File No. 130570 Committee Item No. 8
Board Item No. 17

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Alisa Miller **Date** July 19, 2013
Completed by: Alisa Miller **Date** July 23, 2013

FILE NO. 130570 ORDINANCE NO.

[Planning Code, Zoning Map - Yerba Buena Center Mixed-Use Special Use District]

Ordinance amending the Planning Code and Zoning Map, by adding Section 249.71, to create the Yerba Buena Center Mixed-Use Special Use District (SUD) located at 706 Mission Street, Assessor's Block No. 3706, Lot No. 093 and portions of Lot No. 277, to facilitate the development of the 706 Mission Street, The Mexican Museum and Residential Tower Project, by modifying specific Planning Code regulations related to permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations; amending the Zoning Map to add the SUD and increase the height of property in the SUD from 400 feet to 480 feet; and making environmental findings and findings of consistency with the General Plan.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. General Findings. The Board of Supervisors finds as follows:

(a) On October 24, 2012, 706 Mission Street Co. LLC (the "Applicant") filed entitlement applications with the Planning Department for the development of a mixed-use development project (the "Project") at the northwest corner of Third and Mission Streets, including an application for a Planning Code text amendment to create a new Yerba Buena Center Mixed-Use Special Use District.

(b) The Project is proposed to be developed on three parcels: (1) the entirety of Assessor's Block 3706, Lot 093, which is currently owned by the Applicant and which is improved with an existing 10-story, 144-foot-tall building with a 10-foot-tall mechanical

penthouse (the "Aronson Building"); (2) a portion of Assessor's Block 3706, Lot 277, which is currently owned by the Successor Agency to the Redevelopment Agency of the City and County of San Francisco ("Successor Agency"), and which was chosen by the former Redevelopment Agency Commission and The Mexican Museum Board of Trustees as the future permanent home of The Mexican Museum (the "Mexican Museum Parcel"); and (3) a portion of Assessor's Block 3706, Lot 277 and the entirety of Assessor's Block 3706, Lot 275, which is currently owned by the Successor Agency, and which is improved with the below-grade, 442 parking space Jessie Square Garage (the "Garage Parcel"). The Aronson Building is designated as a Category I Significant Building within the New Montgomery-Mission-Second Street Conservation District.

(c) As part of the Project, and pursuant to transaction documents to be entered into between the Successor Agency and the Applicant, the Successor Agency would convey the Garage Parcel and the Mexican Museum Parcel to the Applicant. The Applicant would then construct a new 44-story, 480-foot-tall tower (with a 30-foot-tall elevator/mechanical penthouse), with two floors below grade. The new tower would be adjacent to and physically connected to the existing Aronson Building, which would be rehabilitated in compliance with the Secretary of the Interior's Standards. The new tower would contain up to 39 floors of residential space. The Mexican Museum would occupy the ground through fourth floors of the tower and the second and third floors and possibly some of the ground floor of the Aronson Building. The overall project would contain up to 190 residential units, space for The Mexican Museum, a ground-floor retail/restaurant use, and associated building services. The project would also entail certain reconfigurations of the Jessie Square Garage.

(d) Pursuant to transaction documents to be entered into between the Successor Agency and the Applicant, the Project would result in several public benefits; including the rehabilitation of the Category I Aronson Building, the construction of a core-and-shell for future

occupancy by the Mexican Museum, a $5,000,000 operating endowment for the Mexican Museum, and the creation of affordable housing opportunities through the payment of an in-lieu fee equal to 20% of the residential units, pursuant to the Inclusionary Affordable Housing Program in Planning Code Sections 415 through 415.9, as well as the payment of an additional affordable housing fee to the Successor Agency equal to 8% of the residential units.

(e) In order for the Project to proceed and be developed as contemplated by the Applicant, the Successor Agency, and The Mexican Museum, amendments to certain provisions of the Planning Code are required.

