as described in the Commission's approval motion, the Project Sponsor shall continue to work with the Planning Department on increasing the visibility and activity of the ballet school at the ground floor. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

9. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

10. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit

application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

11. **Lighting Plan.** The Project Sponsor shall submit an exterior lighting plan to the Planning Department prior to Planning Department approval of the building / site permit application.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

12. **Streetscape Plan.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan generally meets the standards of the Better Streets Plan and all applicable City standards. The Project Sponsor shall complete final design of all required street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda, and shall complete construction of all required street improvements prior to issuance of first temporary certificate of occupancy.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

13. **Open Space Provision - C-3 Districts.** Pursuant to Planning Code Section 138, the Project Sponsor shall continue to work with Planning Department staff to refine the design and programming of the public open space so that the open space generally meets the standards of the Downtown Open Space Guidelines in the Downtown Plan of the General Plan.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

14. **Open Space Plaques - C-3 Districts.** Pursuant to Planning Code Section 138, the Project Sponsor shall install the required public open space plaques at each building entrance including the standard City logo identifying it; the hours open to the public and contact information for building management. The plaques shall be plainly visible from the public sidewalks on Otis and 12th Streets and shall indicate that the open space is accessible to the public. Design of the plaques shall utilize the standard templates provided by the Planning Department, as available, and shall be approved by the Department staff prior to installation.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

15. **Signage.** The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff before submitting any building permits for construction of the Project. All subsequent sign permits shall conform to the approved signage program. Once approved by the Department, the signage program/plan information shall be submitted and approved as part of the site permit for the Project. All

exterior signage shall be designed to compliment, not compete with, the existing architectural character and architectural features of the building.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

16. **Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:
    A. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
    B. On-site, in a driveway, underground;
    C. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
    D. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
    E. Public right-of-way, underground; and based on Better Streets Plan guidelines;
    F. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
    G. On-site, in a ground floor façade (the least desirable location).

    Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.
    For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, http://sfdpw.org

17. **Overhead Wiring.** The Property owner will allow MUNI to install eyebolts in the building adjacent to its electric streetcar line to support its overhead wire system if requested by MUNI or MTA.
    For information about compliance, contact San Francisco Municipal Railway (Muni), San Francisco Municipal Transit Agency (SFMTA), at 415-701-4500, www.sfmta.org

18. **Noise, Ambient.** Interior occupiable spaces shall be insulated from ambient noise levels. Specifically, in areas identified by the Environmental Protection Element, Map1, "Background Noise Levels," of the General Plan that exceed the thresholds of Article 29 in the Police Code, new developments shall install and maintain glazing rated to a level that insulate interior occupiable areas from Background Noise and comply with Title 24.
    For information about compliance, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org

19. **Noise.** Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

20. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

PARKING AND TRAFFIC

21. **Transportation Demand Management (TDM) Program.** Pursuant to Planning Code Section 169, the Project shall finalize a TDM Plan prior to the issuance of the first Building Permit or Site Permit to construct the project and/or commence the approved uses. The Property Owner, and all successors, shall ensure ongoing compliance with the TDM Program for the life of the Project, which may include providing a TDM Coordinator, providing access to City staff for site inspections, submitting appropriate documentation, paying application fees associated with required monitoring and reporting, and other actions.

    Prior to the issuance of the first Building Permit or Site Permit, the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property to document compliance with the TDM Program. This Notice shall provide the finalized TDM Plan for the Project, including the relevant details associated with each TDM measure included in the Plan, as well as associated monitoring, reporting, and compliance requirements.

    For information about compliance, contact the TDM Performance Manager at tdm@sfgov.org or 415-558-6377, www.sf-planning.org.

22. **Parking for Affordable Units.** All off-street parking spaces shall be made available to Project residents only as a separate "add-on" option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

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

23. **Car Share.** Pursuant to Planning Code Section 166, no fewer than three (3) car share spaces shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

24. **Bicycle Parking.** Pursuant to Planning Code Sections 155, 155.1, and 155.2, the Project shall provide no fewer than 211 bicycle parking spaces (179 Class 1 spaces for the residential portion of the Project, 3 Class 1 spaces for the arts activity use, and 29 Class 2 spaces for all proposed uses in the Project). SFMTA has final authority on the type, placement and number of Class 2 bicycle racks within the public ROW. Prior to issuance of first architectural addenda, the project sponsor shall contact the SFMTA Bike Parking Program at bikeparking@sfmta.com to coordinate the installation of on-street bicycle racks and ensure that the proposed bicycle racks meet the SFMTA's bicycle parking guidelines. Depending on local site conditions and anticipated demand, SFMTA may request the project sponsor pay an in-lieu fee for Class II bike racks required by the Planning Code.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

25. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than one hundred and four (104) off-street parking spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

26. **Off-street Loading.** Pursuant to Planning Code Section 152.1, the Project will provide one (1) off-street loading space, and spaces for two (2) service vehicles, which may be used to substitute for a second off-street loading space.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

27. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PROVISIONS

28. **Anti-Discriminatory Housing.** The Project shall adhere to the requirements of the Anti-Discriminatory Housing policy, pursuant to Administrative Code Section 1.61.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

29. **First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.
For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org

30. **Transportation Sustainability Fee.** The Project is subject to the Transportation Sustainability Fee (TSF), as applicable, pursuant to Planning Code Section 411A.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

31. **Child Care Fee - Residential.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

32. **Inclusionary Affordable Housing Program.** The following Inclusionary Affordable Housing Requirements are those in effect at the time of Planning Commission action. In the event that the requirements change, the Project Sponsor shall comply with the requirements in place at the time of issuance of first construction document.

    A. **Requirement.** Pursuant to Planning Code Section 415.5, the Project Sponsor must pay an Affordable Housing Fee at a rate equivalent to the applicable percentage of the number of units in an off-site project needed to satisfy the Inclusionary Affordable Housing Program Requirement for the principal project. The applicable percentage for this project is thirty percent (30%). The Project Sponsor shall pay the applicable Affordable Housing Fee at the time such Fee is required to be paid.
    For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

    B. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and the terms of the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time

to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing and Community Development ("MOHCD") at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing and Community Development's websites, including on the internet at:
http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451.
As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale or rent.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

a. The Project Sponsor must pay the Fee in full sum to the Development Fee Collection Unit at the DBI for use by MOHCD prior to the issuance of the first construction document.

b. Prior to the issuance of the first construction permit by the DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.

c. If project applicant fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Sections 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all other remedies at law.

33. **Market Octavia Affordable Housing Fee.** The Project is subject to the Market and Octavia Affordable Housing Fee, as applicable, pursuant to Planning Code Section 416.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

34. **Market Octavia Community Improvements Fund.** The Project is subject to the Market and Octavia Community Improvements Fee, as applicable, pursuant to Planning Code Section 421.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

35. **Market and Octavia – Van Ness & Market Street Affordable Housing Fee.** The Project is subject to the Market and Octavia – Van Ness & Market Affordable Housing Fee, as applicable, pursuant to Planning Code Section 424.3.

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

36. **Art.** The Project is subject to the Public Art Fee, as applicable, pursuant to Planning Code Section 429.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

37. **Art Plaques.** Pursuant to Planning Code Section 429(b), the Project Sponsor shall provide a plaque or cornerstone identifying the architect, the artwork creator and the Project completion date in a publicly conspicuous location on the Project Site. The design and content of the plaque shall be approved by Department staff prior to its installation.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

38. **Art.** Pursuant to Planning Code Section 429, the Project Sponsor and the Project artist shall consult with the Planning Department during design development regarding the height, size, and final type of the art. The final art concept shall be submitted for review for consistency with this Motion by, and shall be satisfactory to, the Director of the Planning Department in consultation with the Commission. The Project Sponsor and the Director shall report to the Commission on the progress of the development and design of the art concept prior to the submittal of the first building or site permit application
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

39. **Art.** Pursuant to Planning Code Section 429, prior to issuance of any certificate of occupancy, the Project Sponsor shall install the public art generally as described in this Motion and make it available to the public. If the Zoning Administrator concludes that it is not feasible to install the work(s) of art within the time herein specified and the Project Sponsor provides adequate assurances that such works will be installed in a timely manner, the Zoning Administrator may extend the time for installation for a period of not more than twelve (12) months.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

40. **Art - Residential Projects.** Pursuant to Planning Code Section 429, the Project Sponsor must provide on-site artwork, pay into the Public Artworks Fund, or fulfill the requirement with any combination of on-site artwork or fee payment as long as it equals one percent of the hard construction costs for the Project as determined by the Director of the Department of Building Inspection. The Project Sponsor shall provide to the Director necessary information to make the determination of construction cost hereunder. Payment into the Public Artworks Fund is due prior to issuance of the first construction document.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

41. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

42. **Monitoring.** The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 350 and work with the Planning Department for information about compliance.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

43. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

44. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.
For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, http://sfdpw.org

45. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator and all registered neighborhood groups for the area with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator and registered neighborhood groups shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

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

46. **Notices Posted at Bars and Entertainment Venues.** Notices urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood, shall be well-lit and prominently displayed at all entrances to and exits from the establishment.
For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

47. **Other Entertainment.** The Other Entertainment shall be performed within the enclosed building only. The building shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance. Bass and vibrations shall also be contained within the enclosed structure. The Project Sponsor shall obtain all necessary approvals from the Entertainment Commission prior to operation. The authorized entertainment use shall also comply with all of the conditions imposed by the Entertainment Commission.
For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

48. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

SAN FRANCISCO
PLANNING DEPARTMENT

Planning Commission Motion No. 20457

HEARING DATE: JUNE 6, 2019

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Record No.:	2015-010013IKA
Project Address:	30 Otis Street
Date:	May 30, 2019
Plan Area:	Market & Octavia
Project Sponsor:	Jessie Stuart Align Real Estate 255 California St. Suite 525 San Francisco, CA 94111
Staff Contact:	Lily Langlois (415-575-9083) *Lily.Langlois@sfgov.org*

APPROVING AN IMPACT FEE WAIVER FOR THE 30 OTIS PROJECT IN THE AMOUNT OF $3,000,000 TO PROVIDE A NEW PEDESTRIAN PLAZA AND PUBLIC SPACE IMPROVEMENTS AT THE CORNER OF 12TH STREET, OTIS STREET, AND SOUTH VAN NESS AVENUE BASED ON THE COMPLETION OF AN IN-KIND AGREEMENT BETWEEN THE PROJECT SPONSOR AND THE CITY.

PREAMBLE

On May 30, 2008, the Market & Octavia Plan became effective, including now Section 421.3 of the San Francisco Planning Code, the Market and Octavia Community Improvements Fund applicable to all projects in the plan area, including the subject property. The Planning Code also enabled project sponsors to seek a waiver from the impact fees when providing public improvements through an In-Kind Agreement with the Planning Department.

On March 1, 2018, the Project Sponsor, Align Real Estate, filed an application with the City for approval of an In-Kind Agreement for provision of a new pedestrian plaza, public space, and streetscape improvements at the corner of 12th Street, Otis Street, and South Van Ness Avenue.

On September 27, 2018, the Planning Commission approved the 30 Otis project. The project consists of a consists a new 250' tall mixed-use building containing 416 residential units, 2,199 square feet of retail, 15,993 square feet of arts activities space and a theater to be occupied by the City Ballet School.

The proposed improvements would provide a new public open space to improve the public realm, enhance pedestrian safety, and provide open space. Creating the plaza is consistent with the Market & Octavia Area Plan; with the public realm improvements called for in Hub Public Realm Plan; and with the design for the area as part of the Van Ness Improvement and Bus Rapid Transit (BRT) Project. The improvements proposed for this agreement would support the policies established in the Market & Octavia Area Plan passed in 2008. The Plan envisioned high-density residential development at the Market and Van Ness intersection, an enhanced public realm, and improvements to support transit use, walking, and biking.

Further, both the Market & Octavia Plan as well as the Hub Public Realm Plan recognize underutilized streets and rights-of-way as an opportunity to create new public parks and plazas.

On May 20, 2019, in Motion 2019-05-20-01, the Market Octavia Citizens Advisory Committee passed a resolution supporting the proposed improvements for the 30 Otis In-Kind Agreement.

MOVED, that the Commission hereby authorizes the Market Octavia Community Improvements Fund Fee Waiver for 30 Otis in the amount of $3,000,000 based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.

2. The proposed In-Kind Agreement is consistent with the Planning Code Section 421.3.

3. **In-Kind Agreement Approval Criteria.** The proposed improvements would present a suitable priority for an In-Kind Agreement to satisfy portions of the Area Plan infrastructure impact fees as they meet the following criteria established in the Planning Commission approved "Procedures of In-Kind Agreements".

   - Improvement Fulfills the Purpose of Community Improvements: Per Planning Code section 421.1(a) (which describes in-kind improvements under the Market Octavia Community Improvements Fund) public improvements, including community open spaces, pedestrian and streetscape improvements, are eligible for funding.
   - The Infrastructure Type is identified in the Fee Ordinance: The plaza project falls under the "Complete Streets" category of improvements in the Market and Octavia Community Improvements Fund and Van Ness and Market Residential SUD Infrastructure Fund, and therefore is eligible.
   - The Expenditure Category for Infrastructure Type is Not Exhausted: The "Complete Streets" category of these Infrastructure Fund funds have not been exhausted.

4. **Priority Improvements.** The proposed improvements are a priority for the Plan Area as they meet the following criteria:

   - Improvement is identified in the Five-Year Capital Plan

     The project is included in the current IPIC and CAC endorsed Five Year Capital Plan for Fiscal Year 2020-2024, which was adopted in December 2018, but for a lower amount of $2,200,000. However, the In-Kind fee waiver at the higher amount of $3,000,000 in support of the project was approved by the IPIC and CAC in May 2019 and will accordingly be incorporated into the forthcoming Five-Year Capital Plan for Fiscal Year 2021-2025 which is expected to be approved by the IPIC and the CAC in November of this year. In addition, the Project is specifically included in the Hub Public Realm Plan as a priority public realm improvement in the area, and the Van Ness and 12th Street intersection is called out as one of the intersections

for pedestrian improvements. Thus, this project fulfills vision articulated in the Community Improvements identified in the Market Octavia Area Plan and in the Hub Public Plan.

- Improvement does not Compete with a CAC and IPIC Endorsed Improvement:

  The In-Kind fee waiver amount in support of the Project was approved by the IPIC and CAC in Fall, 2018 and in May 2019. As part of the approval by each of these entities, the Project was determined not to be in competition with any currently identified capital project included in the CAC and IPIC endorsed Five Year Capital Plan. This Project falls within the Complete Streets funding category, which as of the most recently adopted Five Year Capital Plan for Fiscal year 2020-2024 contains a projected un-programmed cumulative balance of $10,698,000 through the Market and Octavia Community Improvements Fund and $9,018,000 through the Van Ness and Market Residential SUD Infrastructure Fund, for a total of $19,716,000 in unprogrammed Complete Streets Infrastructure funds.

- CAC Supports the Proposed Improvement:

  The CAC approved a resolution in May 2019 supporting the improvements in an amount up to $3,000,000 and any eligible administrative and project management costs as to be determined by the Planning Department (Attachment 5).

- Efficiencies are Gained Through Coordination with Development Project:

  Project Sponsors can utilize the construction tools and labor already working onsite for the 30 Otis development to deliver the improvements in a more timely and efficient manner. The Project would be timed with the development of the adjacent development and delivered no later than when the development is ready for occupancy. The Project could be built in conjunction with the development project, resulting in less disruption from construction than if the Project were independently built at another time

5. **Other City Agency Review.** The Project is recommended by the Planning Department and has been reviewed by other public agencies, including the Department of Public Works and the SFMTA. The Street Design Advisory Team, a multi-agency multi-disciplinary review team chaired by Planning, reviewed the project twice and is supportive of the concept design.

6. **Other Required City Actions.** The finalization of the design and the ultimate implementation of the plaza will require additional actions from other City Agencies, including but not necessarily limited to approval of a Major Encroachment Permit. These approvals are required in addition to this approval and the finalization of an In-Kind Agreement between the City and Project Sponsor.

7. **General Plan Compliance.** The Proposed Project is, on balance, consistent with the following Objectives and Policies of the General Plan. All required City approval actions where General Plan findings are required, including but not limited to a major encroachment permit and curb relocation legislation, may rely on findings below:

   The proposed In-Kind improvements support the General Plan by implementing the below policies and objectives.

MARKET OCTAVIA AREA PLAN

OBJECTIVE 1.2
ENCOURAGE URBAN FORM THAT REINFORCES THE PLAN AREA'S UNIQUE PLACE IN THE CITY'S LARGER URBAN FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.

Creation of this new pedestrian plaza at the highly-visible major intersection of South Van Ness Avenue and Otis/Mission Streets highlights the area's unique urban form as a transforming high-density residential neighborhood and strengthens the new neighborhood's fabric and character with a well-designed and integrated pedestrian plaza for public life.

OBJECTIVE 3.1
ENCOURAGE NEW BUILDINGS THAT CONTRIBUTE TO THE BEAUTY OF THE BUILT ENVIRONMENT AND THE QUALITY OF STREETS AS PUBLIC SPACE.

Creation of this new pedestrian plaza by the 30 Otis project contributes to the beauty of the surrounding built environment and the improved quality of the streets fronting the project's new high-rise residential building as public space.

OBJECTIVE 3.2
PROVIDE SAFE AND COMFORTABLE PUBLIC RIGHTS-OF-WAY FOR PEDESTRIAN USE AND IMPROVE THE PUBLIC LIFE OF THE NEIGHBORHOOD.

Creation of this plaza from former wide rights-of-way devoted to vehicles will improve the pedestrian experience and provide needed space for public life. The plaza builds on the approved design of this plaza as part of the Van Ness Improvement and Bus Rapid Transit (BRT) Project.

OBJECTIVE 5.3
ELIMINATE OR REDUCE THE NEGATIVE IMPACT OF PARKING ON THE PHYSICAL CHARACTER AND QUALITY OF THE NEIGHBORHOOD.

Creation of this plaza will eliminate and reduce the significant negative existing impacts of parking on 12th Street and neighborhood quality.

OBJECTIVE 7.2
ESTABLISH A FUNCTIONAL, ATTRACTIVE AND WELL-INTEGRATED SYSTEM OF PUBLIC STREETS AND OPEN SPACES IN THE SOMA WEST AREA TO IMPROVE THE PUBLIC REALM.

POLICY 7.2.7
Embark on a study to reconfigure major intersections to make them safer for vehicles and pedestrians alike, to facilitate traffic movement, and to take advantage of opportunities to create public spaces.

URBAN DESIGN ELEMENT

OBJECTIVE 4
IMPROVE OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT PRIVDE AND OPPORTUNITY.

Policy 4.11
Make use of street space and other unused public areas for recreation, particularly in dense neighborhoods, such as those close to downtown, where land for traditional open spaces is more difficult to assemble.

RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 3
IMPROVE ACCESS AND CONNECTIVITY TO OPEN SPACE

Policy 3.1
Creatively develop existing publicly-owned rights-of-way and streets into open space.

The proposed 30 Otis Plaza would create a new plaza in coordination with the development project at 30 Otis Street.

OBJECTIVE 6
SECURE LONG-TERM RESOURCES AND MANAGEMENT FOR OPEN SPACE ACQUISITION, AND RENOVATION, OPERATIONS, AND MAINTENANCE OF RECREATIONAL FACILITIES AND OPEN SPACE.

Policy 6.1
Pursue and develop innovative long-term funding mechanisms for maintenance, operation, renovation and acquisition of open space and recreation.

Approvals for the plaza will be required by Public Works and/or other agencies having jurisdiction over the plaza. Through these approvals, including the Major Encroachment Permit (MEP) approval, ongoing maintenance plans and funding plans for the long-term maintenance of the plaza will be required. Furthermore, the Project Sponsor acknowledges that the City could require that it participate in the City's Plaza Program whereby the programming of the plaza is turned over to a third party to assure that it is sufficiently maintained and is managed as a public resource

8. **Planning Code Sections 101.1 Findings.** The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

   a) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced

   The proposed project will have no adverse effects on neighborhood-serving retail uses.

b) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:
The proposed project will protect and enhance the existing neighborhood character by creating a public plaza and improving the public life in the neighborhood.

c) The City's supply of affordable housing will be preserved and enhanced:

The proposed project will have no adverse effects on the City's supply of affordable housing.

d) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed project would not impede MUNI transit service.

e) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed project would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

f) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The proposed project would not affect the preparedness against injury and loss of life in an earthquake is unaffected.

g) That landmark and historic buildings will be preserved

The proposed project would not adversely affect landmark and historic buildings.

h) Parks and open space and their access to sunlight and vistas will be protected from development

The proposed project will not affect access to sunlight and vistas in parks and open spaces.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on June 6, 2019.

Jonas P. Ionin
Commission Secretary

AYES: Koppel, Johnson, Melgar, Moore, Richards

NAYS: None

ABSENT: Fung, Hillis

ADOPTED: June 6, 2019

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Planning Commission Motion No. 20291
EIR Certification

HEARING DATE: SEPTEMBER 27, 2018

Record No.:	**2015-010013ENV**
Project Address:	**30 OTIS STREET**
Zoning:	C-3-G (Downtown – General) Zoning District NCT-3 Moderate-Scale Neighborhood Commercial Transit Zoning District 85/250-R-2 Height and Bulk District 85-X Height and Bulk District Van Ness & Market Downtown Residential Special Use District
Block/Lot:	Block 3505; Lots 010, 012, 013, 016, and 018
Project Sponsor:	Jessie Stuart, Align Real Estate 255 California Street, Suite 525 San Francisco, CA 94111
Staff Contact:	Julie Moore – (415) 575-8733 julie.moore@sfgov.org

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED MIXED USE PROJECT WITH A 9-STORY (85-FOOT TALL) PODIUM ACROSS THE ENTIRE SITE AND A 26-STORY (250-FOOT TALL) TOWER WITH 416 DWELLING UNITS, APPROXIMATELY 2,199 SQUARE FEET OF GROUND FLOOR RETAIL, APPROXIMATELY 15,993 SQUARE FEET OF ARTS AND ACTIVITIES SPACE, APPROXIMATELY 31,290 SQUARE FEET OF USEABLE OPEN SPACE, 256 BICYCLE PARKING SPACES (224 CLASS 1, 32 CLASS 2), AND 95 VEHICULAR PARKING SPACES AND THREE CAR-SHARE SPACES WITHIN THE DOWNTOWN–GENERAL (C-3-G) ZONING DISTRICT, THE MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT (NCT-3), THE 85/250-R-2 AND 85-X HEIGHT AND BULK DISTRICTS, AND THE VAN NESS AND MARKET DOWNTOWN RESIDENTIAL SPECIAL USE DISTRICT.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the final Environmental Impact Report identified as Case No. 2015-010013ENV, for the "30 Otis Project" at 30 Otis Street and various other parcels (hereinafter "Project") based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").

A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on February 9, 2018.

B. The Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR in a newspaper of general circulation on June 13, 2018.

C. The Department posted notices of availability of the DEIR and of the date and time of the public hearing near the project site on June 13, 2018.

D. The Department mailed or otherwise delivered copies of the DEIR to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse, on June 13, 2018.

E. The Department filed a Notice of Completion with the State Secretary of Resources via the State Clearinghouse on June 13, 2018.

2. The Commission held a duly advertised public hearing on said DEIR on Thursday, July 19, 2018, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on July 27, 2018.

3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses to Comments on DEIR document ("RTC"), published on September 13, 2018, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.

4. The Department has prepared a Final Environmental Impact Report (hereinafter "FEIR") consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the RTC document, all as required by law.

5. The Department has made available project EIR files for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.

6. On September 27, 2018, the Commission reviewed and considered the information contained in the FEIR and hereby does find that the contents of said report and the procedures through which the

FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31.

7. The project sponsor has indicated that the presently preferred project is the Preferred Project, analyzed in Chapter 2 of the RTC document, and as further refined and described in the various proposed approvals for the Project, as detailed in revisions to the DEIR and other staff reports.

8. The Planning Commission hereby does find that the FEIR concerning File No. 2015-010013ENV reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the RTC document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA and the CEQA Guidelines.

   The Commission, in certifying the completion of said FEIR, hereby does find that the project described in the EIR would cause a substantial adverse change in the significance of a historical resource as defined in the California Environmental Quality Act (CEQA) Guidelines section 15064.5, denoted in the DEIR as Impact CR-1. Despite implementing Mitigation Measures M-CR-1a: Documentation of the Historic Resource, M-CR-1b: Interpretation of the Historic Resource, and M-CR-1c: Video Recordation of the Historic Resource, the Project may not feasibly reduce that impact to a less-than-significant level.

   In addition, in certifying the completion of said FEIR, the Commission does hereby find that the project described in the EIR would result in substantial interference with pedestrian, bicycle, or vehicle circulation and accessibility to adjoining areas, and would result in potentially significant delays to transit. Despite implementing Mitigation Measure M-TR-1a: Pedestrian, Bicycle, and Transit Access during Construction, and Mitigation Measure M-TR-1b: Coordinated Construction Traffic Management Plan, the Project may not feasibly reduce that impact to a less-than-significant level.

   In certifying the completion of said FEIR, the Commission also does hereby find that the project described in the EIR, in combination with other past, present, and reasonably foreseeable future projects, would contribute considerably to significant cumulative construction-related transportation impacts, with substantial interference with pedestrian, bicycle, or vehicle circulation and accessibility to adjoining areas, and would result in potentially hazardous conditions and significant delays to transit. Despite implementing Mitigation Measures M-TR-1a: Provision for Adequate Pedestrian, Bicycle, and Transit Access during Construction, and M-TR-1b: Coordinated Construction Traffic Management Plan, the Project may not feasibly reduce that impact to a less-than-significant level.

   Finally, in certifying the completion of said FEIR, the Commission also does hereby find that the project described in the EIR, in combination with other past, present, and reasonably foreseeable future projects, would alter wind in a manner that would substantially affect public areas in the

vicinity of the project site. Despite implementing Mitigation Measure M-C-WI-1, the Project may not feasibly reduce that impact to a less-than-significant level.

9. The Planning Commission reviewed and considered the information contained in the FEIR prior to approving the Project.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of September 27, 2018.

Jonas P. Ionin
Commission Secretary

AYES: Hillis, Melgar, Fong, Johnson, Koppel, Moore, Richards

NAYS: None

ABSENT: None

ADOPTED: September 27, 2018

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Planning Commission Motion No. 20292
CEQA Findings

HEARING DATE: SEPTEMBER 27, 2018

Record No.:	**2015-010013ENVDNXVARSHD**
Project Address:	**30 OTIS STREET**
Zoning:	C-3-G (Downtown – General) Zoning District NCT-3 Moderate-Scale Neighborhood Commercial Transit Zoning District 85/250-R-2 Height and Bulk District 85-X Height and Bulk District Van Ness & Market Downtown Residential Special Use District
Block/Lot:	Block 3505; Lots 010, 012, 013, 016, and 018
Project Sponsor:	Jessie Stuart, Align Real Estate 255 California Street, Suite 525 San Francisco, CA 94111
Staff Contact:	Andrew Perry – (415) 575-9017 andrew.perry@sfgov.org

ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA"), AND THE CEQA GUIDELINES INCLUDING FINDINGS OF FACT, FINDINGS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, THE ADOPTION OF A MITIGATION, MONITORING AND REPORTING PROGRAM AND THE ADOPTION OF A STATEMENT OF OVERRIDING CONSIDERATIONS IN CONNECTION WITH APPROVALS FOR THE 30 OTIS STREET PROJECT TO DEMOLISH FIVE EXISTING BUILDINGS AND CONSTRUCT A 9-STORY (85-FOOT TALL) PODIUM ACROSS THE ENTIRE SITE AND A 26-STORY (250-FOOT TALL) TOWER WITH 416 DWELLING UNITS, APPROXIMATELY 2,199 SQUARE FEET OF GROUND FLOOR RETAIL, APPROXIMATELY 15,993 SQUARE FEET OF ARTS AND ACTIVITIES SPACE, APPROXIMATELY 31,290 SQUARE FEET OF USEABLE OPEN SPACE, 256 BICYCLE PARKING SPACES (224 CLASS 1, 32 CLASS 2), AND 95 VEHICULAR PARKING SPACES AND THREE CAR-SHARE SPACES WITHIN THE DOWNTOWN–GENERAL (C-3-G) ZONING DISTRICT, THE MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT (NCT-3), THE 85/250-R-2 AND 85-X HEIGHT AND BULK DISTRICTS, AND THE VAN NESS AND MARKET DOWNTOWN RESIDENTIAL SPECIAL USE DISTRICT.

PREAMBLE

The 30 Otis Street Project ("Project") comprises a project site of 36,042-square-feet (sf) along Otis Street, 12th Street, Colusa Alley, and Chase Court in the South of Market neighborhood (Assessors Block 3505, Lots 10, 12, 13, 16, and 18). Five commercial buildings, ranging from one to three stories, currently exist on the site.

The Project would merge the lots, demolish the existing buildings, and construct a residential building with ground-floor retail and arts activity uses. The proposed building would comprise a 9-story podium

structure extending across the entire site and a 26-story single tower in the southeastern portion of the building, at the corner of Otis and 12th streets. The proposed building would range from 85 to 250 feet in height, and would be approximately 474,381 square feet (sf) (398,365 gross square feet [gsf] per the San Francisco Planning Code). The proposed building would include 416 residential units, ranging from studios to two-bedroom units; 2,199 sf of ground-floor retail space in three separate spaces; 15,993 sf of arts activities space (occupied by the City Ballet School, which currently operates on the site in the 30 Otis Street building) with studios and a theater; and approximately 31,290 sf of open space provided on the ground floor and residential terraces. The project would expand the existing 15-foot-wide sidewalk on the west side of 12th Street to create an approximately 7,200-sf public plaza, ranging from 17 to 77 feet wide, at the corner of 12th Street and South Van Ness Avenue. The Project would provide 95 residential parking spaces and three car-share spaces in two basement levels. The Project would include 224 Class 1 bicycle parking spaces and 32 Class 2 spaces.

The building at 14-18 Otis Street has been determined individually eligible for the California Register of Historic Resources.

The Project site is located in a Downtown General Commercial (C-3-G) and Neighborhood Commercial Transit (NCT-3) districts and 85/250 R-2 and 85-X Height and Bulk Districts.

The Project requires a Planning Code section 309 downtown project authorization for the construction of a new building in a Downtown (C-3) Zoning District; exceptions to Planning Code section 148 for ground-level wind currents and section 249.33(b)(5) for lot coverage; an in-kind improvement agreement under Planning Code section 421.3(d) for community improvements for neighborhood infrastructure within the Market and Octavia Plan area, and Planning Code section 424.3(c) for community improvements for the neighborhood infrastructure within the Van Ness and Market Downtown Residential Special Use District (Neighborhood Infrastructure Fee); general plan referral for sidewalk changes, and 15-foot, 6-inch curb cut; variances from the Planning Code's requirements for an awning that functions as a wind canopy (Planning Code section 136.1), exposure (Planning Code section 140), and ground-floor height requirements (Planning Code section 145.1); an exemption from requirements to height for elevator overrun above 16 feet (Planning Code section 260(b)(1)(B)); and, a modification to rear yard requirements in the NCT District (Planning Code section 134).

The Project Sponsors filed an Environmental Evaluation Application for the Project with the San Francisco Planning Department ("Department") on September 28, 2015.

Pursuant to and in accordance with the requirements of Section 21094 of CEQA and Sections 15063 and 15082 of the CEQA Guidelines, the Department, as lead agency, published and circulated a Notice of Preparation/Initial Study – Community Plan Evaluation ("NOP/IS-CPE") on February 9, 2018, which notice solicited comments regarding the scope of the EIR for the Project. The NOP/IS-CPE and its 30-day public review comment period were advertised in a newspaper of general circulation in San Francisco and mailed to governmental agencies, organizations and persons interested in the potential impacts of the Project.

During the 30-day public scoping period that ended on March 12, 2018, the Department accepted comments from agencies and interested parties that identified environmental issues that should be addressed in the EIR. Comments received during the scoping process were considered in the preparation of the DEIR.

The Department prepared the DEIR, which describes the Project and the environmental setting, analyzes potential impacts, identifies mitigation measures for impacts found to be significant or potentially significant, and evaluates alternatives to the Project. The DEIR assesses the potential construction and operational impacts of the Project on the environment, and the potential cumulative impacts associated with the Project in combination with other past, present, and future actions with potential for impacts on the same resources. The analysis of potential environmental impacts in the DEIR utilizes significance criteria that are based on the San Francisco Planning Department Environmental Planning Division guidance regarding the environmental effects to be considered significant. The Environmental Planning Division's guidance is, in turn, based on CEQA Guidelines Appendix G, with some modifications.

The Department published a DEIR for the project on June 13, 2018, and circulated the DEIR to local, state, and federal agencies and to interested organizations and individuals for public review. On June 13, 2018, the Department also distributed notices of availability of the DEIR; published notification of its availability in a newspaper of general circulation in San Francisco; posted the notice of availability at the San Francisco County Clerk's office; and posted notices at locations within the Project area. The Planning Commission ("Commission") held a public hearing on July 19, 2018, to solicit testimony on the DEIR during the public review period. A court reporter, present at the public hearing, transcribed the oral comments verbatim, and prepared written transcripts. The Department also received written comments on the DEIR, which were sent through mail, fax, hand delivery, or email. The Department accepted public comment on the DEIR until July 27, 2018.

The San Francisco Planning Department then prepared the Response to Comments on DEIR document ("RTC"). The RTC document was published on September 13, 2018, and includes copies of all of the comments received on the DEIR and written responses to each comment.

During the period between publication of the DEIR and the RTC document, the Project Sponsors initiated revisions to the Project that reduce the number of residential units and reduce the arts and activities and the retail space on the ground floor ("Preferred Project"). The Preferred Project would provide 416 residential units versus the 423 residential units analyzed in the DEIR. The arts and activities space would be reduced from 16,600 square feet to 15,993 square feet, and the ground-floor retail space would be reduced from 5,585 square feet to 2,199 square feet. The amount of open space on the ground floor and residential terraces would be increased from 23,000 square feet to 31,902 square feet. In addition to these use changes, the amount of residential parking provided would increase from 71 spaces to 95 spaces, with still three car-share spaces being provided. The number of Class 1 bicycle spaces would decrease from 361 to 224, while the number of Class 2 spaces would remain at 32.

These changes would not result in increases to the height, width, or length of the building. Therefore, the Preferred Project fits within the building envelope previously analyzed in the DEIR. As a result, the

Preferred Project was fully studied in the DEIR and RTC document. The "Project" as analyzed under the Final EIR and these CEQA Findings includes the Project and the Preferred Project.

In addition to describing and analyzing the physical and environmental impacts of the revisions to the Project, the RTC document provided additional, updated information, clarification and modifications on issues raised by commenters, as well as Planning Department staff-initiated text changes to the DEIR. The Final EIR (FEIR), which includes the DEIR, the RTC document, the Appendices to the DEIR and RTC document, and all of the supporting information, has been reviewed and considered. The RTC document and appendices and all supporting information do not add significant new information to the DEIR that would individually or collectively constitute significant new information within the meaning of Public Resources Code Section 21092.1 or CEQA Guidelines Section 15088.5 so as to require recirculation of the FEIR (or any portion thereof) under CEQA. The RTC document and appendices and all supporting information contain no information revealing (1) any new significant environmental impact that would result from the Project or from a new mitigation measure proposed to be implemented, (2) any substantial increase in the severity of a previously identified environmental impact, (3) any feasible project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the environmental impacts of the Project, but that was rejected by the Project sponsor, or (4) that the DEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

The Commission reviewed and considered the FEIR for the Project and found the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the California Environmental Quality Act (Public Resources Code section 21000 et seq.), the CEQA Guidelines (14 Cal. Code Reg. section 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code.

The Commission found the FEIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Planning Commission, and that the summary of comments and responses contained no significant revisions to the DEIR, and certified the FEIR for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31 by its Motion No. 20291.

The Commission, in certifying the FEIR, found that the Project described in the FEIR will have the following significant and unavoidable environmental impacts:

- Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5.
- Cause potentially significant delays to transit during project construction due to construction activities substantially interfering with pedestrian, bicycle, or vehicle circulation and accessibility to adjoining areas.
- Combine with past, present, and reasonably foreseeable future projects in the vicinity of the project site to result in potentially hazardous conditions and significant delays to transit due to contributing considerably to significant cumulative construction-related transportation impacts,

with substantial interference with pedestrian, bicycle, or vehicle circulation and accessibility to adjoining areas.

- Combine with past, present and reasonably foreseeable future projects to alter wind in a manner that would substantially affect public areas in the vicinity of the project site.

The Commission Secretary is the custodian of records for the Planning Department materials, located in the File for Case No. 2015-010013ENV, 30 Otis Street Project, at 1650 Mission Street, Fourth Floor, San Francisco, California.

On September 27, 2018, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2015-010013ENV, 30 Otis Street Project to consider the approval of the Project. The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the Project, the Planning Department staff, expert consultants and other interested parties.

The Commission has reviewed the entire record of this proceeding, the Environmental Findings, attached to this Motion as Attachment A and incorporated fully by this reference, regarding the alternatives, mitigation measures, environmental impacts analyzed in the FEIR and overriding considerations for approving the Project, and the proposed Mitigation Monitoring and Reporting Program ("MMRP") attached as Attachment B and incorporated fully by this reference, which material was made available to the public.

MOVED, that the Commission hereby adopts these findings under the California Environmental Quality Act, including rejecting alternatives as infeasible and adopting a Statement of Overriding Considerations, as further set forth in Attachment A hereto, and adopts the MMRP attached as Attachment B, based on substantial evidence in the entire record of this proceeding.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of September 27, 2018.

Jonas P. Ionin
Commission Secretary

AYES: Hillis, Melgar, Fong, Johnson, Koppel, Moore, Richards

NAYS: None

ABSENT: None

ADOPTED: September 27, 2018

ATTACHMENT A

California Environmental Quality Act Findings

PREAMBLE

In determining to approve the project described in Section I, below, the ("Project"), the San Francisco Planning Commission (the "Commission") makes and adopts the following findings of fact and decisions regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, and a statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. ("CEQA"), particularly Section 21081 and 21081.5, the Guidelines for Implementation of CEQA, 14 California Code of Regulations Section 15000 et seq. ("CEQA Guidelines"), Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission adopts these findings in conjunction with the Approval Actions described in Section I(c), below, as required by CEQA, separate and apart from the Commission's certification of the Project's Final Environmental Impact Report, which the Commission certified prior to adopting these CEQA findings.

These findings are organized as follows:

Section I provides a description of the Project, Project objectives, the environmental review process for the Project, the City and County of San Francisco ("City") approval actions to be taken, and the location and custodian of the record.

Section II identifies the Project's less-than-significant impacts that do not require mitigation.

Section III identifies potentially significant impacts that can be avoided or reduced to less-than-significant levels through mitigation and describes the disposition of the mitigation measures.

Section IV identifies significant impacts that would not be eliminated or reduced to a less-than-significant level and describes any applicable mitigation measures as well as the disposition of the mitigation measures.

Sections III and IV set forth findings as to the mitigation measures identified in the Final Environmental Impact Report. (The Draft Environmental Impact Report ["DEIR"] and the Comments and Responses document ["RTC document"] together comprise the Final Environmental Impact Report ["FEIR"]). Attachment B to the Planning Commission Motion contains the Mitigation Monitoring and Reporting Program ("MMRP"), which provides a table setting forth each mitigation measure listed in the FEIR that is required to reduce a significant adverse impact and is deemed feasible, identifies the parties

responsible for carrying out the measure and reporting on its progress, and presents a schedule for implementation of each measure listed.

Section V evaluates the alternatives to the Project that were analyzed in the Environmental Impact Report ("EIR") and the economic, legal, social, technological and other considerations that support the approval of the Project and discusses the reasons for the rejection of the Project Alternatives, or elements thereof.

Section VI sets forth the Planning Commission's Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15093.

The MMRP for the mitigation measures that have been proposed for adoption is attached with these findings as **Attachment B** to this Motion. The MMRP is required by CEQA Section 21081.6 and CEQA Guidelines Section 15091 and 15097. Attachment B provides a table setting forth each mitigation measure identified in the FEIR that would reduce a significant adverse impact and has been adopted as a condition of approval of the Project. Attachment B also specifies the agency responsible for implementation of each measure and establishes monitoring actions and a monitoring schedule. The full text of the mitigation measures adopted as conditions of approval is set forth in Attachment B.

These findings are based upon substantial evidence in the entire record before the Commission. The references set forth in these findings to certain pages or sections of the DEIR or the RTC document are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

I. PROJECT DESCRIPTION AND PROCEDURAL BACKGROUND

A. Project Description

The project site is on the north side of Otis Street at the intersection of Otis Street, 12th Street, and South Van Ness Avenue (U.S. 101), in San Francisco's South of Market (SoMa) neighborhood. The site comprises five adjacent lots (Assessor's Parcel Numbers 3505-010, 3505-012, 3505-013, 3505-016, and 3505-018) with frontage along Otis Street, 12th Street, Colusa Place, and Chase Court. Five commercial buildings, ranging from one to three stories, currently occupy the entire extent of their respective five lots.

The project sponsor, Align Otis, LLC, proposes to merge the five lots into one lot, demolish the existing buildings, and construct a residential building with ground-floor retail and arts activity use. The Project would include a 9-story podium structure extending across the entire site and a 26-story single tower in the southeastern portion of the building, approximately at the corner of Otis and 12th streets. The proposed building would range from 85 to 250 feet in height, and would be approximately 474,381 square feet (sf) (398,365 gross square feet [gsf] per the San Francisco Planning Code). The proposed building would include 416 residential units, ranging from studios to two-bedroom units; 2,199 sf ground-floor retail space in three separate spaces; 15,993 sf of arts activities space (occupied by the City Ballet School, which currently operates on the site in the 30 Otis Street building) with studios and a theater; and approximately 31,902 sf of open space provided on the ground floor and residential terraces. The project

would expand the existing 15-foot-wide sidewalk on the west side of 12th Street to create an approximately 7,200-sf public plaza, ranging from 17 to 77 feet wide, at the corner of 12th Street and South Van Ness Avenue. The Project would provide 95 residential parking spaces and three car-share spaces in two basement levels. The Project would include 224 Class 1 bicycle parking spaces and 32 Class 2 spaces.[1] Project construction would span approximately 22 months.

B. Project Objectives

The FEIR discusses several project objectives identified by the Project Sponsors.

- To redevelop a large, underused site in a transit-oriented, urban infill location with a range of dwelling units, ground-floor commercial and retail uses, open space amenities, and arts activity space for the City Ballet School.
- To provide modern and upgraded facilities for the City Ballet School, including performance space, studios, offices, changing rooms, reception lobby, and storage.
- To create studio and performance spaces that can be used as new community amenity space for rent to the public by the City Ballet School, when the ballet school is not in use.
- To create a mixed-use project consistent with the Market-Octavia Plan, the Van Ness and Market Downtown Residential Special Use District, the C-3-G Zoning District and Neighborhood Commercial-Transit-3 (NCT-3) Zoning District controls, and the San Francisco General Plan's housing, urban design, transportation, and other elements.
- To build a substantial number of residential units on site to help alleviate the current housing shortage in San Francisco and the greater Bay Area; as well as to contribute to the General Plan's Housing Element goals and the Association of Bay Area Governments' Regional Housing Needs Allocation for the City and County of San Francisco.
- To promote the construction, retention, and rehabilitation of affordable housing units in San Francisco, by participating in the City's Inclusionary Affordable Housing Program.
- To provide an attractive, usable, and pedestrian-friendly plaza at the corner of 12th and Otis streets.
- To provide neighborhood services on the ground floor for residents, neighbors, and nearby workers.
- To construct streetscape improvements and retail that serve neighborhood residents and workers, and enliven pedestrian activity on Otis Street and 12th Street.

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[1] Planning Code section 155.1(a) defines Class 1 bicycle spaces as "spaces in secure, weather-protected facilities intended for use as long-term, overnight, and work-day bicycle storage by dwelling unit residents, nonresidential occupants, and employees." Class 2 spaces are "spaces located in a publicly-accessible, highly visible location intended for transient or short-term use by visitors, guests, and patrons to the building or use."

- To produce a high-quality architectural and landscape design that encourages variety, is compatible with its surrounding context, and demonstrates exemplary commitment to the principles of environmental sustainability through its transportation planning, energy and water usage, materials selection, indoor environmental quality, and waste management.
- To construct a high-quality project that includes a sufficient number of residential units and amount of commercial space to make the redevelopment of the site economically feasible, produce a reasonable return on investment for the project sponsor and its investors, attract investment capital and construction financing, and generate sufficient revenue to subsidize the project's reconstructed City Ballet School.

C. Project Approvals

The Project would require approvals from several authorities, including those listed below:

Actions by the Planning Commission

- Approval of an application for a Planning Code section 309 downtown project authorization for the construction of a new building in a Downtown (C-3) Zoning District and for granting exceptions to Planning Code section 148 for ground-level wind currents and section 249.33(b)(5) for lot coverage.
- Findings under Section 295 of the Planning Code, in consultation with the Recreation and Park Commission and after receiving the recommendation of the General Manager of the Recreation and Parks Department, that the net new shadow cast by the Project on the proposed park at 11th and Natoma Streets would not be adverse.
- Approval of an *in-kind improvement agreement* under Planning Code section 421.3(d) for community improvements for neighborhood infrastructure within the Market and Octavia Plan area, and Planning Code section 424.3(c) for community improvements for the neighborhood infrastructure within the Van Ness and Market Downtown Residential Special Use District (Neighborhood Infrastructure Fee).
- General plan referral for sidewalk changes, and 15-foot, 6-inch curb cut.

Actions by the Zoning Administrator

- Granting of variances from the Planning Code's requirements for an awning that functions as a wind canopy (Planning Code section 136.1), exposure (Planning Code section 140), and ground-floor height requirements (Planning Code section 145.1(c)(4)).
- Granting of an exemption from requirements to height for elevator overrun above 16 feet (Planning Code section 260(b)(1)(B)).
- Granting of a modification to rear yard requirements in the NCT District (Planning Code section 134(e)(1)).

Actions by other City Departments

- Approval of site, demolition, grading, and building permits (Planning Department and Department of Building Inspection).
- Approval of permits for streetscape improvements in the public right-of-way, including new curb cuts on 12th Street, sidewalk widening, and tree removal and planting (San Francisco Public Works).
- Approval of project compliance with the stormwater design guidelines (San Francisco Public Utilities Commission).
- Approval of an erosion and sediment control plan (San Francisco Public Utilities Commission).
- Approval of a site mitigation plan, dust control plan, enhanced ventilation proposal, and issuance of a certification of registration for a diesel backup generator (San Francisco Department of Public Health).
- Approval of all proposed changes in parking and loading zones, and Class 2 bicycle parking. Coordination and approval on construction-related changes to the transportation network, including potential traffic, street and parking changes, sidewalk and/or lane closures (San Francisco Municipal Transportation Agency).

Actions by other Government Agencies

- Approval of permit for installation, operation, and testing of a diesel backup generator (Bay Area Air Quality Management District).

D. Environmental Review

The Project Sponsors filed an Environmental Evaluation Application for the Project with the San Francisco Planning Department ("Department") on September 28, 2015.

Pursuant to and in accordance with the requirements of Section 21094 of CEQA and Sections 15063 and 15082 of the CEQA Guidelines, the Department, as lead agency, published and circulated a Notice of Preparation/Initial Study – Community Plan Evaluation ("NOP/IS-CPE") on February 9, 2018, which notice solicited comments regarding the scope of the EIR for the Project. The NOP/IS-CPE and its 30-day public review comment period were advertised in a newspaper of general circulation in San Francisco and mailed to governmental agencies, organizations and persons interested in the potential impacts of the Project.

During the 30-day public scoping period that ended on March 12, 2018, the Department accepted comments from agencies and interested parties that identified environmental issues that should be addressed in the EIR. Comments received during the scoping process were considered in preparation of the DEIR.