Section 2. Environmental, Planning Code, and General Plan Findings. The Board of Supervisors finds as follows:

(a) On March 21, 2013, the San Francisco Planning Commission certified that the Final Environmental Impact Report ("Final EIR") for the 706 Mission Street – The Mexican Museum and Residential Tower Project ("Project") was in compliance with the California Environmental Quality Act, (California Public Resources Code section 21000, *et seq.)* ("CEQA"), the CEQA Guidelines, and Administrative Code Chapter 31 in Planning Commission Motion No. 18829. On May 7, 2013, the Board of Supervisors rejected three separate appeals of the Commission's certification of the Final EIR and by Board Motion No. M13-062 affirmed the Planning Commission's certification of the Final EIR. The Final EIR and Planning Commission Motion No. 18829 are on file with the Clerk of the Board of Supervisors in File No. _____ and are incorporated by reference.

(b) On May 15, 2013, the Historic Preservation Commission, by Motion No. 0197, approved a Major Permit to Alter for the Project.

(c) On May 23, 2013, the Planning Commission approved several actions associated with the Project, including a Determination of Compliance with Planning Code

Section 309 by Motion No. 18894, as well as a General Plan Referral by Motion No. 18878. At the same hearing, the Planning Commission and Recreation and Park Commission considered jointly and each approved actions to raise the shadow limit on Union Square, a property within the jurisdiction of the Recreation and Park Department, and allocate shadow to the Project. Planning Commission Resolution No. 18876 and Motion No. 18877 and Recreation and Park Commission Resolution No. 1305-014 and Motion No. 1305-015 are on file with the Clerk of the Board of Supervisors in File No. _____ and are incorporated by reference.

(d) At the hearing, both the Planning Commission and the Recreation and Park Commission adopted CEQA Findings, including a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program (MMRP) as required by CEQA, by Planning Commission Motion No. 18875 and Recreation and Park Commission Motion No. 1305-014, which are on file with the Clerk of the Board of Supervisors in File No. _____ and are incorporated by reference.

(e) Since the Planning Commission approved the Project and made CEQA findings, the Board finds that there have been no substantial changes to the Project that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR; no substantial changes in circumstances have occurred that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR; no new information has become available that was not known and could not have been known at the time the Final EIR was certified as complete and that would result in new or substantially more severe significant environmental impacts not evaluated in the Final EIR; and no mitigation measures or alternatives previously found infeasible would be feasible or mitigation measures or alternatives considerably different than those analyzed in the Final

EIR would substantially reduce significant environmental impacts, but the project proponent declines to adopt them.

(f) In accordance with the actions contemplated herein, this Board has reviewed the Final EIR and adopts and incorporates by reference as though fully set forth herein the findings adopted by the Planning Commission on May 23, 2013 in Motion 18875 and adopts the MMRP. The Board further finds that there is no need for further environmental review for the actions contemplated herein.

(g) On May 23, 2013, the Planning Commission conducted a duly noticed public hearing on the proposed Zoning Map amendments and, found that the public necessity, convenience, and general welfare required the approval of the proposed Zoning Map amendments, and by Resolution No. 18879 recommended them for approval. The Planning Commission found that the proposed Zoning Map amendments were, on balance, consistent with the City's General Plan, and with Planning Code Section 101.1(b). A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference.

(h) The Board finds that these Zoning Map amendments are on balance consistent with the General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set forth in Planning Commission Resolution No. 18879 and the Board hereby incorporates such reasons herein by reference.

(i) Pursuant to Planning Code Section 302, the Board finds that the proposed ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 18879, which reasons are incorporated by reference as though fully set forth.

Section 3: The San Francisco Planning Code is hereby amended by adding Planning Code Section 249.71, to read as follows:

SEC 249.71. YERBA BUENA CENTER MIXED-USE SPECIAL USE DISTRICT.

(a) General. A special use district entitled the "Yerba Buena Center Mixed-Use Special Use District", consisting of Assessor's Block 3706, Lots 093 and 275, and portions of Assessor's Block 3706, Lot 277, is hereby established for the purposes set forth below. The boundaries of the Yerba Buena Center Mixed-Use Special Use District are designated on Sectional Map No. 1 SU of the Zoning Map.