The Department prepared the DEIR, which describes the Project and the environmental setting, analyzes potential impacts, identifies mitigation measures for impacts found to be significant or potentially significant, and evaluates alternatives to the Project. The DEIR assesses the potential construction and

operational impacts of the Project on the environment, and the potential cumulative impacts associated with the Project in combination with other past, present, and future actions with potential for impacts on the same resources. The analysis of potential environmental impacts in the DEIR utilizes significance criteria that are based on the San Francisco Planning Department Environmental Planning Division guidance regarding the environmental effects to be considered significant. The Environmental Planning Division's guidance is, in turn, based on CEQA Guidelines Appendix G, with some modifications.

The Department published a DEIR for the project on June 13, 2018 and circulated the DEIR to local, state, and federal agencies and to interested organizations and individuals for public review. On June 13, 2018, the Department also distributed notices of availability of the DEIR; published notification of its availability in a newspaper of general circulation in San Francisco; posted the notice of availability at the San Francisco County Clerk's office; and posted notices at locations within the project area. The Planning Commission held a public hearing on July 19, 2018, to solicit testimony on the DEIR during the public review period. A court reporter, present at the public hearing, transcribed the oral comments verbatim, and prepared written transcripts. The Department also received written comments on the DEIR, which were sent through mail, fax, hand delivery, or email. The Department accepted public comment on the DEIR until July 27, 2018.

The Department prepared responses to comments on environmental issues received during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected clerical errors in the DEIR. The Planning Commission recognizes that minor changes have been made to the Project and additional evidence has been developed after publication of the DEIR. Specifically, during the period between publication of the DEIR and the RTC document, the Project Sponsors initiated revisions to the Project that reduce the number of residential units and reduce the arts and activities and the retail space on the ground floor ("Preferred Project"). The Preferred Project would provide 416 residential units versus the 423 residential units analyzed in the DEIR. The arts and activities space would be reduced from 16,600 square feet to 15,993 square feet, and the ground-floor retail space would be reduced from 5,585 square feet to 2,199 square feet. The amount of open space on the ground floor and residential terraces would be increased from 23,000 square feet to 31,290 square feet. In addition to these use changes, the amount of residential parking provided would increase from 71 spaces to 95 spaces, with still three car-share spaces being provided. The number of Class 1 bicycle spaces would decrease from 361 to 224, while the number of Class 2 spaces would remain at 32. These changes would not result in increases to the height, width, or length of the building. Therefore, the Preferred Project fits within the building envelope previously analyzed in the DEIR.

The Preferred Project was fully studied in the DEIR and RTC document (see Section B, "Project Description Revisions and Draft EIR Analysis," in the RTC document).

This material was presented in the RTC document, published on September 13, 2018, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.

The Department prepared the RTC. The RTC document was published on September 13, 2018, and includes copies of all of the comments received on the DEIR and written responses to each comment.

A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the RTC document all as required by law. The IS-CPE is incorporated by reference thereto. As described in the FEIR, the refinements discussed above would result in either no changes to the impact conclusions or a reduction in the severity of the impact presented in the DEIR. The "Project" as analyzed under the Final EIR and these CEQA Findings include the Project and the Preferred Project.

Under section 15088.5 of the CEQA Guidelines, recirculation of an EIR is required when "significant new information" is added to the EIR after public notice is given of the availability of the DEIR for public review but prior to certification of the FEIR. The term "information" can include changes in the project or environmental setting, as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

(1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.

(4) The DEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

(CEQA Guidelines, § 15088.5, subd. (a).)

Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

Here, the FEIR includes supplemental data and information that was developed after publication of the DEIR to further support the information presented in the DEIR. None of this supplemental information affects the conclusions or results in substantive changes to the information presented in the DEIR, or to the significance of impacts as disclosed in the DEIR. Nor does it add any new mitigation measures or alternatives that the project sponsor declined to implement. The Commission finds that none of the

changes and revisions in the FEIR substantially affects the analysis or conclusions presented in the DEIR; therefore, recirculation of the DEIR for additional public comments is not required.

Project EIR files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.

On September 27, 2018, the Commission reviewed and considered the FEIR and found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The FEIR was certified by the Commission on September 27, 2018, by adoption of its Motion No. 20291.

E. Content and Location of Record

The record upon which all findings and determinations related to the adoption of the Project are based include the following:

- The FEIR, and all documents referenced in or relied upon by the FEIR, including the IS-CPE;
- All information (including written evidence and testimony) provided by City staff to the Commission relating to the FEIR, the proposed approvals and entitlements, the Project, and the alternatives set forth in the FEIR;
- All information (including written evidence and testimony) presented to the Commission by the environmental consultant and subconsultants who prepared the FEIR, or incorporated into reports presented to the Commission;
- All information (including written evidence and testimony) presented to the City from other public agencies relating to the Project or the FEIR;
- All applications, letters, written information, testimony, and presentations presented to the City by the Project Sponsors and their consultants in connection with the Project;
- All information (including written evidence and testimony) presented at any public hearing related to the EIR;
- The MMRP; and,
- All other documents comprising the record pursuant to Public Resources Code Section 21167.6(e).

The public hearing transcripts and audio files, a copy of all letters regarding the FEIR received during the public review period, the administrative record, and background documentation for the FEIR are located at the Planning Department, 1650 Mission Street, 4th Floor, San Francisco. The Planning Department, Jonas P. Ionin, is the custodian of these documents and materials.

F. Findings about Environmental Impacts and Mitigation Measures

The following Sections II, III, and IV set forth the Commission's findings about the FEIR's determinations regarding significant environmental impacts and the mitigation measures proposed to address them. These findings provide the written analysis and conclusions of the Commission regarding the environmental impacts of the Project and the mitigation measures identified in the FEIR and adopted by the Commission as part of the Project. To avoid duplication and redundancy, and because the Commission agrees with, and hereby adopts, the conclusions in the FEIR, these findings will not repeat the analysis and conclusions in the FEIR but instead incorporate them by reference and rely upon them as substantial evidence supporting these findings.

In making these findings, the Commission has considered the opinions of staff and experts, other agencies, and members of the public. The Commission finds that (i) the determination of significance thresholds is a judgment decision within the discretion of the City and County of San Francisco; (ii) the significance thresholds used in the FEIR are supported by substantial evidence in the record, including the expert opinion of the City staff; and (iii) the significance thresholds used in the FEIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project. Thus, although, as a legal matter, the Commission is not bound by the significance determinations in the FEIR (see Public Resources Code, Section 21082.2, subdivision (e)), the Commission finds them persuasive and hereby adopts them as its own.

These findings do not attempt to describe the full analysis of each environmental impact contained in the FEIR. Instead, a full explanation of these environmental findings and conclusions can be found in the FEIR, and these findings hereby incorporate by reference the discussion and analysis in the FEIR supporting the determination regarding the project impact and mitigation measures designed to address those impacts. In making these findings, the Commission ratifies, adopts and incorporates in these findings the determinations and conclusions of the FEIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings, and relies upon them as substantial evidence supporting these findings.

As set forth below, the Commission adopts and incorporates the mitigation measures set forth in the FEIR, which to the extent feasible are set forth in the attached MMRP, to reduce the significant and unavoidable impacts of the Project. The Commission intends to adopt the mitigation measures proposed in the FEIR. Accordingly, in the event a mitigation measure recommended in the FEIR has inadvertently been omitted in these findings or the MMRP, such mitigation measure that is deemed feasible and should have been included in the MMRP but was inadvertently omitted is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in these findings or the MMRP fails to accurately reflect the mitigation measures in the FEIR due to a clerical error, the language of the policies and implementation measures as set forth in the FEIR shall control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the FEIR.

In Sections II, III, and IV below, the same findings are made for a category of environmental impacts and mitigation measures. Rather than repeat the identical finding to address each and every significant effect

and mitigation measure, the initial finding obviates the need for such repetition because in no instance is the Commission rejecting the conclusions of the FEIR or the mitigation measures recommended in the FEIR for the Project.

These findings are based upon substantial evidence in the entire record before the Commission. The references set forth in these findings to certain pages or sections of the EIR or responses to comments in the FEIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

References to the proposed project or Project below in these CEQA Findings, including all impact conclusions and mitigation measures, shall be interpreted to include and incorporate any changes proposed by the revised Project, unless otherwise noted. In addition, all impact conclusions and mitigation measures are the same for the Project and revised Project, unless these CEQA Findings specifically indicate otherwise.

II. IMPACTS FOUND TO BE LESS THAN SIGNIFICANT AND THUS REQUIRING NO MITIGATION

The NOP/IS-CPE found that implementation of the Project would not result in new, project-specific environmental impacts, or impacts of greater severity than were already analyzed and disclosed in the *Market and Octavia Neighborhood Plan Final Environmental Impact Report* (Market and Octavia PEIR) (Case No. 2003.0347E; State Clearinghouse No. 2004012118), which is the underlying EIR for the proposed project, for the following issue topics: land use and land use planning; aesthetics; population and housing; archeological resources; noise; air quality; shadow; recreation; utilities and service systems; public services; biological resources; geology and soils; hydrology and water quality; hazards and hazardous materials; mineral and energy resources; and agriculture and forest resources.

In addition, as more fully described in the FEIR, and based on the evidence in the whole record of this proceeding, it is hereby found that implementation of the Project would not result in any significant impacts in the following areas and that these impact areas therefore do not require mitigation:

A. Historic Architectural Resources

Impact C-CR-1: The proposed project, in combination with past, present, and reasonably foreseeable future projects in the vicinity would not result in a significant cumulative impact to historic architectural resources.

B. Wind

Impact WI-1: The proposed project would not alter wind in a manner that substantially affects public areas in the vicinity of the project site.

Note: Senate Bill (SB) 743 became effective on January 1, 2014. Among other things, SB 743 added §21099 to the Public Resources Code and eliminated the requirement to analyze aesthetics and parking impacts for certain urban infill projects under CEQA. The proposed project meets the definition of a mixed-use residential project on an infill site within a transit priority area as specified by Public Resources Code

§21099. Accordingly, the FEIR did not disclose the topic of Aesthetics, which can no longer be considered in determining the significance of the proposed project's physical environmental effects under CEQA. The FEIR nonetheless provided visual simulations for informational purposes. This information, however, did not relate to the significance determination in the FEIR.

III. FINDINGS OF POTENTIALLY SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL THROUGH MITIGATION AND THE DISPOSITION OF THE MITIGATION MEASURES

CEQA requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potential significant impacts if such measures are feasible. The findings in this Section III and in Section IV discuss mitigation measures as identified in the FEIR for the Project and as recommended for adoption by the Planning Commission. The full explanation of the potentially significant environmental impacts and the full text of the mitigation measures is contained in the NOP/IS-CPE, FEIR and/or the MMRP. A copy of the MMRP is included as Attachment B to the Planning Commission Motion adopting these findings.

The impacts identified in this Section III would be reduced to a less-than-significant level through implementation of the mitigation measures contained in the NOP/IS-CPE, FEIR, included in the Project, or imposed as conditions of approval and set forth in Attachment B. The impacts identified in Section IV, below, for which feasible mitigation has been identified in the FEIR also would be reduced, although not to a less-than-significant level.

As indicated in the MMRP, in most cases, mitigation measures will be implemented by the Planning Commission, Planning Department or the Project Sponsors. In these cases, implementation of mitigation measures will be made conditions of project approval. For each of these mitigation measures and the impacts they address, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR. (CEQA Guidelines, § 15091, subd. (a)(1).)

In the case of all other mitigation measures, an agency other than the Planning Commission (either another City agency or a non-City agency) will have responsibility for implementation or assisting in the implementation or monitoring of mitigation measures. This is because certain mitigation measures are partly or wholly within the responsibility and jurisdiction of another public agency (other than the Planning Commission). In such instances, the entity that will be responsible for implementation is identified in the MMRP for the Project (Attachment B). Generally, the Planning Commission has designated the agencies to implement mitigation measures as part of their existing permitting or program responsibilities. Based on past experience and ongoing relationships and communications with these agencies, the Planning Commission has reason to believe that they can and will implement the mitigation measures assigned to them. The Planning Department also will be assisted in monitoring implementation of mitigation measures by other agencies, as indicated in the MMRP in Exhibit B, such as the San Francisco Department of Public Works through their permit responsibilities, or the SFMTA as part of its operation and maintenance of traffic and transit systems.

For each of these mitigation measures and the impacts they address, the Planning Commission finds that the changes or alterations are in whole or in part within the responsibility and jurisdiction of a public agency other than the Planning Commission and that the changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091, subd. (a)(2).)
The Planning Commission adopts all of the mitigation measures proposed for the Project that are within the jurisdiction and control of the Planning Commission. For those mitigation measures that are the responsibility of agencies other than the Planning Department (e.g., the City and County of San Francisco and its subsidiary agencies), the Planning Commission finds that those measures can and should be implemented by the other agencies as part of their existing permitting or program responsibilities. Based on the analysis contained in the NOP/IS-CPE and FEIR, other considerations in the record, and the standards of significance, the Planning Commission finds that implementation of all of the proposed mitigation measures discussed in this Section III will reduce potentially significant impacts to a less-than-significant level.

The following significant impacts and mitigation measures were identified in the NOP/IS-CPE:

A. Archeological Resources Impact

The Market and Octavia PEIR determined that implementation of the area plan could result in significant impacts on archeological resources and identified four mitigation measures that would reduce these potential impacts to a less-than-significant level. No previous archeological studies have been previously completed for the property and the proposed project site is not within the Mission Dolores Archeological District; therefore, Mitigation Measures C1: Soil-Disturbing Activities in Archeologically Documented Properties, and C4: Soil-Disturbing Activities in the Mission Dolores Archeological District do not apply to the proposed project. As a property with no previous archeological study and streetscape improvements, the proposed project is subject to Market and Octavia PEIR Mitigation Measures C2 and C3, requiring a preliminary archeological sensitivity study and an archeological monitoring program for excavation in public streets.

Project Mitigation Measure 1: Archeological Testing Program (Implementing Market Octavia PEIR Mitigation Measure C2 and C3). Implementation of the archeological testing program would ensure that the proposed project would not result in significant impacts not identified in the Market and Octavia PEIR.

B. Air Quality Impact

The Market and Octavia PEIR identified potentially significant air quality impacts resulting from temporary exposure to elevated levels of fugitive dust and diesel particulate matter during construction of development projects under the area plan. The PEIR identified two mitigation measures that would reduce these air quality impacts to less-than-significant levels. Market and Octavia PEIR Mitigation Measures E1 and E2 address air quality impacts during construction. The regulations and procedures set forth by the San Francisco Dust Control Ordinance would ensure that construction dust impacts would not be significant. Because these requirements provide the same dust control provisions as PEIR

Mitigation Measure, E1: Construction Mitigation Measure for Particulate Emissions, this measure related to dust control is no longer necessary to reduce construction-related dust impacts of the proposed project.

Project Mitigation Measure 2: Construction Air Quality (Implementing Market Octavia PEIR Mitigation Measure E2). Project Mitigation Measure 2: Construction Air Quality implements the Market and Octavia PEIR Mitigation Measure E2. Project Mitigation Measure 2: Construction Air Quality would require construction equipment engines meeting higher emission standards (lower emissions) which reduce diesel particulate matter exhaust from construction equipment by 89 to 94 percent compared to uncontrolled construction equipment.27 Therefore, impacts related to health risks from project construction emissions would be less than significant through implementation of Project Mitigation Measure 2: Construction Air Quality

The following significant impact and mitigation measure was identified in the FEIR:

C. Historic Architectural Resources

Impact CR-2: The proposed project would have a substantial adverse effect on an identified off-site historic resource.

Construction activity can generate vibration that can potentially cause structural damage to adjacent and nearby buildings. Construction of the Project would involve demolition, excavation, and building construction activities; however, it would not involve the use of construction equipment that would result in substantial groundborne vibration such as pile driving or blasting. The use of standard construction equipment is not expected to result in substantial groundborne vibration that would affect the architectural integrity of off-site historic structures. However, because construction activity would occur immediately adjacent to the historic resource at 56-70 12th Street, construction vibration could adversely affect this resource, which would be a significant impact.

Mitigation Measure M-CR-2: Vibration Monitoring Program for Adjacent Historical Resources, as more fully described in the DEIR (p. 4-38), is hereby adopted in the form set forth in the FEIR and the attached MMRP and will be implemented as provided therein. Based on the FEIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-CR-2 would reduce Impact CR-2 to a less-than-significant level.

IV. SIGNIFICANT IMPACTS THAT CANNOT BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL

Based on substantial evidence in the whole record of these proceedings, the Planning Commission finds that, where feasible, changes or alterations have been required, or incorporated into, the Project to reduce the significant environmental impacts as identified in the FEIR. The Commission finds that certain mitigation measures in the FEIR, as described in this Section IV, or changes, have been required in, or incorporated into, the Project, pursuant to Public Resources Code Section 21002 and CEQA Guidelines Section 15091, that may lessen, but do not avoid (i.e., reduce to less-than-significant levels), the potentially significant environmental effects associated with implementation of the Project that are

described below. Although all feasible mitigation measures and improvement measures set forth in the FEIR and the MMRP, attached hereto as Attachment B, are hereby adopted, for some of the impacts listed below, despite the implementation of feasible mitigation measures, the effects remain significant and unavoidable.

The Commission further finds, as described in this Section IV below, based on the analysis contained within the FEIR, other considerations in the record, and the significance criteria identified in the FEIR, that because some aspects of the Project could cause potentially significant impacts for which feasible mitigation measures are not available to reduce the impact to a less-than-significant level, those impacts remain significant and unavoidable. The Commission also finds that although mitigation measures are identified in the FEIR that would reduce some significant impacts, certain measures, as described in this Section IV below, are uncertain or infeasible for reasons set forth below, and therefore those impacts remain significant and unavoidable or potentially significant and unavoidable.

Thus, the following significant impacts on the environment, as reflected in the FEIR, are unavoidable. But, as more fully explained in Section V, below, under Public Resources Code Section 21081(a)(3) and (b), and CEQA Guidelines 15091(a)(3), 15092(b)(2)(B), and 15093, it is found and determined that legal, environmental, economic, social, technological and other benefits of the Project override any remaining significant adverse impacts of the Project for each of the significant and unavoidable impacts described below. This finding is supported by substantial evidence in the record of this proceeding.

A. Historic Architectural Resources

Impact CR-1: The proposed project would demolish the 14-18 Otis Street building and cause a substantial adverse change in the significance of a historical resource as defined in the California Environmental Quality Act (CEQA) Guidelines section 15064.5.

The Project would demolish the 14-18 Otis Street building, which is individually eligible for listing in the CRHR under Criterion 3 (Architecture) as a fine example of an early 20th-Century light-industrial building in San Francisco. The 14-18 Otis Street building was designed with utility and flexibility to suit a variety of business types, especially light manufacturing, warehousing and wholesale showrooms, and displays a simple but relatively high level of design. Demolition of 14-18 Otis Street would materially impair the significance of the historic resource causing a substantial adverse impact on the individual historic resource and thus would be considered a significant impact under CEQA.

Implementation of **Mitigation Measures M-CR-1a: Documentation of the Historic Resource, M-CR-1b: Interpretation of the Historic Resource**, and **M-CR-1c: Video Recordation of the Historic Resource,** as more fully described in the DEIR (pp. 4-35 and 4-36, respectively) would not reduce Impact CR-1 to such a degree that the resource would still be able to convey the characteristics that justify its eligibility for listing in the CRHR. Thus, the impact of the Project on the built environment even with the imposition of the feasible mitigation measures discussed above would continue to be significant and unavoidable with mitigation.

B. Construction-Related Transportation and Circulation

Impact TR-1: The proposed project construction activities would result in substantial interference with pedestrian, bicycle, or vehicle circulation and accessibility to adjoining areas, and would result in potentially significant delays to transit.

Construction of the project would require demolition, relocation, or delay of the Otis Street bus-boarding island, and construction vehicle maneuvers on Otis Street would create substantial interference with pedestrians, bicycles, and transit vehicles. The Otis Street bus boarding island is a key feature of the Muni Forward TTRP-14 Mission Rapid project. This portion of Otis Street provides more frequent transit service (24 buses during the p.m. peak hour) than most streets in San Francisco. In addition, the lines carry approximately 1,400 riders with a capacity of 2,600 riders during the p.m. peak hour. Given the frequency and high ridership of transit along Otis Street; the demolition, relocation, or delay of a key feature of the Muni Forward transit project along Otis Street for an approximately two-year period; and the slow maneuvering of trucks into the staging area adjacent to a travel lane used by transit, the project's temporary construction activities would result in substantial delays to transit. Therefore, the project construction impacts related to transportation would be considered significant.

Implementation of **Mitigation Measure M-TR-1a: Pedestrian, Bicycle, and Transit Access during Construction** and **Mitigation Measure M-TR-1b: Coordinated Construction Traffic Management Plan,** as more fully described in the DEIR (pp. 4-55 and 4-56), would reduce delays to transit operations. In addition, these mitigation measures would reduce conflicts between construction activities for the Project and pedestrians, bicyclists, and vehicles. However, because the below measures have not been finalized by the project sponsor and SFMTA, the feasibility and effectiveness of such mitigation measures is uncertain at this time, and the temporary construction-related impacts on transit would likely remain significant. Therefore, construction of the Project would result in construction-related transportation impacts that would remain significant and unavoidable with mitigation.

Impact C-TR-1: The proposed project, in combination with other past, present, and reasonably foreseeable future projects, would contribute considerably to significant cumulative construction-related transportation impacts, with substantial interference with pedestrian, bicycle, or vehicle circulation and accessibility to adjoining areas, and would result in potentially hazardous conditions and significant delays to transit.

Construction of the Project may overlap with the construction of other nearby projects. In particular, the Van Ness BRT project will occur adjacent to the project site. The 1629 Market Street, 10 South Van Ness Avenue, 1500 Mission Street, and 1601 Mission Street development projects and components of the Better Market Street project are all within one block of the project site.

Given the magnitude of projected cumulative development and transportation/streetscape projects anticipated to occur in the project vicinity, as well as the uncertainty of construction schedules, cumulative construction activities could result in multiple travel lane closures, high volumes of trucks in the project vicinity, and sidewalk closures, which in turn could disrupt or delay transit, pedestrians, or bicyclists, or could result in potentially hazardous conditions (e.g., high volumes of trucks turning

adjacent to bike lanes). Despite the best efforts of the project sponsors and construction contractors, it is possible that simultaneous construction of the cumulative projects could result in significant disruptions to transit, pedestrian, and bicycle circulation, even if each project individually would not have significant impacts.

Given the concurrent construction of multiple buildings and transportation projects in close proximity, the expected intensity (i.e., the projected number of truck trips) and duration, and likely impacts on transit, bicyclists, and pedestrian conditions, cumulative construction-related transportation impacts would be considered significant, and the project's contribution to the impacts would be considerable.

Implementation of **Mitigation Measures M-TR-1a (Provision for Adequate Pedestrian, Bicycle, and Transit Access during Construction)**, and **M-TR-1b (Coordinated Construction Traffic Management Plan**, as more fully described in the DEIR (pp.4-55 and 4-56, would reduce, but would not avoid, the significant cumulative impacts related to hazards between construction activities and pedestrians, bicyclists, and transit vehicles. Other measures, such as imposing sequential (non-overlapping) construction schedules for all projects in the vicinity, were considered, but deemed infeasible due to potentially lengthy delays in project implementation. Therefore, construction of the Project, in combination with past, present and reasonably foreseeable development in San Francisco, would contribute considerably to cumulative construction-related transportation impacts, which would remain significant and unavoidable with mitigation.

C. Wind

Impact C-WI-1: The proposed project, in combination with other past, present, and reasonably foreseeable future projects, would alter wind in a manner that would substantially affect public areas in the vicinity of the project site.

The Project, in combination with other past, present, and reasonably foreseeable future projects, would increase the number of hours per year of exceedance under the section 148 wind hazard criterion, to 32 hours per year, compared to the cumulative-only scenario with 9 hours per year. Therefore, the project would make a considerable contribution to a significant cumulative wind impact (a significant impact). Preliminary evaluation of potential on- and off-site wind reduction measures (street trees and wind screens) demonstrates that such measures would be effective in reducing the contribution to cumulative wind hazard exceedances attributable to the project, but neither would reduce the project's contribution to cumulative wind impacts to a less-than-significant level. Further wind modeling could refine the combination of wind reduction measures needed to reduce the project's contribution to cumulative wind impacts to a less-than-significant level. However, the cumulative setting may change for various reasons prior to completion of project construction. For example, there could be design revisions to one or more of the cumulative development projects considered in the wind impact analysis; new development projects may be proposed in the project vicinity; or economic conditions or other factors could delay or halt construction of one or more of the cumulative projects. Those potential changes in the number, location or design of buildings in the cumulative setting could alter the cumulative wind environment, possibly redirecting wind flows to new locations or changing the intensity of wind flows.

Due to the uncertainty regarding cumulative development in the project vicinity and in order to identify measures to reduce cumulative wind impacts based upon the most current available information on cumulative projects, **Mitigation Measure M-C-WI-1** would be implemented. The measure would require development and implementation of wind reduction measures based on performance standards to reduce off-site wind hazards in the cumulative plus project setting based on best available information. Wind tunnel studies have demonstrated reductions in off-site winds with various wind reduction measures, and **Mitigation Measure M-C-WI-1** as more fully described in the DEIR (pp. 4-73 and 4-74), would require further testing and refinement of wind reduction measures. However, the effectiveness of **Mitigation Measure M-C-WI-1** is considered uncertain because landscaping such as street trees is considered an "impermanent" feature that may change over time or through the seasons and therefore may not consistently perform in the manner assumed in the wind model. In addition, the feasibility of Measure M-C-WI-1 assumes installation of wind screens on an off-site property not fully under the project sponsor's control. Thus, the impact is conservatively identified as significant and unavoidable with mitigation.

V. EVALUATION OF PROJECT ALTERNATIVES

This section describes the Project as well as the Project alternatives (the "Alternatives") and the reasons for approving the Project and for rejecting the Alternatives. This section also outlines the project objectives and provides a context for understanding the reasons for selecting or rejecting alternatives.

CEQA mandates that an EIR evaluate a reasonable range of potentially feasible alternatives to the Project or the Project location that generally reduce or avoid potentially significant impacts of the Project. CEQA requires that every EIR also evaluate a "No Project" alternative. Alternatives provide a basis of comparison to the Project in terms of their significant impacts and their ability to meet project objectives. This comparative analysis is used to consider reasonable, potentially feasible options for minimizing environmental consequences of the Project.

The Planning Department considered a range of alternatives in Chapter 4 of the FEIR. After an extensive alternative screening and selection process, the Planning Department selected five alternatives, in addition to the Project, to carry forward for detailed analysis in the FEIR:

- Alternative A: No Project Alternative
- Alternative B: Full Preservation Alternative
- Alternative C: Partial Preservation Alternative

These alternatives adequately represent a range of potentially feasible alternatives to the Project. Each alternative is discussed and analyzed in these findings, in addition to being analyzed in Chapter 6 of the FEIR. The Planning Commission certifies that it has independently reviewed and considered the information on the alternatives provided in the FEIR and in the record. The FEIR reflects the Planning Commission's and the City's independent judgment as to the alternatives. The Planning Commission finds that the Project provides the best balance between satisfaction of Project objectives and mitigation of environmental impacts to the extent feasible, as described and analyzed in the FEIR.

A. Reasons for Selecting the Project

The City and Project Sponsors, subject to the required approvals, have decided to implement the revised Project. That Project would meet all the Project Objectives, and would provide numerous public benefits, including the following:

- The Project would add 416 housing units to the City's housing stock, and be subject to the City's Inclusionary Housing program.
- The Project's design and development would incorporate innovative and sustainable transit-first policies which will provide significant benefits to residents of and visitors to the project site, including the provision of three car share spaces and ample bicycle parking spaces.
- The Project would include spaces on the ground floor that could be used as new community amenity space for rent to the public by the City Ballet School. In addition, the Project would provide open space for the community in the form of a 7,200 square foot plaza at the corner of 12th and Otis streets.
- Construction of the Project would generate construction jobs, as well as permanent jobs at project completion. In addition, the Project would encourage participation by small and local businesses by providing retail space on the ground floor.
- The Project would leverage the project site's central location and proximity to major regional and local public transit by building a dense mixed-use project that allows people to live close to transit.
- The Project would construct high-quality housing with sufficient density to contribute to 24-hour activity on the project site, while offering a mix of unit types, and sizes to accommodate a range of potential residents.
- The Project would facilitate a vibrant, interactive ground floor for Project and neighborhood residents, commercial users, and the public.
- The Project would promote sustainability at the site, building, and user level by incorporating Leadership in Energy and Environmental Design ("LEED") or equivalent sustainability strategies.
- The Project will be constructed at no cost to the City and will provide substantial direct and indirect economic benefits to the City.

B. Alternatives Considered for Detailed Analysis

CEQA provides that alternatives analyzed in an EIR may be rejected if "specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible . . . the project alternatives identified in the EIR." (Pub. Res. Code Section 21081(a)(3); CEQA Guidelines § 15091(a)(3).) The Commission has reviewed each of the alternatives to the Project as described in the FEIR that would reduce or avoid some of the impacts of the Project and finds that there is substantial evidence of specific economic, legal, social, technological and other considerations that make these alternatives infeasible or unreasonable, for the reasons set forth below.

In making these determinations, the Planning Commission is aware that CEQA defines "feasibility" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors." The Commission is also aware that under CEQA case law the concept of "feasibility" encompasses (i) the question of whether a particular alternative promotes the underlying goals and objectives of a project, and (ii) the question of whether an alternative is "desirable" from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

1. No Project Alternative

Under the No Project Alternative, the existing conditions characterizing the 36,042-square-foot 30 Otis project site would not change. The five buildings that are currently on the site, including the one-story auto repair facility at 74 12th Street, the one-story carpet store at 90-98 12th Street, the three-story light-industrial loft building at 14-18 Otis Street, the two-story light industrial building at 30 Otis Street, and the one-story auto repair facility at 38 Otis Street, would be retained in their current condition. Compared to the project, there would be no new construction of a mixed-use (residential and retail) building consisting of an 85-foot-tall podium structure on Otis Street and a 250-foot-tall tower on 12th Street. There would be no changes to the circulation system that serves the project site. The No Project Alternative would not preclude future development of the site with a range of land uses that are permitted under existing zoning and land use regulations. The project site would remain under the existing zoning, density, and height and bulk standards, as defined by the Planning Code. Under the No Project Alternative, it is assumed that existing land uses – principally auto repair/light industrial, commercial and retail uses – would remain into the near future.

The No Project Alternative would not result in any impacts related to historic architectural resources. A significant cumulative impact on pedestrians, bicyclists, and transit from hazards with the construction vehicle traffic of overlapping public and private projects in the vicinity could still occur under the No Project Alternative, but the project would not contribute to this cumulative impact. Wind conditions under the No Project Alternative would be slightly greater than with development of the Project. Under the No Project Alternative, cumulative wind impacts would be substantially reduced relative to under the Project; however, the project would not contribute to the significant cumulative wind impact in the project area.

The Planning Commission rejects the No Project Alternative as infeasible and unreasonable because although it would eliminate the Project's significant and unavoidable impacts, it would fail to meet the Project Objectives (as described in the DEIR) and the City's policy objectives regarding housing production. In particular, objectives to redevelop a large, underused site in a transit-oriented, urban infill location with a range of dwelling units, ground-floor commercial and retail uses, open space amenities, and arts activity space for the City Ballet School with a project that achieves high-quality urban design and sustainability standards would not be achieved. Additionally, the No Project Alternative would be inconsistent with key goals and objectives of the General Plan and the Downtown and Market-Octavia Area Plans, which call for increased housing production particularly on underutilized industrial and commercial parcels that are in proximity to downtown and public transportation options. With no new housing created, the No Project Alternative would not create new job opportunities for construction

workers and would be inconsistent with the Mayor's Executive Directive 17-02, which commits to the delivery of at least 5,000 new or rehabilitated units of housing every year for the foreseeable future.

In addition, the Project Sponsors hired a financial feasibility consultant, ALH Urban & Regional Economics (ALH Economics), to provide an independent economic analysis of the Project Project and the alternatives considered in the FEIR. As explained in that report, dated August 10, 2018, the No Project Alternative is economically infeasible. The existing buildings are small and old, and do not fully utilize the site. As a result, the income potential for the No Project Alternative is extremely limited. Specifically, as discussed in the Economic Analysis prepared by ALH Urban & Regional Economics dated August 10, 2018, the estimated net proceeds for the No Project Alternative are roughly one-third the acquisition cost ($21 million vs. $61 million), which is actually a low estimate as it does not include tenant improvements that are likely needed in order to secure tenants paying market rent. Consequently, under the No Project Alternative, the existing buildings would likely remain with little or no capital investment, until a future time when another development plan for the site is pursued.

The Planning Department has reviewed that economic analysis, and finds that the analysis has been prepared by a qualified economic consultant, that its methodology and approach are appropriate and consistent with professional standards, that all key development assumptions and sources for these assumptions are well-documented and reasonable, and concurs in the conclusion that the No Project Alternative is infeasible under standard measures of economic performance.

For the foregoing reasons, the Planning Commission rejects the No Project Alternative as infeasible.

2. Full Preservation Alternative

With the Full Preservation Alternative, the 14-18 Otis Street building would be retained and rehabilitated as part of the Project and the tower would be reduced (narrowed). The interior of the 14-18 Otis Street building would be rehabilitated for new uses.

The Full Preservation Alternative would demolish the remaining four buildings on the project site and replace them with a new building. The new building would contain 294,073 square feet (sf) of residential space in 257 units, including 51 studios, 112 one-bedroom units, 93 two-bedroom units, and one three-bedroom unit. The building would also contain 8,903 gross square feet (gsf) of retail space divided among three sections. In addition, 14,365 gsf on the first-floor level would be the City Ballet School. The ballet school space would be along 12th Street and extend into the building, with the studios wrapping around behind the exterior walls of the 14-18 Otis Street building. With the Full Preservation Alternative, however, there would be no ballet school auditorium. The basement of the building would have 40 vehicle parking spaces (37 residential spaces and three car-share spaces) and 282 Class 1 and 30 Class 2 bicycle parking spaces. Compared to the Project, this would be 58 fewer vehicle parking spaces, and 58 additional Class 1 and two fewer Class 2 bicycle parking spaces.

Impacts under the Full Preservation Alternative would be reduced compared to impacts under the Project with respect to the following environmental topics: population and housing; recreation; utilities and service systems; public services; operational transportation; noise; air quality; greenhouse gas

emissions; energy; land use and land use planning; hazards and hazardous materials; mineral resources; agricultural/forest resources. Construction-related activity associated with development of the project site would result in comparable impacts under both the Project and the Full Preservation Alternative for environmental topics such as archeological resources, noise, air quality, geology and soils, hydrology and water quality, because excavation and construction under this alternative would be similar to the Project. Because the Full Preservation Alternative would retain the existing historic resource at 14-18 Otis Street and adapt it for use, it would not adversely affect the historic resource and would not have a significant impact under CEQA, as compared to the significant unavoidable impact of the Project.

Construction of the Full Preservation Alternative – both on its own and in combination with cumulative projects – would result in construction-related transportation impacts that would remain significant and unavoidable with mitigation.

With respect to wind, the Full Preservation Alternative would have the same less-than-significant project-level wind impacts as the Project, but these impacts would be slightly greater than the Project. Further, the cumulative impact of the Full Preservation Alternative would remain significant and unavoidable with mitigation for the same reasons as the Project, although the impact would be substantially lessened as compared to the Project.

The Planning Commission rejects the Full Preservation Alternative as infeasible and unreasonable because although it would meet most of the project sponsor's basic objectives, it would not meet the objective of providing a performance space. Besides not meeting this objective, the ability to meet five of the 11 project objectives would be lessened for the Full Preservation Alternative relative to the Project due to the 38 percent reduced unit count and architectural design changes. For example, the Full Preservation Alternative would not meet the project objectives of developing the site at an intensity and density that takes advantage of the area's transit resources, or the project objective related to economic feasibility. Neither would the Full Preservation Alternative meet, to the same degree as the Project, the City's policies and objectives regarding housing production, cited above. Moreover, its ability to meet the City's policies regarding affordable housing would also be less than the Project, since its obligations under the Inclusionary Housing program would be reduced proportionally.

In addition, the Full Preservation Alternative is economically infeasible. As discussed in the Economic Analysis prepared by ALH Urban & Regional Economics dated August 10, 2018, the Full Preservation Alternative has the largest gap between estimated net proceeds and total development cost – nearly $53 million. This significant gap is due to the smaller and less efficient building size of the Full Preservation Alternative compared to the Project, with nearly 40% fewer residential units. The larger average unit size allows the Full Preservation Alternative's net proceeds to be only 32% less than that for the Project. However, the inefficiencies extend to the development costs, which are only reduced by 16% compared to the Project. Because development costs are significantly higher than estimated net proceeds, the Full Preservation Alternative would not be pursued. As with the No Project Alternative, the existing buildings would remain until a future time when another development plan for the site is pursued.

As explained above, the Planning Department has reviewed that economic analysis, and concurs in its methodology and conclusions, specifically, in the conclusion that the Full Preservation Alternative is infeasible under standard measures of economic performance.

For the foregoing reasons, the Planning Commission rejects the Full Preservation Alternative as infeasible.

3. Partial Preservation Alternative

With the Partial Preservation Alternative, approximately the front 60 feet of the existing 14-18 Otis Street building would be retained and rehabilitated for retail and residential use. Compared to the Full Preservation Alternative, there would be no vertical addition with the Partial Preservation Alternative. The use of the building would change from light industrial to mixed-use residential/retail.

The Partial Preservation Alternative would demolish the remaining four buildings on the site and replace them with a new building, creating a new structure adjoining the remaining section of the 14-18 Otis Street building. With this alternative, the new building would contain 313,756 sf of residential space with 294 residential units, including 82 studios, 101 one-bedroom units, 110 two-bedroom units, and one three-bedroom unit. In addition, the project would contain 8,441 gsf of retail space divided among four sections at the first-floor level. The City Ballet School would occupy about 15,006 gsf on the first floor. The basement of the new building would have 44 vehicle parking spaces (41 residential spaces and 3 car-share spaces) and 332 Class 1 and 30 Class 2 bicycle parking spaces. This is 54 fewer vehicle parking spaces, 108 additional Class 1 bicycle parking spaces, and two fewer Class 2 spaces.

Impacts under the Partial Preservation Alternative would be reduced compared to impacts under the Project with respect to the following environmental topics: population and housing; recreation; utilities and service systems; public services; operational transportation; noise; air quality; greenhouse gas emissions; energy. Impacts in the following environmental topics would be the same or very similar to the impacts of the Project: land use and land use planning; hazards and hazardous materials; mineral resources; agricultural/forest resources. Construction-related activity associated with development of the project site would result in comparable impacts under both the Project and the Partial Preservation Alternative for environmental topics such as archeological resources, noise, air quality, geology and soils, hydrology and water quality, because excavation and construction under this alternative would be similar to the Project.

Construction-related transportation impacts would be generally the same as for the Project because the construction scenario would be the same. Therefore, construction of the alternative would result in construction-related transportation impacts that would remain significant and unavoidable with mitigation.

The Partial Preservation Alternative would be expected to have similar wind effects as the Project and would make a considerable contribution to a significant cumulative wind impact, similar to the Project. The cumulative wind impact would remain significant and unavoidable with mitigation for the Partial Preservation Alternative, similar to the project.

The Planning Commission rejects the Partial Preservation Alternative as infeasible and unreasonable because although it would meet five of the 11 project sponsor's basic objectives, by reducing the size of the residential building, the Partial Preservation Alternative would provide 129 fewer units (30 percent fewer) as compared to the Project. As a result, this alternative would not fully meet the project sponsor's ability to meet project objectives of developing the site at an intensity and density that takes advantage of the area transit resources. In addition, the cost to construct the Partial Preservation Alternative would be generally similar to the Project; however, the reduction in units would result in a 30 percent lower economic return, which would not fully meet the project objective related to economic feasibility, which in turn, would reduce the project sponsor's funding for high-quality architectural and landscape design, subsidization of the reconstructed City Ballet School, and in-kind payments for the 12th Street plaza. In addition, the Partial Preservation Alternative would meet the City's policies regarding housing production, and affordable housing specifically, to a lesser degree than the Project. It would result in a decrease of the total number of units built, and it would also result in a reduction in the amount of fund contributions to the City's Inclusionary Housing program.

Further, the Partial Preservation Alternative would not be economically feasible. As discussed in the Economic Analysis prepared by ALH Urban & Regional Economics dated August 10, 2018, the Partial Preservation Alternative has approximately 30% fewer units than the Project, and the estimated net proceeds are approximately 25% less than that estimated for the Project. However, due to inefficiencies with respect to development costs, the total estimated development costs decline by only 10% compared to the Project. As a result, no development would take place under the Partial Preservation Alternative.

As explained above, the Planning Department has reviewed that economic analysis, and concurs in its methodology and conclusions, specifically, in the conclusion that the Partial Preservation Alternative is infeasible under standard measures of economic performance.

For the foregoing reasons, the Planning Commission rejects the Partial Preservation Alternative as infeasible.

C. Alternatives Considered but Rejected from Further Consideration

Seven alternatives were considered as part of the FEIR's overall alternatives analysis, but ultimately rejected from detailed analysis. The screening process for identifying viable EIR alternatives included consideration of the following criteria: ability to meet the project objectives; potential ability to substantially lessen or avoid environmental effects associated with the Project; and potential feasibility. Those alternatives considered but rejected are as follows:

1. Façade Preservation Alternative

With this alternative, all of the buildings on the project site would be demolished with the exception of the primary street façade of the 14-18 Otis Street building, which would be preserved and incorporated into the new building. This alternative would have allowed the project to be built largely as proposed, but it would not reduce the project's impacts to a less-than-significant level. In addition, the Planning

Department considers façade retention, or "facadism," to be de facto demolition and discourages this type of preservation alternative.

2. Partial Preservation Alternative – 30 Feet

With this alternative, all of the buildings on the project site would be demolished with the exception of the front 30 feet of the 14-18 Otis Street building, which would be preserved and incorporated into the new building. This alternative was rejected because it would retain only one structural bay of the existing structure, which given the unreinforced concrete nature of the existing building would leave it unsupported and structurally unsound thereby reducing the ability to retain it without substantial reconstruction. Instead, the Partial Preservation Alternative was considered since, as discussed above, it would retain the front 60 feet of the 14-18 Otis Street building, which would allow for preservation of more of the structure and more functional and stable floor plates.

3. Full Preservation Alternative – No Tower, Residential Use

Under this alternative, the 14-18 Otis Street building would be preserved, converted to residential use, and integrated into a new 10-story podium structure without a tower component. Since it would limit the number of residential units to 170 units that could be built, preclude the provision of space for the City Ballet School, and not meet most of the basic project objectives, this alternative was rejected.

4. Full Preservation Alternative – Relocation

Under this alternative, the 14-18 Otis Street building would be relocated from Lot 013 to Lot 012, placing it outside the 250-foot height and bulk zone and allow for the construction of a tower on Lot 012. This alternative was rejected because the 14-18 Otis Street building lacks sufficient structural conditions to be relocated. The relative thinness of the 6-inch walls combined with the lack of concrete floor slabs, led the project architect to conclude that it would not survive the move without substantial reconstruction. A substantial amount of new structural material would be necessary both to stabilize the relocated building and to construct missing and/or damaged fabric, such that the alternative would likely not be consistent with the Secretary's Standards. Based on preliminary estimates, this alternative was also determined by the project sponsor to be cost-prohibitive and limit the number of residential units that could be built. In addition, given the relocation of the building and added expense in relocation and rehabilitation, this alternative would not provide modern and upgraded facilities for the City Ballet School, including performance space, studios, offices, changing rooms, reception lobby, and storage, and spaces that can be used as new community amenity space for rent to the public, and thus would not meet most of the basic project objectives.

5. Transportation – Construction Alternatives

Construction staging alternatives to lessen or eliminate the significant and unavoidable construction transportation impact were also considered. Ultimately, as discussed below, these alternatives were rejected as infeasible.

In San Francisco, most high-rise construction sites are constrained. Where to stage construction and how construction traffic accesses a construction site is based on site configuration and street frontage, as well as activity on surrounding roadways. Builders typically obtain encroachment permits to utilize the public right-of-way along the street frontage. This allows use of the full property street frontage for several critical purposes including crane loading zone, debris dumpster containers, delivery truck staging, temporary power, and other areas for unloading materials for the hoist(s).

For the Project, the surrounding roadways are South Van Ness Avenue, Otis, and 12th streets, and other surrounding streets. Because the Project site is significantly longer (the Otis Street frontage is approximately 250 feet) than it is deep (the 12th Street frontage is approximately 130 feet) and only has a small frontage along Chase Court and Colusa Place, using Otis Street would be critical to construction staging and management. None of the other streets (12th Street, Chase Court and Colusa Place) has adequate space for the necessary delivery truck staging, crane-up zones, debris containers, temporary power equipment, and other construction activities.

The Otis Street frontage, however, includes bus lanes and bicycle lanes and is used by pedestrians. To balance these competing interests, the project sponsor and project contractor considered the following construction staging alternatives, taking into consideration the constraints along 12th Street and the uses along Otis Street.

(a) Chase Court and Colusa Place Access Alternative

With this alternative, construction traffic would be routed to Chase Court and Colusa Place, along the rear of the project site, to remove construction traffic from Otis Street. Access to this frontage is off Brady and Colton Streets. Chase Court and Colusa Place are less than 20 feet in width and are dead-end streets. Given the small size of these streets, limited access, and required truck turning radii, truck access is not feasible in this location and staging in this area is also not feasible.

(b) 12th Street Staging Only Alternative

Under this alternative, the use of Otis Street for staging and construction truck access would be eliminated and all construction truck access and staging would occur on 12th Street, using the 12th Street plaza area and one-way travel lane. This would require the closure of the southbound west lane on 12th Street, along the project frontage and approximately 40 feet north of the site. All southbound traffic would be diverted to the South Van Ness turn lanes.

With this alternative, trucks delivering materials to the 12th Street staging area would not use South Van Ness Avenue or Mission Street, and instead would access the site from the north end of 12th and Market streets. This would reduce the construction traffic impact in the Otis/South Van Ness intersection and eliminate any narrowing of the lanes along Otis Street. Under this alternative, the construction cranes would be placed within the building footprint, thereby allowing the greatest possible use of 12th Street and the plaza area for construction staging. While this alternative would have benefits to the Otis/ South Van Ness intersection, it could create similar transportation problems as the Project at the Market/12th Street intersection.

Furthermore, the 12th Street plaza would be too limited in area to accommodate the minimum temporary activities and staging areas needed to construct the Project. Truck loading and access for crane picks, the temporary power equipment, and dual hoists needed for the tower elements would use a majority of the plaza and southbound lane area. Because of the amount of equipment needed for construction of the Project, additional equipment would need to be staged outside of the building footprint in this plaza such as additional hoists and hoist dock platforms, debris containers (up to four), additional temporary power equipment (a 40-by 1-foot dedicated area with bollards, etc.), concrete pumps, security entry checkpoint, trucks awaiting unloading and material lay-down area.

Also, conducting construction activities mainly in the 12th Street plaza area would increase public safety exposures and risks. Without direct access to the podium along Otis Street, construction materials and debris would be transported up to 250 feet from one end of the project site to the other. This would create public and construction safety concerns from conflicts as materials, equipment, and debris are moved in a limited area actively being used for construction. Using only the 12th Street plaza area for construction staging and temporary facilities would create significant constraints on construction and delays as unworkable and unresolvable conflicts between deliveries and construction activities would occur due to multiple demands on limited space and time sensitivities regarding delivery and construction.

These factors resulted in a determination that it would be infeasible to provide the minimally necessary staging using only 12th Street and the plaza.