(b) Purpose. The purpose of the special use district is to facilitate the development of a mixed-use project at the corner of Third Street and Mission Street, which will include cultural/museum, residential, and retail/restaurant. Including a museum component within the project will strengthen the district of cultural institutions that are already established in the area, including SFMOMA, the Yerba Buena Center for the Arts, the Museum of the African Diaspora, the Contemporary Jewish Museum, the Cartoon Art Museum, the Children's Creativity Museum, and the California Historical Museum.

(c) Use Controls. The following provisions shall apply to the special use district:

(1) Cultural Uses. The special use district shall require the development of at least 35,000 net square feet of cultural, museum, or similar public-serving institutional use with frontage on Jessie Square as part of the project. Pursuant to the terms of the Purchase and Sale Agreement (the "Purchase Agreement") between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco (the "Successor Agency") and the project sponsor, (A) before any other project use may receive a certificate of occupancy, the "core-and-shell" of the cultural, museum, or similar public-serving institutional use must be constructed; and (B) the project sponsor must contribute to an operating endowment to the museum at the times specified in the Purchase Agreement.

(2) Permitted Uses. The principally permitted uses in the special use district include (A) the cultural use set forth in Section 249.71(c)(1) above; (B) a residential development with

approximately 4,800 square feet of retail/restaurant space; and (C) all uses that are principally permitted in the C-3-R District. The uses in the special use district shall include, at a minimum (A) the cultural use set forth in Section 249.71(c)(1) above; (B) no fewer than 145 dwelling units; and (C) ground-floor retail or cultural space in the Aronson Building. All uses which are conditionally permitted with conditional use authorization in the C-3-R District are conditionally permitted with conditional use authorization in the special use district to the extent such uses are not otherwise designated as principally permitted uses pursuant to this Section 249.71(c)(2).

(3) Inclusionary Affordable Housing Program. Development within the special use district shall be subject to the Inclusionary Affordable Housing Program, as set forth in Sections 415 through 415.9, through the payment of an in-lieu fee, which is currently equal to 20% of the total number of residential units in the principal project. Additional affordable housing requirements are expected to be imposed through negotiations with the Successor Agency to the Redevelopment Agency above and beyond the requirements of Sections 415 through 415.9.

(4) Floor Area Ratio. The floor area ratio limits set forth in Sections 123 and 124 for C-3-R Districts shall not apply within the special use district.

(5) Dwelling Unit Exposure. The dwelling unit exposure requirements of Section 140 shall not apply within the special use district.

(6) Rooftop Screening. Section 260(b)(1)(F) shall apply within the special use district, except that the rooftop form created by any additional building volume shall not exceed 30 feet in height, measured as provided in Section 260(a), and shall not exceed a total volume, including the volume of the features being enclosed, equal to three-fourths of the horizontal area of all upper tower roof areas of the building measured before the addition of any exempt features times 30.

(7) Bulk. The bulk limits for new construction in the special use district at heights above 160 feet shall be as set forth in Table 1 below:

Table 1: Bulk Limits for New Construction At Heights Above 160 Feet

Max Floor Plate	*13,000 gsf*
Max Plan Length	*124 feet*
Max Diagonal	*157 feet*

(8) Protected Street Frontages.

(A) Section 155(r)(3) shall not apply within the special use district.

(B) For the purposes of Section 155(r)(4), the project does not have alternative frontage to Third Street and Mission Street, and therefore curb cuts accessing off-street parking or loading off Third Street and Mission Street may be permitted as an exception pursuant to Section 309 and Section 155(r)(4).

(9) Dwelling Unit Density. No conditional use authorization pursuant to Section 303(c) is required for a dwelling unit density which exceeds the density ratios specified in Section 215 for the C-3-R District.

(d) Interpretation. In the event of inconsistency or conflict between any provision of this Section 249.71 and any other provision of the Planning Code, this Section 249.71 shall prevail.

(e) Sunset Provision. This Section 249.71 shall be repealed 5 years after its initial effective date unless the Project has received a first construction document or the Board of Supervisors, on or before that date, extends or re-enacts it.

Section 4. The San Francisco Planning Code is hereby amended by amending Sectional Map HT01 of the Zoning Map of the City and County of San Francisco, as follows:

Description of Property	Height and Bulk Districts to be Superseded	Height and Bulk Districts Hereby Approved
Assessor's Block/Lot 3706/Lot 093 and portions of Lot 277	400-I	480-I

Section 5. The San Francisco Planning Code is hereby amended by amending Sectional Map SU01 of the Zoning Map of the City and County of San Francisco, as follows:

Description of Property	Special Use District Hereby Approved
Assessor's Block/Lot 3706/Lot 093 and portions of Lot 277	Yerba Buena Center Mixed-Use Special Use District

Section 6.

(a) Effective Date. This ordinance shall become effective 30 days from the date of passage.

(b) Scope of Ordinance. In enacting this ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, letters, punctuation marks, charts, diagrams, tables, or any other constituent part of the Planning Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

(c) Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance would be subsequently declared invalid or unconstitutional.

(d) Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(e) No Conflict with State or Federal Law. Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Marlena G. Byrne
Deputy City Attorney

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FILE NO. 130570

LEGISLATIVE DIGEST

[Planning Code - Yerba Buena Center Mixed-Use Special Use District]

Ordinance amending the Planning Code and Zoning Map, by adding Section 249.71, to create the Yerba Buena Center Mixed-Use Special Use District (SUD) located at 706 Mission Street, Assessor's Block No. 3706, Lot No. 093 and portions of Lot No. 277, to facilitate the development of the 706 Mission Street, The Mexican Museum and Residential Tower Project, by modifying specific Planning Code regulations related to permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations; amending the Zoning Map to add the SUD and increase the height of property in the SUD from 400 feet to 480 feet; and making environmental findings and findings of consistency with the General Plan.

Existing Law

The proposed legislation affects three parcels: (1) the entirety of Assessor's Block 3706, Lot 093, which is improved with an existing 10-story, 144-foot-tall building with a 10-foot-tall mechanical penthouse ("Aronson Building"); (2) a portion of Assessor's Block 3706, Lot 277 (the "Mexican Museum Parcel"); and (3) a portion of Assessor's Block 3706, Lot 277 and the entirety of Lot 275, which is improved with the below-grade, 442 parking space Jessie Square Garage (the "Garage Parcel"). The Aronson Building is designated as a Category I Significant Building within the New Montgomery-Mission-Second Street Conservation District. The area is currently zoned C-3-R (Downtown Retail).

Amendments to Current Law

The proposed legislation would allow for the development the 706 Mission Street—The Mexican Museum and Residential Tower Project ("Project"). The Project includes a new 43-story, 480-foot-tall tower (with a 30-foot-tall elevator/mechanical penthouse), with two floors below grade. The new tower would be adjacent to and physically connected to the existing Aronson Building, which would be rehabilitated in compliance with the Secretary of Interior's Standards for the Treatment of Historic Properties. The new tower would contain up to 39 floors of residential space, and the Mexican Museum would occupy the ground through fourth floors of the tower and the second and third floors and possibly some of the ground floor of the Aronson Building. The overall project would contain up to 190 residential units, space for The Mexican Museum, a ground-floor retail/restaurant use, and associated building services.

To do this, the proposed legislation would create a new special use district ("SUD") overlay on top of the existing C-3-R (Downtown Retail) zoning. This means that the SUD would be an additional set of zoning controls on top of and taking precedence over the C-3-R zoning. The proposed legislation would also reclassify the property from a 400-I Height and Bulk District to a 480-I Height and Bulk District.