(c) Phased Construction Alternative

Under this alternative, the construction of the Project as well as the construction of cumulative projects within the cumulative environment (0.25 mile) would be staggered. This alternative was rejected as such a requirement would be infeasible. Restricting timing of development projects in the site vicinity could put those projects and the 30 Otis Street project on prolonged hold. This delay could affect the project sponsor from meeting most of the basic project objectives. In addition, the San Francisco Planning Department does not have jurisdiction to impose this restriction on cumulative private development projects or infrastructure projects that have already been approved (e.g., Van Ness Bus Rapid Transit) or may be approved in the future (e.g., other infrastructure projects that may be approved by the San Francisco Municipal Transportation Agency) that contribute to this impact. Furthermore, City decision-makers may deem these cumulative infrastructure projects as economically and socially necessary for various policy reasons (e.g., Transit-First, Vision Zero). Therefore, a Phased Construction Alternative, which would regulate the timing of construction projects in the project vicinity in order to minimize construction-related impacts was considered but rejected from further analysis.

VI. STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to CEQA Section 21081 and CEQA Guideline Section 15093, the Planning Commission hereby finds, after consideration of the FEIR and the evidence in the record, that each of the specific overriding economic, legal, social, technological and other benefits of the Project as set forth below independently and collectively outweighs the significant and unavoidable impacts and is an overriding consideration warranting approval of the Project. Any one of the reasons for approval cited below is sufficient to justify

approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Commission will stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this Section, and in the documents found in the record, as defined in Section I.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, the Planning Commission specifically finds that there are significant benefits of the Project to support approval of the Project in spite of the unavoidable significant impacts, and therefore makes this Statement of Overriding Considerations. The Commission further finds that, as part of the process of obtaining Project approval, all significant effects on the environment from implementation of the Project have been eliminated or substantially lessened where feasible. All feasible mitigation measures identified in the FEIR/IS and MMRP are adopted as part of the Approval Actions described in Section I, above.

Furthermore, the Commission has determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to the following specific overriding economic, technological, legal, social and other considerations:

- The Project would add up to 416 housing units to the City's housing stock, and would be subject to the City's Inclusionary Housing program, therefore contributing to the creation of affordable housing units.
- The Project's design and development would incorporate innovative and sustainable transit-first policies which will provide significant benefits to residents of and visitors to the project site, including the provision of three car share spaces and ample bicycle parking spaces.
- The Project would include spaces on the ground floor that could be used as new community amenity space for rent to the public by the City Ballet School. In addition, the Project would provide open space for the community in the form of a 7,200 square foot plaza at the corner of 12th and Otis streets.
- Construction of the Project would generate construction jobs, as well as permanent jobs at project completion. In addition, the Project would encourage participation by small and local businesses by providing retail space on the ground floor.
- The Project would leverage the project site's central location and proximity to major regional and local public transit by building a dense mixed-use project that allows people to live close to transit.
- The Project would construct high-quality housing with sufficient density to contribute to 24-hour activity on the project site, while offering a mix of unit types and sizes to accommodate a range of potential residents and assist the City in meeting its affordable housing needs.
- The Project would facilitate a vibrant, interactive ground floor for Project and neighborhood residents, commercial users, and the public.
- The Project would promote sustainability at the site, building, and user level by incorporating Leadership in Energy and Environmental Design ("LEED") or equivalent sustainability strategies.

- The Project will be constructed at no cost to the City and will provide substantial direct and indirect economic benefits to the City.

Having considered the above, and in light of evidence contained in the FEIR and in the record, the Planning Commission finds that the benefits of the Project outweigh the unavoidable adverse environmental effects identified in the FEIR and/or IS, and that those adverse environmental effects are therefore acceptable.

ATTACHMENT B - MITIGATION MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	**Mitigation Schedule**	**Monitoring/ Reporting Responsibility**	**Monitoring Actions/ Schedule and Verification of Compliance**
MITIGATION MEASURES AGREED TO BY PROJECT SPONSOR				
HISTORIC ARCHITECTURAL RESOURCES				
Mitigation Measure M-CR-1a: Documentation of the Historic Resource				
Prior to the issuance of demolition or site permits, the project sponsor shall undertake *Historic American Building Survey* (HABS) documentation of the building, structures, objects, materials, and landscaping. The documentation shall be undertaken by a qualified professional who meets the standards for history, architectural history, or architecture (as appropriate), as set forth by the Secretary of the Interior's Professional Qualification Standards (36 CFR, Part 61). The documentation shall consist of the following: • Measured Drawings: A set of measured drawings that depict the existing size, scale, and dimensions of the building at 14-18 Otis Street. The Planning Department Preservation staff will accept legible, archival reproduction of the original architectural drawings or an as-built set of architectural drawings (plan, section, elevation, etc.) printed to meet HABS standards. The Planning Department's Preservation staff will assist the consultant in determining the appropriate level of measured drawings; • HABS-Level Photography: Digital photographs of the interior and exterior of the building at 14-18 Otis Street. Large format negatives are not required. The scope of the digital photographs shall be reviewed by Planning Department Preservation staff for concurrence, and all digital photography shall be conducted according to the latest National Park Service standards. The photography shall be undertaken by a qualified professional with demonstrated experience in HABS photography; and • HABS Historical Report: A written historical narrative and report, per HABS Historical Report Guidelines. The scope of the historical narrative shall be reviewed by Planning Department Preservation	Project Sponsor to retain qualified professional who meets the standards for history, architectural history, or architecture (as appropriate), as set forth by the Secretary of the Interior's Professional Qualification Standards (36 CFR, Part 61) to prepare the documentation	Prior to issuance of a demolition or site permit	Planning Department	Planning Department staff to approve the documentation prior to the dissemination to the San Francisco Main Library History Room, Northwest Information Center-California Historical Resource Information System, and San Francisco Architectural Heritage

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	**Mitigation Schedule**	**Monitoring/ Reporting Responsibility**	**Monitoring Actions/ Schedule and Verification of Compliance**
staff, to include discussion of the project block's historic connection to the Western SoMa street grid prior to development of South Van Ness Avenue. The report shall also include a discussion of the context of extant light industrial buildings in other areas of San Francisco. The qualified professional shall prepare the documentation and submit it for review and approval by the Planning Department's Preservation staff prior to the issuance of demolition or site permits. The documentation shall be disseminated to the Planning Department, San Francisco Main Library History Room, Northwest Information Center-California Historical Resource Information System, and San Francisco Architectural Heritage.				
Mitigation Measure M-CR-1b: Interpretation				
The project sponsor shall provide a permanent display of interpretive materials concerning the history and architectural features of the original 14-18 Otis Street building and its operation during the period of significance. Interpretation of the site's history shall be supervised by an architectural historian or historian who meets the Secretary of the Interior's Professional Qualification Standards. The interpretative materials (which may include, but are not limited to, a display of photographs, news articles, memorabilia, and/or video) shall be placed in a prominent setting on the project site visible to pedestrians. A proposal describing the general parameters of the interpretive program shall be approved by the Planning Department Preservation staff prior to issuance of a site permit. The content, media, and other characteristics of such interpretive display shall be approved by the Planning Department Preservation staff prior to issuance of a Temporary Certificate of Occupancy.	Project Sponsor/qualified preservation consultant.	Prior to issuance of the architectural addendum to the Site Permit; Prior to issuance of Temporary Certificate of Occupancy	Planning Department	Planning Department staff to approve design prior to installation, and installation prior to issuance of an occupancy certificate

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Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	**Mitigation Schedule**	**Monitoring/ Reporting Responsibility**	**Monitoring Actions/ Schedule and Verification of Compliance**
Mitigation Measure M-CR-1c: Video Recordation of the Historic Resource.				
Video recordation shall be undertaken prior to the issuance of demolition or site permits. The project sponsor shall undertake video documentation of the affected historical resource and its setting. The documentation shall be conducted by a professional videographer, preferably one with experience recording architectural resources. The documentation shall be narrated by a qualified professional who meets the standards for history, architectural history, or architecture (as appropriate) set forth by the Secretary of the Interior's Professional Qualification Standards (36 Code of Federal Regulations, Part 61). The documentation shall include as much information as possible—using visuals in combination with narration—about the materials, construction methods, current condition, historic use, and historic context of the historical resource. Archival copies of the video documentation shall be submitted to the Planning Department, and to repositories including but not limited to the History Room of the San Francisco Public Library, San Francisco Architectural Heritage, Northwest Information Center of the California Historical Information Resource System.	Project Sponsor/qualified preservation consultant.	Prior to issuance of the architectural addendum to the Site Permit; Prior to issuance of Temporary Certificate of Occupancy	Planning Department	Planning Department staff to approve video recordation prior to submittal to libraries prior to installation, and installation prior to issuance of an occupancy certificate
Mitigation Measure M-CR-2: Vibration Monitoring Program for Adjacent Historical Resources				
The project sponsor shall retain the services of a qualified structural engineer or vibration consultant and preservation architect that meet the Secretary of the Interior's Historic Preservation Professional Qualification Standards to conduct a Pre-Construction Assessment of the adjacent individual historic resource at 56-70 12th Street. Prior to any demolition or ground-disturbing activity, the Pre-Construction Assessment shall be prepared to establish a baseline and shall contain written and photographic descriptions of the existing condition of the visible exteriors from public rights-of-way of the adjacent buildings and in interior locations upon permission of the	Project Sponsor to retain qualified structural engineer and preservation architect to conduct the assessment	Prior to issuance of grading or building permits	Planning Department	Considered complete upon submittal to ERO of post-construction report on construction monitoring program and effects, if any, on proximate historical resources

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	Mitigation Schedule	Monitoring/ Reporting Responsibility	Monitoring Actions/ Schedule and Verification of Compliance
owners of the adjacent properties. The Pre-Construction Assessment shall determine specific locations to be monitored and include annotated drawings of the buildings to locate accessible digital photo locations and locations of survey markers and/or other monitoring devices to measure vibrations. The Pre-Construction Assessment shall be submitted to the Planning Department along with the Demolition and Site Permit Applications. The structural engineer and/or vibration consultant in consultation with the preservation architect shall develop, and the project sponsors shall implement, a Vibration Management and Monitoring Plan to protect the adjacent historic building against damage caused by vibration or differential settlement caused by vibration during project construction activities. In this plan, the maximum vibration level not to be exceeded at each building shall be 0.2 inch per second, or a level determined by the site-specific assessment made by the structural engineer and/or the vibration consultant in coordination with the preservation architect for the project. The Vibration Management and Monitoring Plan shall document the criteria used in establishing the maximum vibration level for the project. The plan shall include pre-construction surveys and continuous vibration monitoring throughout the duration of the major construction project activities that would require heavy-duty equipment to ensure that vibration levels do not exceed the established standard. The Vibration Management and Monitoring Plan shall be submitted to Planning Department Preservation staff prior to issuance of any demolition or construction permits. Should vibration levels be observed in excess of the standard, or if damage to adjacent buildings is observed, construction shall be halted and alternative techniques put in practice, to the extent feasible. The structural engineer and/or vibration consultant and the historic				

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	Mitigation Schedule	Monitoring/ Reporting Responsibility	Monitoring Actions/ Schedule and Verification of Compliance
preservation consultant shall conduct regular periodic inspections of digital photographs, survey markers, and/or other monitoring devices during ground-disturbing activity at the project site. The buildings shall be protected to prevent further damage and remediated to pre-construction conditions as shown in the Pre-Construction Assessment with the consent of the building owner. Any remedial repairs shall not require building upgrades to comply with current San Francisco Building Code standards. A final report on the vibration monitoring shall be submitted to Planning Department Preservation staff prior to the issuance of a Certificate of Occupancy.				
CONSTRUCTION-RELATED TRANSPORTATION AND CIRCULATION				
Mitigation Measure TR-1a: Provision for Pedestrian, Bicycle, and Transit Access during Construction				
The project sponsor shall coordinate with SFMTA to ensure that adequate pedestrian, bicycle, and transit access is maintained along Otis and 12th Streets by providing temporary pedestrian pathways on both streets, and a temporary protected bicycle lane and transit stop on Otis Street. This may involve replacing the bus stop on Otis Street, restriping the lanes, removing parking spaces, relocating Muni overhead wires on Otis Street, and/or providing a temporary pedestrian walkway or new pedestrian crossing on 12th Street. The project sponsor shall pay for the temporary relocation and replacement of existing public right-of-way facilities, if the SFMTA deems relocation and replacement desirable. The project sponsor shall also pay for the construction of the bus-boarding island and cycle track on Otis Street between South Van Ness Avenue and Brady Street following the completion of the project and prior to issuance of the certificate of occupancy.	Project Sponsor/ contractor(s), SFMTA, SF Public Works, as directed by the ERO	Prior to the issuance of a site permit, demolition permit, or any other permit from the Department of Building Inspection for the 30 Otis Street building	Project Sponsor shall be responsible for contractor compliance Planning Department, SFMTA, and SF Public Works to monitor Project Sponsor compliance.	Considered complete after project construction activities have ended

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Mitigation Measure TR-1b: Coordinated Construction Traffic Management Plan				
The project sponsor shall participate in the preparation and implementation of a coordinated construction traffic management plan that includes measures to reduce hazards between construction-related traffic and pedestrians, bicyclists, and transit vehicles. The coordinated construction traffic management plan shall be prepared in coordination with other public and private projects within a one block radius that may have overlapping construction schedules (including the Van Ness BRT and Better Market Street projects, and the development projects at 1629 Market Street, 10 South Van Ness Avenue, 1500 Mission Street, and 1601 Mission Street) and shall be subject to review and approval by the TASC. The plan shall include, but not necessarily be limited to the following measures. • Construction Staging on Otis Street – The project sponsor shall provide a design for the construction staging zone on Otis Street that allows for front-in access with final access to the Otis Street staging area to be determined by the approved construction management plan. • Restricted Construction Truck Access Hours – Limit truck movements and deliveries requiring lane closures to occur between 9 a.m. to 4 p.m., outside of peak morning and evening weekday commute hours. • Construction Truck Routing Plans – Identify optimal truck routes between the regional facilities and the project site, taking into consideration truck routes of other development projects and any construction activities affecting the roadway network. • Coordination of Temporary Lane and Sidewalk Closures – The project sponsor shall coordinate lane closures with other projects requesting concurrent lane and sidewalk closures through the TASC and interdepartmental meetings process above, to minimize the extent and duration of requested lane and sidewalk closures.	Project Sponsor/ contractor(s), SFMTA, SF Public Works, as directed by the ERO	Prior to the start of construction, and throughout the construction period	Project Sponsor shall be responsible for contractor compliance. Planning Department, SFMTA, and SF Public Works to monitor Project Sponsor compliance	Considered complete after project construction activities have ended

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Lane closures shall be minimized especially along transit and bicycle routes, so as to limit the impacts to transit service and bicycle circulation and safety. • Alternative Transportation for Construction Workers – Provide incentives to construction workers to carpool, use transit, bike, and walk to the project site as alternatives to driving alone to and from the project site. Such incentives may include, but not be limited to providing secure bicycle parking spaces, participating in free-to-employee and employer ride matching program from www.511.org, participating in emergency ride home program through the City of San Francisco (www.sferh.org), and providing transit information to construction workers. • Construction Worker Parking Plan – The location of construction worker parking shall be identified as well as the person(s) responsible for monitoring the implementation of the proposed parking plan. The use of on-street parking to accommodate construction worker parking shall be discouraged. The project sponsor could provide on-site parking once the below grade parking garage is usable. • Proposed Project Construction Updates for Adjacent Businesses and Residents – Provide regularly updated information regarding project construction, including a construction contact person, construction activities, duration, peak construction activities (e.g., concrete pours), travel lane closures, and lane closures (bicycle and parking) to nearby residences and adjacent businesses through a website, social media, or other effective methods acceptable to the ERO. • Maintain Local Circulation – Place signage for all vehicle, bicycle, transit, and pedestrian detours. Reimburse the SFMTA for temporary striping and signage during project construction. Provide a traffic control officer to direct traffic around the project				

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Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	**Mitigation Schedule**	**Monitoring/ Reporting Responsibility**	**Monitoring Actions/ Schedule and Verification of Compliance**
site, if determined necessary by the SFMTA or ERO. Preserve pedestrian access during construction detours.				
WIND				
Mitigation Measure M-C-WI-1: Design Measures to Reduce Cumulative Off-Site Wind Impacts				
The project sponsor shall retain a qualified wind consultant to prepare, in consultation with the Planning Department, a wind impact mitigation report that identifies design measures to reduce the project's contribution to off-site wind impacts in the cumulative-plus-project setting, based on best available information ("the wind report"). Prior to the final addenda approval by the Department of Building Inspection (DBI), the project sponsor shall submit the wind report to the Planning Department for its review and approval. The wind report shall incorporate updated information on cumulative development in the area and shall contain a list of potential wind reduction design measures, along with the estimated effectiveness of each measure to reduce the identified cumulative off-site wind hazards. Such wind reduction design measures may include on-site project design modifications, additions, additional on-site landscaping, or equivalent wind-reducing features; and off-site wind reduction measures such as the landscaping, streetscape improvements or other wind-reducing features, such as wind screens. The project sponsor shall implement one or more of the design measures identified in the wind report to reduce the project's contribution to identified cumulative off-site wind hazards to the extent feasible. The Planning Department shall approve the final list of wind reduction measures that the project sponsor shall implement.	Project sponsor to retain a qualified wind consultant	Project sponsor shall submit wind study prior to the final addenda approval by the DBI	Planning Department	The Planning Department shall approve the final list of wind reduction measures that the project sponsor shall implement

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Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	**Mitigation Schedule**	**Monitoring/ Reporting Responsibility**	**Monitoring Actions/ Schedule and Verification of Compliance**
ARCHEOLOGICAL RESOURCES				
Project Mitigation Measure 1: Archeological Testing Program (Implementing Market Octavia PEIR Mitigation Measure C2 and C3)				
Based on a reasonable presumption that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of an archeological consultant from the rotational Department Qualified Archeological Consultants List maintained by the planning department archeologist. The project sponsor shall contact the department archeologist to obtain the names and contact information for the next three archeological consultants on the Qualified Archeological Consultants List. The archeological consultant shall undertake an archeological testing program as specified herein. In addition, the consultant shall be available to conduct an archeological monitoring and/or data recovery program if required pursuant to this measure. The archeological consultant's work shall be conducted in accordance with this measure at the direction of the Environmental Review Officer (ERO). All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archeological resource as defined in CEQA Guidelines section 15064.5(a) and (c).	Project Sponsor/ archeological consultant at the direction of the ERO	Prior to issuance of grading or building permits	Environmental Review Officer	Considered complete after Final Archeological Resources Report is approved

ATTACHMENT B - MITIGATION MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	**Mitigation Schedule**	**Monitoring/ Reporting Responsibility**	**Monitoring Actions/ Schedule and Verification of Compliance**
Consultation with Descendant Communities. On discovery of an archeological site associated with descendant Native Americans, the Overseas Chinese, or other potentially interested descendant group an appropriate representative of the descendant group and the ERO shall be contacted. The representative of the descendant group shall be given the opportunity to monitor archeological field investigations of the site and to offer recommendations to the ERO regarding appropriate archeological treatment of the site, of recovered data from the site, and, if applicable, any interpretative treatment of the associated archeological site. A copy of the *Final Archeological Resources Report* (FARR) shall be provided to the representative of the descendant group.	Project Sponsor/ archeological consultant and construction contractor	In the event that an archeological site is uncovered during the construction period	Planning Department	Considered complete after Final Archeological Resources Report is approved and provided to descendant group
Archeological Testing Program. The archeological consultant shall prepare and submit to the ERO for review and approval an *archeological testing plan*. The *archeological testing program* shall be conducted in accordance with the approved archeological testing plan. The archeological testing plan shall identify the property types of the expected archeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archeological testing program will be to determine to the extent possible the presence or absence of archeological resources and to identify and to evaluate whether any archeological resource encountered on the site constitutes a historical resource under CEQA. • The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis. • If an intact archeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities and	Project Sponsor/ archeological consultant and construction contractor	Prior to ground-disturbance and throughout the construction period	Planning Department	Considered complete after approval of Archeological Testing Plan

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	Mitigation Schedule	Monitoring/ Reporting Responsibility	Monitoring Actions/ Schedule and Verification of Compliance
equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, and present the findings of this assessment to the ERO. Whether or not significant archeological resources are encountered, the archeological consultant shall submit a written report of the findings of the monitoring program to the ERO.				
Archeological Data Recovery Program. The archeological data recovery program shall be conducted in accordance with an *archeological data recovery plan* (ADRP). The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.	Project Sponsor/ archeological consultant and construction contractor	In the event that an archeological site is uncovered during the construction period	Planning Department	Considered complete after approval of Final Archeological Monitoring Report

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	Mitigation Schedule	Monitoring/ Reporting Responsibility	Monitoring Actions/ Schedule and Verification of Compliance
The scope of the ADRP shall include the following elements: • Field Methods and Procedures. Descriptions of proposed field strategies, procedures, and operations. • Cataloguing and Laboratory Analysis. Description of selected cataloguing system and artifact analysis procedures. • Discard and Deaccession Policy. Description of and rationale for field and post-field discard and deaccession policies. • Interpretive Program. Consideration of an onsite/offsite public interpretive program during the course of the archeological data recovery program. • Security Measures. Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities. • Final Report. Description of proposed report format and distribution of results. • Curation. Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.				
<u>Human Remains and Associated or Unassociated Funerary Objects.</u> The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission, who shall appoint a Most Likely Descendant (MLD) (Public Resources Code section 5097.98). The archeological consultant, project sponsor, ERO, and MLD shall have up to but not beyond 6 days of discovery to	Project Sponsor/ archeological consultant and construction contractor	In the event that human remains are uncovered during the construction period	Planning Department	Considered complete after approval of Final Archeological Results Report and human remains are reburied

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	Mitigation Schedule	Monitoring/ Reporting Responsibility	Monitoring Actions/ Schedule and Verification of Compliance
make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. Nothing in existing State regulations or in this mitigation measure compels the project sponsor and the ERO to accept recommendations of an MLD. The archeological consultant shall retain possession of any Native American human remains and associated or unassociated burial objects until completion of any scientific analyses of the human remains or objects as specified in the treatment agreement if such as agreement has been made or, otherwise, as determined by the archeological consultant and the ERO.				
FARR. The archeological consultant shall submit a draft FARR to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archeological Site Survey NWIC shall receive one copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning division of the Planning Department shall receive one bound, one unbound and one unlocked, searchable PDF copy on CD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series b) and/or documentation for nomination to the National Register of Historic	Project Sponsor/ archeological consultant and construction contractor	Completion of archeological investigations	Planning Department	Considered complete after Final Archeological Resources Report is approved

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	**Mitigation Schedule**	**Monitoring/ Reporting Responsibility**	**Monitoring Actions/ Schedule and Verification of Compliance**
Places/California Register of Historical Resources. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.				
AIR QUALITY				
Project Mitigation Measure 2: Construction Air Quality (Implementing Market Octavia PEIR Mitigation Measure E2)				
The project sponsor or the project sponsor's construction contractor shall comply with the following A. Engine Requirements. 1. All off-road equipment greater than 25 horsepower and operating for more than 20 total hours over the entire duration of construction activities shall have engines that meet or exceed either U.S. Environmental Protection Agency or California Air Resources Board (ARB) Tier 2 off-road emission standards, and have been retrofitted with an ARB Level 3 Verified Diesel Emissions Control Strategy. Equipment with engines meeting Tier 4 Interim or Tier 4 Final off-road emission standards automatically meet this requirement. 2. Where access to alternative sources of power are available, portable diesel engines shall be prohibited. 3. Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The construction contractor shall post legible and visible signs in English, Spanish, and Chinese, in designated queuing areas and at the construction site to remind operators of the two-minute idling limit. 4. The construction contractor shall instruct construction workers and	Project Sponsor/ contractor(s)	Prior to issuance of construction permits and throughout the construction period	Planning Department	Considered completed after construction activities are completed

<table>
<tr><th rowspan="2">Adopted Mitigation Measures</th><th colspan="4">MONITORING AND REPORTING PROGRAM</th></tr>
<tr><th>Implementation Responsibility</th><th>Mitigation Schedule</th><th>Monitoring/ Reporting Responsibility</th><th>Monitoring Actions/ Schedule and Verification of Compliance</th></tr>
<tr><td>equipment operators on the maintenance and tuning of construction equipment, and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications.

B. Waivers.
1. The Planning Department's ERO or designee may waive the alternative source of power requirement of subsection (A)(2) if an alternative source of power is limited or infeasible at the project site. If the ERO grants the waiver, the construction contractor must submit documentation that the equipment used for onsite power generation meets the requirements of Subsection (A)(1).
2. The ERO may waive the equipment requirements of subsection (A)(1) if: a particular piece of off-road equipment with an ARB Level 3 VDECS is technically not feasible; the equipment would not produce desired emissions reduction due to expected operating modes; installation of the equipment would create a safety hazard or impaired visibility for the operator; or, there is a compelling emergency need to use off-road equipment that is not retrofitted with an ARB Level 3 VDECS. If the ERO grants the waiver, the construction contractor must use the next cleanest piece of off-road equipment, according to the table below.

Off-Road Equipment Compliance Step-down Schedule
<table>
<tr><th>Compliance Alternative</th><th>Engine Emission Standard</th><th>Emissions Control</th></tr>
<tr><td>1</td><td>Tier 2</td><td>ARB Level 2 VDECS</td></tr>
<tr><td>2</td><td>Tier 2</td><td>ARB Level 1 VDECS</td></tr>
<tr><td>3</td><td>Tier 2</td><td>Alternative Fuel*</td></tr>
</table>
How to use the table: If the ERO determines that the equipment requirements cannot be met, then the project sponsor would need to meet Compliance Alternative 1. If the ERO determines that the construction contractor cannot supply off-road equipment meeting Compliance Alternative 1, then the construction contractor must meet Compliance</td><td></td><td></td><td></td><td></td></tr>
</table>

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	Mitigation Schedule	Monitoring/ Reporting Responsibility	Monitoring Actions/ Schedule and Verification of Compliance
Alternative 2. If the ERO determines that the construction contractor cannot supply off-road equipment meeting Compliance Alternative 2, then the Contractor must meet Compliance Alternative 3. ** Alternative fuels are not a VDECS.				
C. Construction Emissions Minimization Plan. Before starting on-site construction activities, the construction contractor shall submit a *Construction Emissions Minimization Plan* (Plan) to the ERO for review and approval. The Plan shall state, in reasonable detail, how the construction contractor will meet the requirements of section A. 1. The Plan shall include estimates of the construction timeline by phase, with a description of each piece of off-road equipment required for every construction phase. The description may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For VDECS installed, the description may include: technology type, serial number, make, model, manufacturer, ARB verification number level, and installation date and hour meter reading on installation date. For off-road equipment using alternative fuels, the description shall also specify the type of alternative fuel being used. 2. The project sponsor shall ensure that all applicable requirements of the Plan have been incorporated into the contract specifications. The Plan shall include a certification statement that the construction contractor agrees to comply fully with the Plan. 3. The construction contractor shall make the Plan available to the public for review on-site during working hours. The construction contractor shall post at the construction site a legible and visible sign summarizing the Plan. The sign shall also state that the public may ask to inspect the Plan for the project at any time during				

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	Mitigation Schedule	Monitoring/ Reporting Responsibility	Monitoring Actions/ Schedule and Verification of Compliance
working hours and shall explain how to request to inspect the Plan. The construction contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way. D. Monitoring. After start of construction activities, the construction contractor shall submit quarterly reports to the ERO documenting compliance with the Plan. After completion of construction activities and prior to receiving a final certificate of occupancy, the project sponsor shall submit to the ERO a final report summarizing construction activities, including the start and end dates and duration of each construction phase, and the specific information required in the Plan.				
IMPROVEMENT MEASURES				
Project Improvement Measure 1: Develop an Active Loading Management Plan				
The project sponsor will develop an active loading management plan that incorporates the following elements: • Coordinated Service Deliveries Building management will work with delivery providers (UPS, FedEx, DHL, USPS, etc.) to coordinate regular delivery times, and retail tenants will be required to schedule their deliveries. Management will instruct all delivery services that trucks will not stop on the 12th Street loading driveway, but rather will pull all the way into the 12th Street loading zone. The project will consider including an unassisted delivery system (i.e., a range of delivery systems that eliminate the need for human intervention at the receiving end) into the site design, particularly for when the receiver site (e.g., retail space) is not in operation. Examples could include the receiver site providing a key or electronic fob to loading vehicle operators, which enables the loading vehicle	Project Sponsor	Post-construction	Planning Department	Planning Department staff to monitor quarterly until ERO deems monitoring and success of the improvement measure complete

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	Mitigation Schedule	Monitoring/ Reporting Responsibility	Monitoring Actions/ Schedule and Verification of Compliance
operator to deposit the goods inside the business or in a secured area that is separated from the business. • Managed Move-In/Move-Out Operations Building management will be responsible for coordinating and scheduling all move-in and move-out operations. To the extent possible for the proposed project, moves that use 15-foot box trucks or smaller, building management will direct drivers to use the move-in/move-out loading space on the first basement level. • Managed Usage of 12th Street Loading Zone In order to minimize the potential for conflicts at the loading zone entrance and driveway with the Ballet School, building management will provide a spotter (also known as a "flagger") to be used when a vehicle is actively using the loading area. When the loading zone is not in use, the loading zone door will be closed to signal that the area is inactive, and so that students do not enter the loading area. • Managed Garbage and Recycling Operations Building management will ensure that garbage and recycling bins be cleared from the curbside after garbage and recycling has occurred. They will also ensure that the loading space and driveway be kept free of debris, garbage, and garbage bins.				
Project Improvement Measure 2: Monitoring and Abatement of Queues				
As an improvement measure to reduce the potential for queuing of vehicles accessing the project site, it will be the responsibility of the project sponsor to ensure that recurring vehicle queues or vehicle conflicts do not occur adjacent to the site. A vehicle queue is defined as one or more vehicles blocking any portion of adjacent sidewalks or travel lanes for a consecutive period of three minutes or longer on a daily and/or weekly basis. If recurring queuing occurs, the owner/operator of the facility will	Project Sponsor	Post-construction	Planning Department	Planning Department staff to monitor quarterly until ERO deems monitoring and success of the improvement measure complete

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Implementation Responsibility	Mitigation Schedule	Monitoring/ Reporting Responsibility	Monitoring Actions/ Schedule and Verification of Compliance
employ abatement methods as needed to abate the queue. Appropriate abatement methods would vary depending on the characteristics and causes of the recurring queue, as well as the characteristics of the parking and loading facility, the street(s) to which the facility connects, and the associated land uses (if applicable). Suggested abatement methods include, but are not limited to the following: redesign of facility to improve vehicle circulation and/or on-site queue capacity; employment of parking attendants to facilitate parking lot ingress and egress. If the Planning Director, or his or her designee, determines that a recurring queue or conflict may be present, the Planning Department will notify the project sponsor in writing. Upon request, the owner/operator will hire a qualified transportation consultant to evaluate the conditions at the site for no less than seven days. The consultant will prepare a monitoring report to be submitted to the Planning Department for review. If the Planning Department determines that a recurring queue or conflict does exist, the project sponsor will have 90 days from the date or the written determination to abate the recurring queue or conflict.				

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Planning Commission Motion No. 20293

HEARING DATE: SEPTEMBER 27, 2018

Record No.:	**2015-010013ENVDNXVARSHD**
Project Address:	**30 OTIS STREET**
Zoning:	C-3-G (Downtown – General) Zoning District NCT-3 Moderate-Scale Neighborhood Commercial Transit Zoning District 85/250-R-2 Height and Bulk District 85-X Height and Bulk District Van Ness & Market Downtown Residential Special Use District
Block/Lot:	Block 3505; Lots 010, 012, 013, 016, and 018
Project Sponsor:	Jessie Stuart, Align Real Estate 255 California Street, Suite 525 San Francisco, CA 94111
Staff Contact:	Andrew Perry – (415) 575-9017 andrew.perry@sfgov.org
Reviewed by:	Claudine Asbagh – (415) 575-9165 claudine.asbagh@sfgov.org

ADOPTING FINDINGS TO APPROVE A SECTION 309 DETERMINATION OF COMPLIANCE AND REQUEST FOR EXCEPTIONS FOR LOT COVERAGE (SECTION 249.33) AND REDUCTION OF GROUND-LEVEL WIND CURRENTS (SECTION 148) AND ADOPTING FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE PROJECT WOULD DEMOLISH FIVE EXISTING BUILDINGS AND CONSTRUCT A 398,365 SQUARE FOOT MIXED USE BUILDING WITH A 9-STORY (85-FOOT TALL) PODIUM ACROSS THE ENTIRE SITE AND A 26-STORY (250-FOOT TALL) TOWER. THE PROJECT WOULD CONTAIN 416 DWELLING UNITS, APPROXIMATELY 2,199 SQUARE FEET OF GROUND FLOOR RETAIL, APPROXIMATELY 15,993 SQUARE FEET OF ARTS AND ACTIVITIES SPACE, APPROXIMATELY 31,290 SQUARE FEET OF USEABLE OPEN SPACE, 256 BICYCLE PARKING SPACES (224 CLASS 1, 32 CLASS 2), AND 95 VEHICULAR PARKING SPACES AND THREE CAR-SHARE SPACES WITHIN THE DOWNTOWN–GENERAL (C-3-G) ZONING DISTRICT, THE MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT (NCT-3), THE 85/250-R-2 AND 85-X HEIGHT AND BULK DISTRICTS, AND THE VAN NESS AND MARKET DOWNTOWN RESIDENTIAL SPECIAL USE DISTRICT.

PREAMBLE

On September 23, 2015, Align Real Estate (hereinafter "Project Sponsor") filed an Environmental Evaluation application (2015-010013ENV) with the Planning Department (hereinafter "Department") for a project at 30 Otis Street, to include the properties at Block 3505, Lots 010, 012, 013, 016 and 018 (hereinafter "Project Site").

On May 10, 2016, the Project Sponsor filed an application requesting approval of a Downtown Project Authorization pursuant to Section 309 of the San Francisco Planning Code.

On July 20, 2016, the Project Sponsor filed an application requesting a Shadow Determination.

On June 19, 2017, the Project Sponsor filed an application requesting approval of a Transportation Demand Management Program pursuant to Section 169 of the San Francisco Planning Code.

On March 8, 2018, the Project Sponsor filed an application for and an In-Kind Fee Waiver Agreement for public realm improvements pursuant to Planning Code Sections 421.3(d) and 424.3(c).

On August 24, 2018, the Project Sponsor submitted applications requesting approval of a.) Variances for Awning obstructions (Planning Code Section 136.1), Dwelling Unit Exposure (Planning Code Section 140), and Ground Floor Ceiling Height (Planning Code Section 145.1(c)(4)); b.) a Rear Yard Modification pursuant to Planning Code Section 134(e)(1); and, c.) an Elevator Penthouse Height Exemption, pursuant to Planning Code Section 260(b)(1)(B).

On July 19, 2018 the San Francisco Planning Commission (hereinafter "Commission") held a duly noticed public hearing on the Draft Environmental Impact Report ("DEIR"), at which opportunity for public comment was given, and public comment was received on the DEIR. The period for commenting on the DEIR ended on July 27, 2018. The Department prepared responses to comments on environmental issues received during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected clerical errors in the DEIR.

On September 13, 2018, the Planning Department published a Response to Comments ("RTC") on the DEIR. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the public review process, any additional information that became available, and the RTC document, all as required by law.

On September 27, 2018, the Commission reviewed and considered the FEIR and found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. ("CEQA"), particularly Section 21081 and 21081.5, the Guidelines for Implementation of CEQA, 14 California Code of Regulations Section 15000 et seq. ("CEQA Guidelines"), Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The FEIR was certified by the Commission on September 27, 2018 by adoption of its Motion No. 20291.

At the same hearing and in conjunction with this motion, the Commission made and adopted findings of fact and decisions regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, a statement of overriding considerations and a mitigation and monitoring reporting program, based on substantial evidence in the whole record of this proceeding and pursuant to CEQA, the CEQA Guidelines, and Chapter 31 by its Motion No. 20292. The

Commission adopted these findings as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting these CEQA findings. The Commission hereby incorporates by reference the CEQA findings set forth in Motion No. 20292.

On September 5, 2018 the Capital Committee of the Recreation and Park Commission, and on September 20, 2018, the full Recreation and Park Commission conducted duly noticed public hearings at regularly scheduled meetings and recommended that the Planning Commission find that the shadows cast by the Project would be insignificant to the use of the proposed park at 11th and Natoma Streets.

On September 27, 2018, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting regarding the Downtown Project Authorization, Variance and Rear Yard Modification applications 2015-010013ENVDNXVARSHD. At the same hearing, the Commission determined that the shadow cast by the Project would not have any adverse effect on parks within the jurisdiction of the Recreation and Parks Department. The Commission heard and considered the testimony presented to it at the public hearing and further considered written materials and oral testimony presented on behalf of the applicant, Department staff and other interested parties, and the record as a whole.

The Planning Department Commission Secretary is the custodian of records; the File for Record No. 2015-010013ENVDNXVARSHD is located at 1650 Mission Street, Suite 400, San Francisco, California.

MOVED, that the Commission hereby approves the Downtown Project Authorization as requested in Application No. 2015-010013ENVDNXVARSHD, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.

2. **Project Description.** The Project would demolish the five existing buildings and construct a new 398,365 gross square-foot mixed-use building containing 416 residential units, 2,199 square feet of retail, 15,993 square feet of arts activities space and a theater to be occupied by the City Ballet School. The project provides 95 residential parking spaces, three car-share spaces, a total of 224 Class 1 bicycle parking spaces and 32 Class 2 bicycle parking spaces. The building consists of a 9-story, 85-foot tall podium across the entire site and a 26-story, 250-foot tall tower located at the southeast corner of the site, at the Otis and 12th Street intersection. The project provides approximately 31,290 square feet of usable open space including a privately owned public space along Otis Street. Additionally, the project would expand the 15-foot wide sidewalk on the west side of 12th Street to create an approximately 7,200 square foot public plaza ranging from 17 to 77 feet wide at the corner of 12th Street and South Van Ness Avenue.

3. **Site Description and Present Use.** The Project Site is located at 30 Otis Street at the intersection of Otis and 12th Streets and South Van Ness Avenue (U.S. 101) in the South of Market ("SoMa") neighborhood, within both the Downtown and the Market/Octavia Area Plan; the Project Site is also located within the pending Hub Area of the Market/Octavia Area Plan.

   The Project Site is made up of five contiguous lots within Assessor's Block 3505, Lots 010, 012, 013, 016 and 018; in total, a 36,042 square-foot (sf) site with frontage along Otis Street to the north, 12st Street to the west, and Colusa Alley and Chase Court to the south. The Project Site measures about 251 feet along the Otis Street frontage, 150 feet along 12th Street, and 120 feet along the Colusa Alley and Chase Court frontage. The parcel at 74 12th Street (Lot 010) is developed with a one-story building occupied by an automotive auto body repair use. 90-98 12th Street (Lot 012) is developed with a one-story plus mezzanine building used for retail sales. The parcel at 14-18 Otis Street (Lot 013) is developed with a three-story building occupied by office use. The largest parcel, 30 Otis (Lot 016), houses a two-story building used for automotive glass repair on the first floor and a ballet school (City Ballet School) on the second floor. The last parcel, 38 Otis (Lot 18) is occupied by a one-story building used for automotive repair.

   In addition to the building site, the Project site also includes surrounding areas within the adjacent public rights-of-way in which streetscape improvements including a public plaza would be constructed as part of the proposed Project.

4. **Surrounding Properties and Neighborhood.** The Project site is located in the C-3-G (Downtown Commercial, General) District, characterized by a variety of retail, office, hotel, entertainment, and institutional uses, and high-density residential. A portion of the Project site is also located in the NCT-3 (Moderate-Scale Neighborhood Commercial Transit) District, which is intended in most cases to offer a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood, additionally providing convenience goods and services to the surrounding neighborhoods.

   The existing buildings on the surrounding block are mostly smaller structures, one- to three-stories in height and predominantly occupied by commercial and industrial uses, including multiple automotive shops. To the west of the site along Brady Street are a limited number of residential buildings, two- to four-stories in height. There is also an existing five-story residential hotel (Civic Center Hotel) to the north at 20 12th Street (a.k.a. 1601 Market Street).

   There are several proposed developments within the immediate vicinity that will significantly alter the existing neighborhood character, most notably through a significant increase in residential units. Not including the subject project, it is anticipated that these developments would result in approximately 2,200 new dwelling units. The anticipated developments include: a) 1629 Market Street – five new buildings, approx. 584 units and rehabilitation of the Civic Center Hotel, new retail and assembly space, and the new Brady Park; b) 42 Otis – 24 SRO units and ground floor retail; c) 10 South Van Ness – approx. 850 units; d) 1500 Mission Street –

approx. 550 dwelling units and a City office building; and e) 1601 Mission Street – approx. 220 dwelling units.

The Project Site is bounded by Otis Street to the south and 12th Street and South Van Ness Avenue to the east, all of which are proposed for extensive streetscape improvements and redesign, including major transit improvements in the way of new bicycle lanes, a bus island, and most notably, construction of the Van Ness Bus Rapid Transit (BRT) project.

5. **Public Outreach and Comments.** To date, the Department has not received any public comments on the proposal, outside of the comments that have already been documented and incorporated into the Environmental Impact Report.

   The Project has been in the pipeline since September 2015 when the Environmental Evaluation Application was first submitted. On April 19, 2016, the Project Sponsor hosted a pre-application/community meeting, which was held at 95 Brady Street. Since time of submittal in September 2015, the Project Sponsor has been actively engaged with neighbors and community groups and has presented at or hosted more than 40 large, small, and one-on-one meetings to review the proposed project and streetscape design. The Project Sponsor has reviewed the project with all adjacent neighbors and project sponsors of proposed projects within the vicinity.

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

   A. **Floor Area Ratio.** Pursuant to Sections 123, 249.33 and 424 of the Planning Code, Projects in the C-3-G Zoning District and the Van Ness and Market Downtown Residential Special Use District have a base floor area ratio ("FAR") of 6.0:1 and may reach a FAR of 9.0:1 with payment into the Van Ness and Market Affordable Housing Fund as set forth in Sections 249.33 and 424. To exceed a floor area ratio of 9.0:1, all such projects must contribute to the Van Ness and Market Neighborhood Infrastructure Fund. Pursuant to Sections 124 and 752 of the Planning Code, Projects in the NCT-3 District have a base FAR of 3.6:1.

   The Project Site has a lot area of approximately 36,042 square feet, with approximately 7,251 square feet located within the NCT-3 District and 28,791 square feet within the C-3-G District. As shown in the conceptual plans, the Project includes 398,365 gross square feet of development. Within the NCT-3 District, residential uses do not count toward the stated FAR limit. For the Project, 6,010 gross square feet of non-residential uses within the NCT-3 District contribute toward the FAR limit, a ratio of 0.83:1. Within the C-3 District, the Project contains 349,037 gross square feet, an FAR of 12.12:1. Since the portion of the Project within the C-3-G District exceeds a FAR of 6.0:1, the Project would make a payment pursuant to Section 249.33 and 424 to the Van Ness and Market Affordable Housing Fund for the Floor Area exceeding the base FAR ratio of 6.0:1 up to a ratio of 9.0:1 and make a payment pursuant to Section 424 to the Van Ness and Market Neighborhood Infrastructure Fund for the Floor Area exceeding the FAR ratio of 9.0:1.

B. **Rear Yard Requirement.** For the portion of the Project site located within the NCT-3 District, Planning Code section 134(a)(1) requires a rear yard equal to 25 percent of the total depth of the lot, but in no case less than 15 feet. Within the Van Ness and Market Downtown Residential Special Use District, pursuant to Planning Code Section 249.33(b)(5), Rear Yard requirements do not apply. Rather, lot coverage is limited to 80 percent at all residential levels, except on levels in which all residential units face onto a public right-of-way.

For the portion of the site within the NCT-3 District, the required rear yard depth ranges from 32 feet, 6 inches to 15 feet at a small portion of the site, for a total rear yard area of 1,833 square feet. The Project is providing a rear yard that will vary in depth from 20 feet, 9 inches to 29 feet, 6 inches, and will contain approximately 1,305 square feet. The provided rear yard setback does not comply with Planning Code section 134(a)(1); therefore, a modification is requested.

The Project proposes residential uses at the second floor and above. The Project must comply with maximum lot coverage restrictions at floors three and above for the portion of the building located within the Van Ness and Market Downtown Residential SUD. At floors 3-9, the Project proposes lot coverage of 81.6 percent, and lot coverage of 33.9 percent at floors 10-26. Therefore, a Section 309 exception is requested. (See Section 7, below, for 309 findings.)

C. **Residential Open Space.** Planning Code Section 135 requires that private open space be provided at a ratio of 36 square feet per dwelling unit in the C-3-G District and 80 square feet per dwelling unit in the NCT-3 District; if provided as common usable open space, these ratios increase to 48 and 100 square feet per dwelling unit, respectively. Open space meeting the requirements of Privately-Owned Public Open Spaces (POPOS) and the requirements of common usable open space for residential uses may be used to count towards the open space requirements of both Sections 135 and 138. Projects within the Van Ness and Market Downtown Residential Special Use District may satisfy the requirement by locating up to 40 percent of the open space off-site if the space is located within the Special Use District or 900 feet of the project site, and meets standards described in Section 249.33.

The Project includes 416 dwelling units, of which 46 are located within the NCT-3 District portion of the site and 370 within the Van Ness and Market Downtown Residential Special Use District. The Project would provide private open space for 4 units within the NCT-3 District and 103 units within the Van Ness and Market Residential Special Use District in the form of private terraces and balconies. The remaining 42 units in the NCT-3 District require 4,200 square feet of common usable open space, and the remaining 267 units in the C-3-G District require 12,816 square feet, for a total of 17,016 square feet.

The Project would provide 19,013 square feet of common useable open space in the form of outdoor terraces and decks and an enclosed solarium; these common areas are located throughout the building at floors 2, 3, 9, 10, and 27. Additionally, privately-owned public open space would be provided in a 960-square-foot ground floor plaza along Otis Street.

The Project Sponsor will enter into an in-kind agreement with the City to expand the existing 15-foot-wide sidewalk on the west side of 12th Street to create an approximately 7,200-sf public plaza at the corner of 12th Street and South Van Ness Avenue ("12th Street Plaza"), which is located within 900 feet of the Project Site. This plaza has not been included in the open space calculations above.

D. **Public Open Space.** New buildings in the C-3-G District must provide public open space at a ratio of one square feet per 50 gross square feet of all uses, except residential uses, institutional uses, and uses in a predominantly retail/personal services building, pursuant to Planning Code Section 138. This public open space must be located on the same site as the building or within 900 feet of it within a C-3 district. There is no privately-owned public open space requirement in the NCT-3 District.

Ground floor retail space in the C-3 Districts that is less than 5,000 sq. ft. is excluded from gross floor area and is therefore not required to provide the associated publicly accessible open space. The Project includes approximately 2,199 square feet of ground floor retail space, and thus the provision of public open space is not required for the ground floor retail uses.

The Project also includes 15,993 square feet of arts activity space and is therefore required to provide 320 square feet of privately-owned public open space. The Project will provide 960-square feet of privately-owned public open space in a ground floor plaza along Otis Street. Additionally, the Project Sponsor will enter into an in-kind agreement with the City to expand the existing 15-foot-wide sidewalk on the west side of 12th Street to create an approximately 7,200-sf public plaza at the corner of 12th Street and South Van Ness Avenue ("12th Street Plaza"), which is located within 900 feet of the Project Site.

E. **Streetscape Improvements.** Planning Code Section 138.1 requires that when a new building is constructed on a lot that is greater than half an acre in area and contains 250 feet of total lot frontage, pedestrian elements in conformance with the Better Streets Plan shall be required.