Agenda Item 1B

Recreation and Park Commission
Resolution 1305-014

HEARING DATE: May 23, 2013

RESOLUTION TO AMEND THE SECTION 295 IMPLEMENTATION MEMO ADOPTED IN 1989 TO RAISE THE ABSOLUTE CUMULATIVE SHADOW LIMIT FOR UNION SQUARE TO ACCOMMODATE NEW SHADOW CAST BY THE PROPOSED PROJECT AT 706 MISSION STREET, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

The people of the City and County of San Francisco, in June 1984, adopted an initiative ordinance, commonly known as Proposition K, codified as Section 295 of the Planning Code.

Section 295 requires that the Planning Commission disapprove any building permit application to construct a structure that will cast shadow on property under the jurisdiction of the Recreation and Park Department, unless it is determined that the shadow would not be significant or adverse. The Planning Commission and the Recreation and Park Commission must adopt criteria for the implementation of that ordinance.

Section 295 is implemented by analyzing park properties that could be shadowed by new construction, including the current patterns of use of such properties, how such properties might be used in the future, and assessing the amount of shadowing, its duration, times of day, and times of year of occurrence. The Commissions may also consider the overriding social or public benefits of a project casting shadow.

Pursuant to Planning Code Section 295, the Planning Commission and the Recreation and Park Commission, on February 7, 1989, jointly adopted standards for allowing additional shadows on the greater downtown parks (Resolution No. 11595).

Union Square ("Park"), which is 0.25 miles northwest of 706 Mission Street ("Project Site"), is a public open space that is under the jurisdiction of the Recreation and Park Commission. Union Square is an approximately 2.58-acre park that occupies the entire block bounded by Post Street on the north, Stockton Street on the east, Geary Street on the south, and Powell Street on the west. The plaza is primarily hardscaped and oriented to passive recreational uses, large civic gatherings, and ancillary retail. There are no recreational facilities and some grassy areas exist along its southern perimeter. There are pedestrian walkways and seating areas throughout the park, several retail kiosks, one café on the east side of the park and one café on the west side of the park. The park includes portable tables and chairs that can be moved to different locations. A 97-foot-tall monument commemorating the Battle of Manila Bay from the Spanish American War occupies the center of the park. Residents, shoppers, tourists, and workers use the park as an outdoor lunch destination and a mid-block pedestrian crossing. Throughout the year, the park

is sunny during the middle of the day; it is shadowed by existing buildings to the east, south, and west during the early morning, late afternoon, and early evening. During the spring and autumn, Union Square is sunny from approximately 9:00 AM until 3:00 PM; it is shadowed by existing buildings during the early morning, late afternoon, and early evening. During the summer, Union Square is sunny from approximately 10:00 AM until 4:00 PM; it is shadowed by existing buildings during the early morning, late afternoon, and early evening. During the winter, Union Square is mostly sunny from approximately noon until 2:00 PM; it is shadowed by existing buildings during the rest of the day.

Union Square receives about 392,663,521 square-foot-hours ("sfh") of Theoretically Available Annual Sunlight ("TAAS"). Currently, there are about 150,265,376 sfh of existing annual shadow on the Park. The Absolute Cumulative Limit ("ACL") that was established for Union Square in 1989 is additional shadow that was equal to 0.1 percent of the TAAS on Union Square, which is approximately 392,663.5 sfh. Prior to October of 2012, Union Square had a remaining shadow allocation, or shadow budget, of approximately 323,123.5 sfh. Since the quantitative standard for Union Square was established in 1989, two completed development projects have affected the shadow conditions on Union Square. In 1996, a project to expand Macy's department store altered the massing of the structure and resulted in a net reduction of 194,293 sfh of existing shadow (with a corresponding increase in the amount of sunlight on the park), and in 2003, a project at 690 Market Street added 69,540 sfh of net new shadow on Union Square. Although the Macy's expansion project reduced the amount of existing shadow and increased the amount of available sunlight on Union Square, this amount has not been added back to the shadow budget for Union Square by the Planning Commission and the Recreation and Park Commission to account for these conditions.