The Project is located on an assemblage of five lots that measure 36,042 square feet (approximately 0.83 acres) with 401 feet of frontage along Otis and 12th Streets. Physical widening along the Otis Street frontage is not possible. However, the Project proposes improvements in the Otis and 12th streets public rights-of-way that would include new publicly accessible open spaces, and new street trees and landscaped areas. The streetscape improvements would create a 960-square-foot plaza fronting the podium lobby on Otis Street. In addition, the proposed Project would create the 12th Street Plaza. Therefore, the Project complies with Planning Code Section 138.1.

F. **Exposure.** Planning Code Section 140 requires all dwelling units in all use districts to face onto a public street at least 20 feet in width, side yard at least 25 feet in width or open area which is unobstructed and is no less than 25 feet in every horizontal dimension for the floor at which the dwelling unit is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor.

The majority of the dwelling units in the proposed project comply with exposure requirements by facing onto one of the public streets bordering the site. Of those units that do not immediately face onto a public street, the majority are able to meet exposure by facing onto a 25' by 25' expanding open area, which for many units comes through provision of an inner court within the podium beginning at the third floor level. However, three units on the second level within the NCT-3 District do not meet exposure requirements; these units face onto a modified rear yard and do not overlook the public alley beyond due to the presence of a garage exhaust vent. The Project requests and meets the criteria for a rear yard modification in that the Project provides a comparable amount of usable open space elsewhere on the lot, and will not adversely affect the light and air to adjacent properties or the interior midblock open space. A variance from dwelling unit exposure is requested for these three units, which represent less than one percent of the total units in the project.

G. **Street Frontage in Commercial Districts: Loading and Driveway Width.** Section 145.1(c)(2) limits the width of parking and loading entrances to no more than one-third the width of the street frontage of a structure, or 20 feet, whichever is less.

The Project accommodates all parking and off-street loading via a single 15-foot, 6-inch-wide curb cut along 12th Street; two 10-foot wide garage doors provide access to the basement residential parking and at-grade off-street loading. As no more than 20 feet is devoted to parking and loading entrances, the Project complies with Section 145.1(c)(2).

H. **Street Frontage in Commercial Districts: Active Uses.** Planning Code Section 145.1(c)(3) requires that space for "active uses" shall be provided within the first 25 feet of building depth on the ground floor, and the first 15 feet above the ground floor.

At the ground floor, the Project includes an entry for the ballet school, three retail spaces (two along Otis, and one wrapping the corner of Otis and 12th Streets), residential amenity space, the leasing office for the building, and a residential lobby. Both the residential amenity space and the leasing office will have access directly to the public sidewalk, and therefore meet the intent of this section since they are considered active uses. The residential lobby along 12th Street would be limited to 40 feet in width, in compliance with the Code requirement. The remainder of the ground floor would be for parking and loading access, building egress, and access to mechanical systems, spaces which are exempt from the active use requirement. Above the ground floor, all building frontages contain residential uses and are considered active uses. Therefore, the Project complies with Section 145.1(c)(3).

I. **Street Frontage in Commercial Districts: Ground Floor Ceiling Height.** Planning Code Section 145.1(c)(4) requires that ground floor non-residential uses in all C-3 and NCT Districts have a minimum floor-to-floor height of 14 feet, as measured from grade.

The Project proposes various floor-to-floor heights along the Otis and 12th Street frontages which contain non-residential uses, ranging from 12'-9" to 21' 10" at the residential lobby and corner retail space. The Project Site has a 13-foot grade change between Otis Street and Chase Court at the rear. In

order to accommodate the grade change and also keep the non-residential uses along Otis and 12th Streets at grade level (as required per Section 145.1(c)(5)), the Project is not able to provide the full 14' height as required by Code; therefore a variance is required.

J. **Street Frontage in Commercial Districts: Ground Floor Transparency.** Planning Code Section 145.1(c)(6) requires that frontages with active uses that are not residential or PDR must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building.

The Project complies with the Ground Floor Transparency requirements of the Planning Code. Approximately 84 percent of the Project's frontage on Otis Street, and 68 percent of the Project's frontage along 12th Street are fenestrated with transparent windows and doorways. Therefore, the Project complies with Section 145.1(c)(6).

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

The shadow analysis determined that the Project may cast additional shadow on two public plazas or accessible open spaces, other than those protected under Section 295 – McCoppin Hub and the future Brady Park. The potential shadow cast upon McCoppin Hub is very minimal, occurring only on June 21st in the morning, lasting approximately six and a half minutes and covering an area of approximately 19.6 square feet, relative to the overall 6,454 square foot park.

Brady Park would be an approximately 21,000-square foot park, constructed as part of the private development at 1629 Market Street. The park is expected for passive recreation use, however, the exact design and layout of the park is unknown at this time, as is its timing for construction and opening. When constructed, Brady Park will have existing shading from the five buildings that were approved as part of the 1629 Market Street project, estimated at roughly 46.5% of the Theoretically Available Annual Sunlight (TAAS). The Project at 30 Otis, taken by itself, would increase shading to the park by about 6.5%; however, when analyzed cumulatively with other reasonably foreseeable projects in the vicinity, the potential net contribution of new shadow on the future Brady Park from the 30 Otis project would be minimal. Under CEQA, the Project's shadow on the future Brady Park would not constitute an adverse effect because it would not be expected to substantially and adversely affect the use of the park. Therefore, the Project complies with the requirements of Section 147.

L. **Ground Level Wind.** Planning Code Section 148 requires that new construction in Downtown Commercial Districts will not cause ground-level wind currents to exceed pedestrian comfort levels. This standard requires that wind speeds not exceed 11 miles per

hour in areas of substantial pedestrian use for more than 10 percent of the time year-round, between 7:00 AM and 6:00 PM. The requirements of this Section apply either when preexisting ambient wind speeds at a site exceed the comfort level and are not being eliminated as a result of the project, or when the project may result in wind conditions exceeding the comfort criterion.

Exceptions from the comfort criterion may be granted through the 309 process, but no exception may be granted where a project would cause wind speed to reach or exceed the hazard level of 26 mph for a single hour of the year. Fifty-three (53) test points were selected by Planning Department staff to measure wind speeds around the Project site at ground level. Under existing conditions (without the Project), 2 of the 53 test points exceed the hazard level. These two locations collectively exceed the hazard criterion for a duration of 9 hours annually. With the proposed Project, 1 of the 53 test points exceeds the hazard level – a decrease compared to existing conditions. This one location would exceed the hazard criterion for a duration of four hours annually, which is a five hour decrease compared to existing conditions.

Under existing conditions, 29 of the 53 test points exceed the Planning Code's comfort criterion at ground level more than 10 percent of the time. These 29 test points had average wind speeds of approximately 11.4 miles per hour (mph). With the proposed Project, two additional test points exceeded the comfort criterion (31 of 53 points) with average wind speeds increasing slightly to 12.1 mph. Taken as a whole, the Project does not substantially change wind conditions.

After nearly 2 1/2 years of wind sculpting, the Planning Department and the Project Sponsor concluded that the 250-foot-tall tower cannot be sculpted in a manner that would eliminate all 29 existing comfort exceedances or the 2 new comfort exceedances caused by the Project without unduly restricting the site's high-rise development potential or causing new hazardous conditions. The Project Sponsor therefore requests a Section 309 exception because the Project would not eliminate the existing locations that meet or exceed the Planning Code's comfort criterion despite a lengthy process of iterative wind testing. (See Section 7, below, for 309 findings.)

M. **Parking.** Planning Section 151.1 principally permits up to one car for each four dwelling units (0.25 ratio) within the Van Ness and Market Residential SUD. Pursuant to interim zoning controls passed under Board of Supervisors Resolution 448-17, parking in excess of a 0.25 ratio is not permitted. Parking for the proposed retail use shall not exceed 7% of gross floor area for that use.

The Project contains 416 dwelling units. Thus, a total of 104 spaces are principally permitted (416 x 0.25 = 104) for the dwelling units. The Project proposes 95 parking spaces for the residential use, which is within the principally permitted 104 parking spaces. The Project proposes no parking for the retail uses. Additionally, the Project proposes 3 car-share spaces, 6 motorcycle spaces, and 3 scooter-share spaces, none of which factor into the project's overall parking ratio under Code.

N. **Off-Street Freight Loading.** Planning Code Section 152.1 requires that projects in the C-3 District that include between 200,001 and 500,000 square feet of residential development

must provide two off-street freight loading spaces. The same requirement applies in the NCT-3 District pursuant to Planning Code Section 152. Pursuant to Section 153, two service vehicles may be substituted for each off-street freight loading space, provided that a minimum of 50 percent of the required number of spaces are provided for freight loading.

The Project includes 398,365 gross square feet of development, and thus requires two off-street loading spaces. One off-street freight loading space is provided and the second required loading space is substituted with two service vehicle spaces as permitted by Section 153 of the Planning Code. Accordingly, the Project complies with Section 152.1 of the Planning Code.

O. **Bicycle Parking.** For buildings with more than 100 dwelling units, Planning Code Section 155.2 requires 100 Class 1 spaces plus one Class 1 space for every four dwelling units over 100, and one Class 2 space per 20 units. For unidentified retail uses, 1 Class 1 space is required for every 7,500 square feet of Occupied Floor Area ("OFA") and one Class 2 space is required for every 2,500 square feet of OFA, with a minimum of 2 spaces required. For arts activities uses, a minimum of two Class 1 spaces, or one Class 1 space for every 5,000 square feet of OFA are required, and a minimum of two Class 2 spaces, or one Class 2 space for every 2,500 square feet of OFA are required.

With 416 dwelling units, the Project requires 179 Class 1 spaces for the residential use. The proposed retail spaces, totaling 2,199 square feet would not require any Class 1 bicycle parking. The ballet school arts activity use, with 15,993 square feet requires 3 Class 1 spaces. The Project proposes to provide 216 Class 1 spaces to be made available to residents of the project in a secure bicycle parking room accessed from grade at the rear along Chase Court, and additionally proposes 2 Class 1 spaces for the retail uses, and 6 Class 1 spaces for the ballet school, for a total of 224 Class 1 spaces, in excess of the Code requirement.

For Class 2 spaces, the Project requires 21 spaces for the residential use, the minimum two spaces for the retail uses, and six spaces for the arts activity use, a total of 29 Class 2 spaces. The Project proposes two areas of Class 2 bicycle parking, along the Otis Street frontage and adjacent to the proposed 12th Street Plaza, and would provide a total of 32 spaces within these two areas. Therefore, the Project complies with the Class 1 and Class 2 bicycle parking requirements of the Planning Code.

P. **Car Share.** Planning Code Section 166 requires two car share parking spaces for residential projects with 201 dwelling units plus an additional parking space for every 200 dwelling units over 200. The required car share parking spaces may be provided on the building site or on another off-street site within 800 feet of the building site.

With 416 proposed residential dwelling units, the Project requires a total of three car share spaces. Three spaces will be provided in the on-site garage. Therefore, the Project complies with Planning Code Section 166.

Q. **Transportation Demand Management (TDM) Plan.** Pursuant to Planning Code Section 169 and the TDM Program Standards, any development project resulting in 10 or more dwelling units, or 10,000 occupied square feet or more of any use other than residential, shall be required to comply with the City's TDM Program, and shall be required to finalize a TDM Plan prior to Planning Department approval of the first Building Permit or Site Permit. Development projects with a development application filed or an environmental application deemed complete on or before September 1, 2016 shall be subject to 50% of the applicable target, as defined in the TDM Program Standards.

The Project would include 416 residential units with a total of 95 vehicle parking spaces (0.23 spaces per unit ratio), 2,199 square feet of ground-floor retail use, and 15,993 square feet of arts and activities use. No parking is proposed for the retail or arts activity uses. Therefore, the 95 residential parking spaces for the 416 residential units are used to calculate the TDM Program target points, which for this project is a total of 21 points under the residential land use category. Because the proposed Project's development and environmental applications were deemed complete before September 4, 2016, the Project is only required to meet 50 percent of its applicable target, or 11 points.

The project sponsor has preliminarily identified the following TDM measures from TDM Program Standards: Appendix A to meet the 11 target points.

- ***Parking-1: Unbundled Parking, Location D – 4 points*** *(residential neighborhood parking rate less than or equal to 0.65, and all spaces leased or sold separately from the retail or purchase fee).*
- ***Parking-4: Parking Supply, Option G – 7 points*** *(residential parking less than or equal to 70 percent, and greater than 60 percent of the neighborhood parking rate).*
- ***Active-1: Improve Walking Conditions, Option A – 1 point*** *(streetscape improvements consistent with Better Streets Plan).*
- ***Active-2: Bicycle Parking, Option A – 1 points*** *(providing Planning Code required Class 1 and Class 2 bicycle parking)*
- ***Active-5A: Bicycle Repair Station – 1 point*** *(bicycle repair station within a designated, secure area within the building, where bicycle maintenance tools and supplies are readily available on a permanent basis).*
- ***Car Share-1: Option A – 1 point*** *(car share parking as required by Planning Code).*
- ***Info-2: Real Time Transportation Display – 1 point*** *(provide real time transportation information screen in a prominent location on-site).*

The Project Sponsor could choose to revise the selected TDM measures to exceed the target points prior to issuance of a Site Permit, or to further reduce the parking supply to meet or exceed the target point requirement, but would not be required to do so.

R. **Height and Bulk.** The Project falls within the 85/250-R-2 and 85-X Height and Bulk Districts. In height district 85/250-R-2, there are no bulk limitations below 85 feet in height, and structures above 85 feet in height must meet the bulk limitations described in subsections 270(e)(2)(A) - (F) of the Planning Code. Pursuant to subsection 270(e)(2)(B), buildings

between 241 and 300 feet in height may not exceed a plan length of 100 feet and a diagonal dimension of 125 feet, and may not exceed a maximum average floor area of 8,500 gross square feet. Pursuant to subsection 270(e)(2)(F), to encourage tower sculpting, the gross floor area of the top one-third of the tower shall be reduced by 10 percent from the maximum floor plates described in subsection 270(e)(2)(B).

The Project proposes a tower of 250 feet in height, with various features such as mechanical structures, and parapets extending above the 250-foot height limit in accordance with the height exemptions allowed through Planning Code Section 260(b). The tower would include a 36-foot elevator penthouse and the podium would include a 23-foot elevator overrun, both of which are required to meet state or federal laws and regulations, and which would require an exemption from the Zoning Administrator per Planning Code Section 260(b)(1)(B).

Consistent with the bulk control, the Project has a maximum plan length of 100 feet and a maximum plan diagonal of 125 feet. Above the podium level, the average floor area of the tower is 8,472 square feet, and the top one-third of the tower (or top six floors) has been reduced by at least ten percent from the maximum floor plate area, with these floors containing 7,639 square feet.

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

Section 146(a) does not apply to construction on Otis and 12th streets, and therefore does not apply to the Project. With respect to Section 146(c), the Project would replace five underutilized commercial buildings with a 9-story podium and 26-story tower residential structure. Although the Project would create new shadows on sidewalks and pedestrian areas adjacent to the site, the Project's shadows would be limited in scope and would not increase the total amount of shading above levels that are commonly accepted in urban areas. The Project is proposed at a height that is consistent with the zoned height for the property and could not be further shaped to reduce substantial shadow effects on public sidewalks without creating an unattractive design and without unduly restricting development potential. Therefore, the Project complies with Section 146.

T. **Shadows on Parks (Section 295).** Section 295 requires any project proposing a structure exceeding a height of 40 feet to undergo a shadow analysis in order to determine if the project would result in the net addition of shadow to properties under the jurisdiction of the Recreation and Park Department or designated for acquisition by the Recreation and Park Commission.

A technical memorandum was prepared by FastCast City dated February 2018 ("Shadow Study"), which analyzed the potential shadow impacts of the project to parks subject to Section 295 (in addition to other open spaces under public jurisdiction and privately owned, publicly accessible open spaces).

As detailed in the Shadow Study, the proposed project would not cast shadow on existing parks subject to Planning Code Section 295, but would cast shadow on the proposed 11th and Natoma Park under the jurisdiction of the Recreation and Park Department. Specifically, the proposed project would add 199,590 sfh of net new shadow resulting in 0.27 percent increase in annual shadow as a percentage of TAAS. Under existing plus project conditions, the total annual shadow coverage on the proposed 11th and Natoma Park would be 15,359,868 sfh. Therefore, under this scenario, the proposed 11th and Natoma Park would be shaded 21 percent annually, as a percentage of TAAS.

Shadow from the proposed project on the future Natoma & 11th Street Park would occur between February 15th – March 29th, and September 13th – October 25th. During these periods, the largest new shadow by area would occur on October 4th and March 8th at 5:47 pm, lasting approximately 8 minutes 24 seconds, and would cover an area of approximately 11,984 sf. The average duration of new shadow resulting from the proposed project would be 30 minutes and 21 seconds. The longest new shadow duration resulting from the proposed project would occur on September 27th and March 15th for approximately 50 minutes and 24 seconds.

On September 5, 2018 the Capital Committee of the Recreation and Park Commission, and on September 20, 2018, the full Recreation and Park Commission conducted duly noticed public hearings at regularly scheduled meetings and recommended that the Planning Commission find that the shadows cast by the Project would be insignificant to the use of the proposed park at 11th and Natoma Streets.

U. **Inclusionary Affordable Housing Program (Section 415).** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, the current percentage requirements apply to projects that consist of ten or more units. Pursuant to Planning Code Section 415.5, the Project must pay the Affordable Housing Fee ("Fee"). This Fee is made payable to the Department of Building Inspection ("DBI") for use by the Mayor's Office of Housing and Community Development for the purpose of increasing affordable housing citywide. The applicable percentage is dependent on the number of units in the project, the zoning of the property, and the date that the project submitted a complete Environmental Evaluation Application. A complete Environmental Evaluation Application was submitted on September 23, 2015; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the Affordable Housing Fee is at a rate equivalent to an off-site requirement of 30%.

The Project Sponsor has submitted an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program through payment of the Fee, in an amount to be established by the Mayor's Office of Housing and Community Development. The applicable percentage is dependent on

the total number of units in the Project, the zoning of the property, and the date that the Project submitted a complete Environmental Evaluation Application. A complete Environmental Evaluation Application was submitted on September 23, 2015; therefore, pursuant to Planning Code Section 415.3, the Inclusionary Affordable Housing Program requirement for the Affordable Housing Fee is at a rate of 30%.

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

The Project would comply with this Section by dedicating one percent of the Project's construction cost to a sculpture in the 12th Street Plaza to be commissioned by the Project Sponsor.

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

A. **Section 249.33: Lot Coverage.** Within the Van Ness and Market Downtown Residential Special Use District, Rear Yard requirements do not apply pursuant to Planning Code Section 249.33; however, lot coverage is limited to 80 percent at all residential levels, except on levels in which all residential units face onto a public right-of-way. Exceptions pursuant to Section 309 may be permitted. The criteria for granting a rear yard exception in the C-3 districts is set forth in Section 134(d): "C-3 Districts, an exception to the rear yard requirements of this Section may be allowed, in accordance with the provisions of Section 309, provided that the building location and configuration assure adequate light and air to windows within the residential units and to the usable open space provided."

The project proposes residential uses at the second floor and above. The project must comply with maximum lot coverage restrictions at floors three and above for the portion of the building located within the Van Ness and Market Downtown Residential SUD. At floors 3-9, the Project proposes lot coverage of 81.6 percent, and lot coverage of 33.9 percent at floors 10-26. Despite the overall lot coverage exceedance at floors 3-9, the Project provides adequate exposure to air and light for all units. Units fronting Otis Street, 12th Street, Chase Court, and Colusa Place all possess substantial frontage overlooking City Streets, particularly along Otis Street and South Van Ness Avenue. In addition, the Project provides open space at the rear of the building that will help define a new mid-block open space that was approved as part of the 1629 Market Street project, northwest of the site.

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

hour equivalent wind speed in areas of substantial pedestrian use and seven miles per hour equivalent wind speed in public seating areas.

When preexisting ambient wind speeds exceed the comfort level, or when a proposed building or addition may cause ambient wind speeds to exceed the comfort level, the building shall be designed to reduce the ambient wind speeds to meet the requirements. An exception may be granted, in accordance with the provisions of Section 309, allowing the building or addition to add to the amount of time that the comfort level is exceeded by the least practical amount if (1) it can be shown that a building or addition cannot be shaped and other wind-baffling measures cannot be adopted to meet the foregoing requirements without creating an unattractive and ungainly building form and without unduly restricting the development potential of the building site in question, and (2) it is concluded that, because of the limited amount by which the comfort level is exceeded, the limited location in which the comfort level is exceeded, or the limited time during which the comfort level is exceeded, the addition is insubstantial.

No exception shall be granted and no building or addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard level of 26 miles per hour (mph) for a single hour of the year.

Independent consultants analyzed ground-level wind currents in the vicinity of the Project Site by working with Department staff to select 53 test points throughout public areas in the general vicinity of the Project Site. A wind tunnel analysis, the results of which are included in a technical memorandum prepared by BMT Fluid Mechanics, was conducted using a scale model of the Project Site and its immediate vicinity. The study concluded that the Project would not result in any substantial change to the wind conditions of the area.

Comfort Criterion

Under existing conditions, 29 of the 53 locations tested currently exceed the pedestrian comfort level of 11 mph at grade level more than 10% of the time. Average wind speeds measured close to 11.4 mph. With the Project, 31 of 53 locations tested exceeded the pedestrian comfort level of 11 mph more than 10% of the time. Average wind speeds increased by 0.7 mph to approximately 12.1 mph.

The Project does not result in substantial change to the wind conditions. However, since comfort exceedances are not entirely eliminated by the Project, an exception is required under Planning Code Section 309. The tower has been substantially reshaped through a rigorous and iterative series of wind tests and street trees have been added to further diffuse pedestrian-level winds near the site. The Project could not be designed in a manner that could eliminate all 29 of the existing comfort exceedances or the 2 comfort exceedances caused by the Project, without unduly restricting the site's development potential, resulting in an ungainly building form or creating new hazard exceedances.

Hazard Criterion

The Wind Study indicated that the Project does not cause any net new hazardous conditions. Overall, the Project would decrease number of test points that exceed the hazard criterion from 2 under existing conditions to 1 under existing plus Project conditions. The hours per year in which the hazard

criterion would be exceeded would decrease from 9 hours under existing conditions to 4 hours with the Project, an improvement of five fewer hours of hazardous wind conditions. Therefore, the Project would comply with the hazard criterion of Section 148.

8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1:
IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.8
Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

Policy 1.10
Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

OBJECTIVE 5:
ENSURE THAT ALL RESIDENTS HAVE EQUAL ACCESS TO AVAILABLE UNITS.

Policy 5.4
Provide a range of unit types for all segments of need, and work to move residents between unit types as their needs change.

OBJECTIVE 11:
SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.1
Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.3
Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.6
Foster a sense of community through architectural design, using features that promote community interaction.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 1:
MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT, AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.3
Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs particularly those of commuters.

Policy 1.6
Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate.

OBJECTIVE 2:
USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

Policy 2.1
Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development.

OBJECTIVE 11:
ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

Policy 11.3
Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:
EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3
Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 3:

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

Policy 3.1
Promote harmony in the visual relationships and transitions between new and older buildings.

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

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:
MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1
Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

DOWNTOWN AREA PLAN

Objectives and Policies

OBJECTIVE 1:
MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1
Encourage development which produces substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences which cannot be mitigated.

OBJECTIVE 7:
EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

Policy 7.1
Promote the inclusion of housing in downtown commercial developments.

Policy 7.2
Facilitate conversion of underused industrial and commercial areas to residential use.

OBJECTIVE 16:
CREATE AND MAINTAIN ATTRACTIVE, INTERESTING URBAN STREETSCAPES.

Policy 16.4
Use designs and materials and include amenities at the ground floor to create pedestrian interest.

MARKET AND OCTAVIA AREA PLAN

Objectives and Policies

OBJECTIVE 1.1:
CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A MIXED- USE URBAN NEIGHBORHOOD.

Policy 1.1.2
Concentrate more intense uses and activities in those areas best served by transit and most accessible on foot.

Policy 1.1.4
As SoMa West evolves into a high-density mixed-use neighborhood, encourage the concurrent development of neighborhood-serving uses to support an increasing residential population.

OBJECTIVE 1.2:
ENCOURAGE URBAN FORM THAT REINFORCES THE PLAN AREA'S UNIQUE PLACE IN THE CITY'S LARGER URBAN FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.

Policy 1.2.2
Maximize housing opportunities and encourage high□quality commercial spaces on the ground floor.

Policy 1.2.3
Limit heights along the alleys in order to provide ample sunlight and air in accordance with the plan principles that relate building heights to street widths.

OBJECTIVE 2.2:
ENCOURAGE CONSTRUCTION OF RESIDENTIAL INFILL THROUGHOUT THE PLAN AREA.

Policy 2.2.2
Ensure a mix of unit sizes is built in new development and is maintained in existing housing stock.

Policy 2.2.4
Encourage new housing above ground□floor commercial uses in new development and in expansion of existing commercial buildings.

OBJECTIVE 4.1:
PROVIDE SAFE AND COMFORTABLE PUBLIC RIGHTS-OF-WAY FOR PEDESTRIAN USE AND IMPROVE THE PUBLIC LIFE OF THE NEIGHBORHOOD.

Policy 4.1.1
Widen sidewalks and shorten pedestrian crossings with corner plazas and boldly marked crosswalks where possible without affecting traffic lanes. Where such improvements may reduce lanes, the improvements should first be studied.

Policy 4.1.4
Encourage the inclusion of public art projects and programs in the design of streets and public spaces.

OBJECTIVE 5.1:
IMPROVE PUBLIC TRANSIT TO MAKE IT MORE RELIABLE, ATTRACTIVE, CONVENIENT, AND RESPONSIVE TO INCREASING DEMAND.

Policy 5.1.2
Restrict curb cuts on transit-preferential streets.

Policy 5.1.4
Support innovative transit solutions that improve service, reliability, and overall quality of the transit rider's experience.

OBJECTIVE 5.3:
ELIMINATE OR REDUCE THE NEGATIVE IMPACT OF PARKING ON THE PHYSICAL CHARACTER AND QUALITY OF THE NEIGHBORHOOD.

Policy 5.3.1
Encourage the fronts of buildings to be lined with active uses and, where parking is provided, require that it be setback and screened from the street.

OBJECTIVE 7.2:
ESTABLISH A FUNCTIONAL, ATTRACTIVE AND WELL-INTEGRATED SYSTEM OF PUBLIC STREETS AND OPEN SPACES IN THE SOMA WEST AREA TO IMPROVE THE PUBLIC REALM.

Policy 7.2.5
Make pedestrian improvements within the block bounded by Market, Twelfth, Otis, and Gough Streets and redesign Twelfth Street between Market and Mission Streets, creating a new park and street spaces for public use, and new housing opportunities.

The Project supports the objectives and policies of the General Plan, along with the Market and Octavia and Downtown Area Plans. The Project would replace the existing underutilized commercial structures with a 416-unit residential structure containing ground floor retail and arts activity uses that are more consistent and compatible with the anticipated development within the area and the Van Ness and Market Downtown Residential Special Use District. The Project is located in close proximity to multiple forms of public transportation that future tenants would be encouraged to use. The Project has been thoughtfully designed and will be compatible with the adjacent buildings and neighborhood, and will greatly enhance the character of the existing neighborhood particularly through creation of 12th Street Plaza.

The Project would create 416 dwelling units, of which 212 (51%) are studios, 98 (24%) are one bedroom, and 106 (25%) are two bedrooms. Additionally, the Project is subject to the City's Inclusionary Affordable Housing Program (Planning Code Section 415) and is electing to meet the requirement through payment of a fee at a rate of 30 percent. The current estimated fee payment would contribute over $32 million towards the development of permanently affordable housing within the City. The Project will also pay additional fees through the Market-Octavia Affordable Housing Fee and Van Ness & Market SUD Affordable Housing Fee.

The Project supports the City's transit-first policy, including enhancement and support of the pedestrian environment and bicycle infrastructure. Located just one block south of Market Street, the Project Site is within walking distance of BART (Civic Center Station) and MUNI rail lines (Van Ness Station), and is also within a quarter-mile of several MUNI bus lines (6, 7, 7R, 7X, 9, 9R, 14, 14R, 47 and 49). Currently under construction, the Van Ness Bus Rapid Transit (BRT) line will terminate adjacent to the project at the Mission and South Van Ness Avenue intersection, and the project team has been working with SFMTA

on construction coordination between the two projects. As part of the Project's Transportation Demand Management Plan, the lobby will include real-time information displays for nearby transit stops.

In addition to providing bicycle parking, amenities such as a bicycle repair workshop, and a separate bicycle storage room for larger, cargo bikes or trailers, make cycling a convenient transit option, even for families. A relatively small amount of vehicle parking at a ratio of 0.23 spaces per dwelling unit will be provided at the basement levels of the building, accessed through a single garage entry so as to minimize the impact on the physical character of the public right-of-way. Three spaces will be equipped for electric vehicle charging, and the garage will also have three dedicated car-share spaces.

The proposed streetscape and plaza improvements enhance both the safety and attractiveness of the pedestrian environment. In particular, 12th Street has been redesigned to minimize the number curb cuts as points of possible pedestrian-vehicle conflict, as well as minimize the distance of pedestrian crossings. Along Otis Street, the Project will remove all existing curb cuts, enhancing this transit- and bike-preferential street. Perhaps most noticeable is the proposed 12th Street Plaza, which will create a new public space, enhanced visually through incorporation of a public art piece by Frida Escobedo.

The proposed building has been designed thoughtfully and utilizes high-quality materials; it will be compatible with and enhance the neighborhood character, particularly as the surrounding vicinity continues to develop, consistent with the Market and Octavia and proposed Hub plans. The building's form is characterized by a 9-story, 85-foot tall podium and 26-story, 250-foot tall tower, excluding the parapet and elevator penthouse. The height and bulk of the Project are consistent with zoning controls, relevant area plans, and other buildings proposed in the vicinity, including the 380-foot tall residential tower being constructed at 1500 Mission Street. The tower form has been shaped by wind mitigation efforts in addition to zoning requirements and a desire for an iconic sculptural, yet simple curved form. Conceptually the building is expressed as a glass tower and more solid podium base. The tower is consistent with fundamental design principles, incorporating both horizontal articulation and a change in the vertical plane to differentiate the tower element along the Otis façade. In contrast to the podium, the tower has a primarily glass façade, giving a lightness and airiness to the structure. At the podium, the depth and spacing of the punched window openings give visual interest, and reflect different individual residential configurations functioning within the building.

The building's massing gives consideration to light and air both for the units within the project, but also to surrounding properties and future development of many of those sites. The raised courtyard at the rear of the property provides an open space amenity and helps a number of units meet exposure requirements; programmatically, this is also the same location where the long spans are required for the ballet theater performance space below. At the rear of the building, the building massing steps back from the alley at upper floors, providing light and air onto these narrower public sidewalks and contributing positively to the envisioned mid-block open space, which includes Brady Park.

At the ground floor, the ballet school entry along 12th Street is materially differentiated from the residential portions of the podium, and its location will activate that portion of 12th Street, also fostering a direct connection with the proposed 12th Street Plaza as a gathering or potential performance space. The

remainder of the ground floor contains a mix of retail space and residential amenity space. Internal stairs and passages connect common spaces and amenities at the first three floors in a natural way, and results in a convenient path of travel through the building from Otis or 12th Streets, to the rear of the property at Chase and Colusa, in order to provide access to the proposed Brady Park.

Lastly, the Project will create three retail spaces for the provision of neighborhood-serving goods and services, particularly as more residential development is anticipated in the vicinity. A substantial portion of the ground floor is also provided to the City Ballet School; this arts activity use currently operates at the site, and one of the primary goals for the Project Sponsor has been to create an improved and permanent home for this school, and have also worked with the business on relocation efforts during the construction phase of the Project.

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project complies with said policies in that:

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

   The Project will add approximately 2,199 square feet of retail space across three tenant spaces to allow for provision of neighborhood-serving retail uses and employment. These businesses would be supported by the demand from the 416 proposed residential units, and would be further enhanced by the POPOS space along Otis Street and by the 12th Street Plaza, which will attract pedestrian interest and provide space for seating and gathering.

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

   The Project Site does not possess any existing housing. The Project would provide 416 new dwelling units, thus resulting in an overall increase in the neighborhood housing stock. In addition, the Project's retention of an existing arts activity use, and creation of a new public plaza and streetscape improvements will help to retain and enhance the existing neighborhood character. The project design is compatible with the scale and form of surrounding buildings and incorporates high-quality materials and detailing to provide visual interest.

   C. That the City's supply of affordable housing be preserved and enhanced,

   The Project Site does not currently possess any existing affordable housing. The Project will comply with the City's Inclusionary Housing Program by contributing to the Inclusionary Housing Fund at a rate of 30 percent, currently estimated to at least $32 million. The Project will also require payments into the Market-Octavia Affordable Housing Fee and Van Ness & Market SUD Affordable Housing Fee. These affordable housing fees will help fund construction of new, permanently affordable housing throughout the City.

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

The Project would not impede MUNI transit service or overburden local streets or parking. The Project is located near a major transit corridor with access to BART and MUNI rail and bus service that would promote rather than impede the use of MUNI transit service. All existing curb cuts along Otis Street will be removed, further enhancing this transit-preferential street. The Project also provides a sufficient amount of off-street parking for future residents so that neighborhood parking will not be overburdened by the addition of new residents. The entrance to the proposed garage would be located on 12th Street where no transit lines exist.

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

The Project would displace industrial uses but not for commercial office development since it is a residential project; the provision of housing, particularly near transit, is a top priority for the City. Further, the proposed ground-floor retail spaces provide future opportunities for resident employment and ownership in service-sector businesses.

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

The Project will be designed and will be constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake. The proposed Project would replace older buildings that do not comply with current seismic safety standards.

G. That landmarks and historic buildings be preserved.

The proposed Project would demolish the 14-18 Otis Street building, which is a historical resource as defined in CEQA Guidelines section 15064.5. The Project will mitigate impacts to the building by documenting the history of the building, providing a permanent display of interpretive materials concerning the history and architectural features of the building, and preparing video documentation of the building and its setting.

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

The proposed project will create shadow on two proposed parks – 11th and Natoma Park, under jurisdiction of the Recreation and Park Department, and Brady Park, proposed through the private development of 1629 Market Street. For both parks, the amount of additional shadow that would occur

as a result of the Project has not been found to be significant or adverse to the proposed use of the parks.

10. The Commission made and adopted environmental findings by its Motion No. 20292, which are incorporated by reference as though fully set forth herein, regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, a statement of overriding considerations and a mitigation and monitoring reporting program, based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission adopted these findings as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting the CEQA findings.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

12. The Commission hereby finds that approval of the Downtown Project Authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Downtown Project Authorization Application No. 2015-010013ENVDNXVARSHD** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated August 22, 2018, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The Planning Commission has reviewed and considered the FEIR and the record as a whole and incorporates by reference herein the CEQA Findings contained in Motion No. 20292 and MMRP, included as Attachment B. All required mitigation and improvement measures identified in Attachment B of Motion No. 20292 are included as conditions of approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Downtown Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on September 27, 2018.

Jonas P. Ionin
Commission Secretary

AYES: Hillis, Melgar, Fong, Johnson, Koppel, Moore, Richards

NAYS: None

ABSENT: None

ADOPTED: September 27, 2018

EXHIBIT A

AUTHORIZATION

This authorization is for a **Downtown Project Authorization and Request for Exceptions** to allow demolition of the five existing buildings currently located at the project site, and new construction of a residential building with a 9-story podium and 26-story, 250-foot tall tower, containing 416 dwelling units, approximately 2,199 square feet of retail space, 15,993 square feet of arts activities space to be occupied by City Ballet School, 31,290 square feet of usable open space, 95 accessory residential parking spaces, 3 car-share spaces, and construction of an approximately 7,200 square foot public plaza at the corner of 12th Street and South Van Ness Avenue, located at 30 Otis Street, on Assessor's Block 3505, Lots 010, 012, 013, 016, and 018 pursuant to Planning Code Section(s) 309, 134, 249.33(b)(5), and 148 within the C-3-G (Downtown-General) Zoning District, the NCT-3 (Moderate-Scale Neighborhood Commercial Transit Zoning District), the Van Ness and Market Downtown Residential Special Use District, and both the 85-X and the 85/250-R-2 Height and Bulk Districts; in general conformance with plans, dated August 22, 2018, and stamped "EXHIBIT B" included in the docket for Case No. 2015-010013ENVDNXVARSHD and subject to conditions of approval reviewed and approved by the Commission on September 27, 2018 under Motion No. 20293. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on September 27, 2018 under Motion No. 20293.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 20293 shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference the Downtown Project Authorization and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.
   For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.
   For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.
   For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.
   For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.
   For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

6. **Additional Project Authorization.** The Project Sponsor must obtain a Shadow Determination under Section 295 that the net new shadow cast by the Project on the proposed 11th and Natoma Park will be insignificant to the use of the park, a Variance under Section 305 from Planning Code requirements for Awning Obstructions (Section 136.1), Dwelling Unit Exposure (Section 140), and Ground Floor Ceiling Height (Section 145.1(c)(4)), a Rear Yard Modification (Section 134(e)(1)), and an Elevator Height Exemption Waiver (Section 260(b)(1)(B)), and satisfy all the conditions thereof. Additionally, in order to construct the proposed 12th Street Plaza, the Project Sponsor must obtain an In-Kind Fee Waiver Agreement. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

7. **Improvement and Mitigation Measures.** Improvement and Mitigation measures described in the MMRP and found as Attachment B contained within Motion No. 20292 are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN – COMPLIANCE AT PLAN STAGE

8. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Specifically, as described in the Commission's approval motion, the Project Sponsor shall continue to work with the Planning Department on increasing the visibility and activity of the ballet school at the ground floor. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

9. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

10. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit

application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

11. **Lighting Plan.** The Project Sponsor shall submit an exterior lighting plan to the Planning Department prior to Planning Department approval of the building / site permit application.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

12. **Streetscape Plan.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan generally meets the standards of the Better Streets Plan and all applicable City standards. The Project Sponsor shall complete final design of all required street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda, and shall complete construction of all required street improvements prior to issuance of first temporary certificate of occupancy.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

13. **Open Space Provision - C-3 Districts.** Pursuant to Planning Code Section 138, the Project Sponsor shall continue to work with Planning Department staff to refine the design and programming of the public open space so that the open space generally meets the standards of the Downtown Open Space Guidelines in the Downtown Plan of the General Plan.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

14. **Open Space Plaques - C-3 Districts.** Pursuant to Planning Code Section 138, the Project Sponsor shall install the required public open space plaques at each building entrance including the standard City logo identifying it; the hours open to the public and contact information for building management. The plaques shall be plainly visible from the public sidewalks on Otis and 12th Streets and shall indicate that the open space is accessible to the public. Design of the plaques shall utilize the standard templates provided by the Planning Department, as available, and shall be approved by the Department staff prior to installation.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

15. **Signage.** The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff before submitting any building permits for construction of the Project. All subsequent sign permits shall conform to the approved signage program. Once approved by the Department, the signage program/plan information shall be submitted and approved as part of the site permit for the Project. All

exterior signage shall be designed to compliment, not compete with, the existing architectural character and architectural features of the building.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

16. **Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:
    A. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
    B. On-site, in a driveway, underground;
    C. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
    D. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
    E. Public right-of-way, underground; and based on Better Streets Plan guidelines;
    F. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
    G. On-site, in a ground floor façade (the least desirable location).

    Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.
    For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, http://sfdpw.org

17. **Overhead Wiring.** The Property owner will allow MUNI to install eyebolts in the building adjacent to its electric streetcar line to support its overhead wire system if requested by MUNI or MTA.
    For information about compliance, contact San Francisco Municipal Railway (Muni), San Francisco Municipal Transit Agency (SFMTA), at 415-701-4500, www.sfmta.org

18. **Noise, Ambient.** Interior occupiable spaces shall be insulated from ambient noise levels. Specifically, in areas identified by the Environmental Protection Element, Map1, "Background Noise Levels," of the General Plan that exceed the thresholds of Article 29 in the Police Code, new developments shall install and maintain glazing rated to a level that insulate interior occupiable areas from Background Noise and comply with Title 24.
    For information about compliance, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org

19. **Noise.** Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

20. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

PARKING AND TRAFFIC

21. **Transportation Demand Management (TDM) Program.** Pursuant to Planning Code Section 169, the Project shall finalize a TDM Plan prior to the issuance of the first Building Permit or Site Permit to construct the project and/or commence the approved uses. The Property Owner, and all successors, shall ensure ongoing compliance with the TDM Program for the life of the Project, which may include providing a TDM Coordinator, providing access to City staff for site inspections, submitting appropriate documentation, paying application fees associated with required monitoring and reporting, and other actions.

    Prior to the issuance of the first Building Permit or Site Permit, the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property to document compliance with the TDM Program. This Notice shall provide the finalized TDM Plan for the Project, including the relevant details associated with each TDM measure included in the Plan, as well as associated monitoring, reporting, and compliance requirements.

    For information about compliance, contact the TDM Performance Manager at tdm@sfgov.org or 415-558-6377, www.sf-planning.org.

22. **Parking for Affordable Units.** All off-street parking spaces shall be made available to Project residents only as a separate "add-on" option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

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

23. **Car Share.** Pursuant to Planning Code Section 166, no fewer than three (3) car share spaces shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

24. **Bicycle Parking.** Pursuant to Planning Code Sections 155, 155.1, and 155.2, the Project shall provide no fewer than 211 bicycle parking spaces (179 Class 1 spaces for the residential portion of the Project, 3 Class 1 spaces for the arts activity use, and 29 Class 2 spaces for all proposed uses in the Project). SFMTA has final authority on the type, placement and number of Class 2 bicycle racks within the public ROW. Prior to issuance of first architectural addenda, the project sponsor shall contact the SFMTA Bike Parking Program at bikeparking@sfmta.com to coordinate the installation of on-street bicycle racks and ensure that the proposed bicycle racks meet the SFMTA's bicycle parking guidelines. Depending on local site conditions and anticipated demand, SFMTA may request the project sponsor pay an in-lieu fee for Class II bike racks required by the Planning Code.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

25. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than one hundred and four (104) off-street parking spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

26. **Off-street Loading.** Pursuant to Planning Code Section 152.1, the Project will provide one (1) off-street loading space, and spaces for two (2) service vehicles, which may be used to substitute for a second off-street loading space.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

27. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PROVISIONS

28. **Anti-Discriminatory Housing.** The Project shall adhere to the requirements of the Anti-Discriminatory Housing policy, pursuant to Administrative Code Section 1.61.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

29. **First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.
For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org

30. **Transportation Sustainability Fee.** The Project is subject to the Transportation Sustainability Fee (TSF), as applicable, pursuant to Planning Code Section 411A.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

31. **Child Care Fee - Residential.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

32. **Inclusionary Affordable Housing Program.** The following Inclusionary Affordable Housing Requirements are those in effect at the time of Planning Commission action. In the event that the requirements change, the Project Sponsor shall comply with the requirements in place at the time of issuance of first construction document.

    A. **Requirement**. Pursuant to Planning Code Section 415.5, the Project Sponsor must pay an Affordable Housing Fee at a rate equivalent to the applicable percentage of the number of units in an off-site project needed to satisfy the Inclusionary Affordable Housing Program Requirement for the principal project. The applicable percentage for this project is thirty percent (30%). The Project Sponsor shall pay the applicable Affordable Housing Fee at the time such Fee is required to be paid.
    For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

    B. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and the terms of the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time

to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing and Community Development ("MOHCD") at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing and Community Development's websites, including on the internet at:
http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451.
As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale or rent.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

a. The Project Sponsor must pay the Fee in full sum to the Development Fee Collection Unit at the DBI for use by MOHCD prior to the issuance of the first construction document.

b. Prior to the issuance of the first construction permit by the DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.

c. If project applicant fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Sections 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all other remedies at law.

33. **Market Octavia Affordable Housing Fee.** The Project is subject to the Market and Octavia Affordable Housing Fee, as applicable, pursuant to Planning Code Section 416.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

34. **Market Octavia Community Improvements Fund.** The Project is subject to the Market and Octavia Community Improvements Fee, as applicable, pursuant to Planning Code Section 421.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

35. **Market and Octavia – Van Ness & Market Street Affordable Housing Fee.** The Project is subject to the Market and Octavia – Van Ness & Market Affordable Housing Fee, as applicable, pursuant to Planning Code Section 424.3.

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

36. **Art.** The Project is subject to the Public Art Fee, as applicable, pursuant to Planning Code Section 429.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

37. **Art Plaques.** Pursuant to Planning Code Section 429(b), the Project Sponsor shall provide a plaque or cornerstone identifying the architect, the artwork creator and the Project completion date in a publicly conspicuous location on the Project Site. The design and content of the plaque shall be approved by Department staff prior to its installation.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

38. **Art.** Pursuant to Planning Code Section 429, the Project Sponsor and the Project artist shall consult with the Planning Department during design development regarding the height, size, and final type of the art. The final art concept shall be submitted for review for consistency with this Motion by, and shall be satisfactory to, the Director of the Planning Department in consultation with the Commission. The Project Sponsor and the Director shall report to the Commission on the progress of the development and design of the art concept prior to the submittal of the first building or site permit application
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

39. **Art.** Pursuant to Planning Code Section 429, prior to issuance of any certificate of occupancy, the Project Sponsor shall install the public art generally as described in this Motion and make it available to the public. If the Zoning Administrator concludes that it is not feasible to install the work(s) of art within the time herein specified and the Project Sponsor provides adequate assurances that such works will be installed in a timely manner, the Zoning Administrator may extend the time for installation for a period of not more than twelve (12) months.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

40. **Art - Residential Projects.** Pursuant to Planning Code Section 429, the Project Sponsor must provide on-site artwork, pay into the Public Artworks Fund, or fulfill the requirement with any combination of on-site artwork or fee payment as long as it equals one percent of the hard construction costs for the Project as determined by the Director of the Department of Building Inspection. The Project Sponsor shall provide to the Director necessary information to make the determination of construction cost hereunder. Payment into the Public Artworks Fund is due prior to issuance of the first construction document.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

41. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

42. **Monitoring.** The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 350 and work with the Planning Department for information about compliance.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

43. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

44. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.
For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, http://sfdpw.org

45. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator and all registered neighborhood groups for the area with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator and registered neighborhood groups shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

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

46. **Notices Posted at Bars and Entertainment Venues.** Notices urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood, shall be well-lit and prominently displayed at all entrances to and exits from the establishment.
For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

47. **Other Entertainment.** The Other Entertainment shall be performed within the enclosed building only. The building shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance. Bass and vibrations shall also be contained within the enclosed structure. The Project Sponsor shall obtain all necessary approvals from the Entertainment Commission prior to operation. The authorized entertainment use shall also comply with all of the conditions imposed by the Entertainment Commission.
For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

48. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

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

- [x] 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- [ ] 2. Request for next printed agenda (For Adoption Without Committee Reference)
  (Routine, non-controversial and/or commendatory matters only)
- [ ] 3. Request for Hearing on a subject matter at Committee
- [ ] 4. Request for Letter beginning with "Supervisor _____ inquires…"
- [ ] 5. City Attorney Request
- [ ] 6. Call File No. _____ from Committee.
- [ ] 7. Budget and Legislative Analyst Request (attached written Motion)
- [ ] 8. Substitute Legislation File No. _____
- [ ] 9. Reactivate File No. _____
- [ ] 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

☐ Yes ☐ No

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

Sponsor(s):

Dorsey

Subject:

Street Encroachment Permit - [12th Street Plaza] at 90 12th Street

Long Title or text listed:

Resolution granting revocable permission to Otis Property Owner, LLC, to occupy and maintain the 12th Street Plaza on 12th Street at the corner of South Van Ness Avenue fronting 90 12th Street (Assessor's Parcel Block No. 3505, Lot No. 012); accepting the irrevocable offer of improvements from Otis Property Owner, LLC in accordance with the terms of a Planning Commission In-Kind Agreement and dedicating said improvements to public use; adopting environmental findings under the California Environmental Quality Act, and making findings of consistency with the General Plan, and the eight priority policies of Planning Code Section 101.1.

Signature of Sponsoring Supervisor: _____