Additionally, on October 11, 2012, the Planning Commission and the Recreation and Park Commission held a duly noticed joint public hearing and adopted Planning Commission Resolution No. 18717 and Recreation and Park Commission Resolution No. 1201-001 amending the 1989 Memo and raising the absolute cumulative shadow limits for seven open spaces under the jurisdiction of the Recreation and Park Department that could be shadowed by likely cumulative development sites in the Transit Center District Plan ("Plan") Area, including Union Square. In revising these ACLs, the Commissions also adopted qualitative criteria for each park related to the characteristics of shading within these ACLs by development sites within the Plan Area that would not be considered adverse, including the duration, time of day, time of year, and location of shadows on the particular parks. Under these amendments to the 1989 Memo, any consideration of allocation of "shadow" within these newly increased ACLs for projects within the Plan Area must be consistent with these characteristics. The Commissions also found that the "public benefit" of any proposed project in the Plan Area should be considered in the context of the public benefits of the Transit Center District Plan as a whole. The ACL for Union Square was increased from the original limit of 0.1 percent of the TAAS (approximately 392,663.5 sfh) to 0.19 percent of the TAAS (approximately 746,060.7 sfh), but all of the available ACL was reserved for development sites within the Plan Area.

On October 11, 2012, following the joint hearing regarding the TCDP, the Recreation and Park Commission reviewed the shadow impacts of the proposed Transbay Tower at 101 First Street and made a formal recommendation to the Planning Commission to allocate a portion of the newly adopted ACL for Union Square to the Transbay Tower. On October 18, 2012, the Planning Commission allocated a portion of the newly adopted ACL to the Transbay Tower (Motion No. 18724, Case No. 2008.0789K).

On November 15, 2012, the Recreation and Park Commission made a formal recommendation to the Planning Commission to allocate a portion of the newly adopted ACL for Union Square to a proposed project at 181 Fremont Street. On December 6, 2012, the Planning Commission allocated a portion of the newly adopted ACL to 181 Fremont Street. As a result of these actions, the remaining ACL for Union Square is 0.1785 percent of the TAAS, which means that approximately 700,904.4 sfh of net new shadow could be cast on Union Square by other development proposed under the TCDP (Motion No. 18763, Case No. 2007.0456K).

On September 25, 2008, Margo Bradish, Esq., of Cox, Castle & Nicholson LLP on behalf of 706 Mission Street, LLC ("Project Sponsor") submitted a request for review of a development exceeding 40 feet in height, pursuant to Section 295, analyzing the potential shadow impacts of the Project to properties under the jurisdiction of the Recreation and Parks Department (Case No. 2008.1084K). Department staff prepared a shadow fan depicting the potential shadow cast by the development and concluded that the Project could have a potential impact to properties subject to Section 295.

On October 24, 2012, the Project Sponsor filed an application with the Planning Department ("Department") for a Determination of Compliance pursuant to Planning Code Section ("Section") 309 with requested Exceptions from Planning Code ("Code") requirements for "Reduction of Ground-Level Wind Currents in C-3 Districts", "Off-Street Parking Quantity", "Rear Yard, and "General Standards for Off-Street Parking and Loading" to allow curb cuts on Third and Mission Streets, for a project to rehabilitate an existing 10-story, 144-foot tall building (the Aronson Building), and construct a new, adjacent 47-story tower, reaching a roof height of 520 feet with a 30-foot tall mechanical penthouse. The two buildings would be connected and would contain up to 215 dwelling units, a "core-and-shell" museum space measuring approximately 52,000 square feet, and approximately 4,800 square feet of retail space. The project would reconfigure portions of the existing Jessie Square Garage to increase the number of parking spaces from 442 spaces to 470 spaces, add loading and service vehicle spaces, and would allocate up to 215 parking spaces within the garage to serve the proposed residential uses. The Project Sponsor has proposed a "flex option" that would retain approximately 61,000 square feet of office uses within the existing Aronson Building, and would reduce the residential component of the project to 191 dwelling units. On May 20, 2013, the Project Sponsor reduced the height of the proposed tower from 520 feet (with a 30-foot-tall elevator/mechanical penthouse) to 480 feet (with a 30-foot-tall elevator/mechanical penthouse). As a result, the number of dwelling units in the Project was reduced from a maximum of 215 dwelling units to a maximum of 190 dwelling units, the number of residential parking spaces was reduced from a maximum of 215 spaces to a maximum of 190 spaces, and the "flex option" of retaining office space within the project was deleted. The project is located at 706 Mission Street, Lots 093, 276, and portions of Lot 277 within Assessor's Block 3706 ("Project Site"), within the C-3-R District and the 400-I Height and Bulk District (collectively, "Project", Case No. 2008.1084X).

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

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

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

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

As part of their actions on October 11, 2012 to increase the ACLs for seven downtown parks, the Planning Commission and the Recreation and Park Commission designated the ACLs exclusively for projects that meet the criteria set forth in the TCDP. Projects that do not meet the criteria set forth in the TCDP may not utilize any portion of the amended ACLs if they cast net new shadow on any of the seven downtown parks for which the ACLs were amended. Such projects would be required to seek their own amendments to the ACLs for these seven downtown parks. The Project is located outside the Plan area and is not eligible to utilize newly adopted ACL on the Park.

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

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

The EIR concludes that the Project would not result in a project-specific significant shadow impact to recreation facilities or other public areas. With respect to Union Square, the EIR indicates that the net new shadow would be of limited duration and the new shadowing would occur at times when the use of Union Square is limited. The EIR concludes that the Project would, however, make a cumulatively considerable contribution to a significant cumulative shadow impact on public open spaces when taking into account other reasonably foreseeable future projects, such as the Transit Tower and the Palace Hotel Project, that would also result in new shadowing of public areas, including Union Square.

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

On May 23, 2013, the Planning Commission adopted Motion No. 18875, adopting CEQA findings, including a Statement of Overriding Considerations, and adopting the Mitigation Monitoring and Reporting Program ("MMRP"), as adopted by Historic Preservation Commission Motion No. 0197, which findings and adoption of the MMRP are hereby incorporated by reference as though fully set forth herein. The Planning Commission found that the reduction in the height of the Project has resulted in no substantial changes that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR, no new information has become available that was not known and could not have been known at the time the Final EIR was certified as complete and that would result in new substantially more severe significant environmental impacts not evaluated in the Final EIR, and no mitigation measures or alternatives previously found infeasible would be feasible or mitigation measures or alternatives considerably different than those analyzed in the Final EIR would substantially reduce significant environmental impacts, but the project proponent declines to adopt them.

For the Recreation and Parks Department Commission Secretary, Margaret McArthur, is the custodian of records for this action, and such records are located at 501 Stanyan Street, San Francisco, CA.

For the Planning Department, Jonas Ionin, is the custodian of records for this action, and such records are located at 1650 Mission Street, Fourth Floor, San Francisco, California.

The Project Sponsor has requested that, as part of the requested increase in the ACL for Union Square, the Planning Commission and the Recreation and Park Commission formally add to the ACL the additional sunlight that resulted from the Macy's expansion project in 1996, which consisted of 194,293 sfh (equal to approximately 0.05% of the TAAS for Union Square). The Project at 706 Mission would cast 44,495 sfh of net new shadow (equal to approximately 0.01% of the TAAS for Union Square) beyond the additional

sunlight from the Macy's expansion project, for a total of 238,788 sfh of net new shadow (equal to approximately 0.06% of the TAAS for Union Square).

The Planning Commission and the Recreation and Park Commission held a duly advertised joint public hearing on May 23, 2013 to consider whether to increase the ACL for Union Square by 0.05 percent of the TAAS for Union Square to account for the additional sunlight that resulted from the Macy's expansion project, and to increase the ACL an additional 0.01 percent, for a total increase of 0.06 percent of the TAAS for Union Square.

The Recreation and Park Commission and the Planning Commission have reviewed and considered reports, studies, plans and other documents pertaining to the Project.

The Recreation and Park Commission and the Planning Commission have heard and considered the testimony presented at the public hearing and has further considered the written materials and oral testimony presented on behalf of the Project Sponsor, Department staff, and other interested parties.

Therefore, the Recreation and Park Commission and the Planning Commission hereby resolve:

FINDINGS

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

1. The foregoing recitals are accurate, and also constitute findings of this Commission.

2. The staffs of both the Planning Department and the Recreation and Park Department have recommended increasing the ACL for Union Square by 0.05 percent of the TAAS for Union Square to account for the additional sunlight that resulted from the Macy's expansion project, and to increase the ACL an additional 0.01 percent, for a total increase of 0.06 percent of the TAAS for Union Square, equal to approximately 238,788 square-foot-hours of net new shadow.

3. The additional shadow cast by the Project on Union Square, while numerically significant, would not be adverse to the use of Union Square, and is not expected to interfere with the use of the Park, for the following reasons: (1) the new shadow would not occur after 9:15 a.m. any day of the year (maximum new shadow range would be 8:30 a.m. to 9:15 a.m. during daylight savings time, or 7:30 a.m. to 8:15 a.m. during standard time) and would be consistent with the 1989 Memo qualitative standards for Union Square in that the new net shadow would not occur during mid-day hours; (2) the new shadow would generally occur in the morning hours during periods of relatively low park usage; (3) the new shadow would occur for a limited amount of time from October 11th to November 8th and from February 2nd to March 2nd for less than one hour on any given day during the hours subject to Section 295; and (4) the new shadow does not affect the manner in which Union Square is used, which is mainly for passive recreational opportunities.

4. A determination by the Planning Commission and the Recreation and Park Commission to raise the absolute cumulative shadow limit for the park in an amount that would accommodate the

additional shadow that would be cast by the Project does not constitute an approval of the Project.

5. The reduction in the height of the Project has resulted in no substantial changes that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR, no new information has become available that was not known and could not have been known at the time the Final EIR was certified as complete and that would result in new substantially more severe significant environmental impacts not evaluated in the Final EIR, and no mitigation measures or alternatives previously found infeasible would be feasible or mitigation measures or alternatives considerably different than those analyzed in the Final EIR would substantially reduce significant environmental impacts, but the project proponent declines to adopt them.

DECISION

Based upon the Record, the submissions by the Project Sponsor and by the staff of the Recreation and Park Department and Planning Department, the oral testimony presented to the Planning Commission under Shadow Analysis Application No. 2008.1084K, the Recreation and Park Commission hereby ADOPTS an amendment of the absolute cumulative limit ("ACL") for Union Square to (a) include the approximately 194,293 sfh of shadow (equal to 0.05% of the TAAS) that resulted from a 1996 project modifying the Macy's department store that reduced shadow on Union Square (the "Macy's Adjustment") that had not been previously added back to the ACL for Union Square and (b) increase the ACL by an additional 44,495 sfh of net new shadow (equal to 0.01% of the TAAS). Should the building envelope of the Project be reduced, the increase in the cumulative shadow limit authorized by this action shall be reduced to the amount of shadow that would be cast by the revised Project.

The Recreation and Park Commission, for purposes of this action, hereby adopts the findings under the California Environmental Quality Act and the Mitigation, Monitoring, and Reporting Program for the Project, as adopted by Planning Commission Motion No. 18875, which are incorporated by reference as though fully set forth herein. I hereby certify that the foregoing Resolution was ADOPTED by the Recreation and Park Commission at the meeting on May 23, 2013.

Margaret McArthur
Recreation and Park Commission Secretary

AYES	5
NOES	1
ABSENT	1

ADOPTED: May 23, 2013

Exhibit 1

706 MISSION STREET – THE MEXICAN MUSEUM AND RESIDENTIAL TOWER PROJECT CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS: FINDINGS OF FACT, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, AND STATEMENT OF OVERRIDING CONSIDERATIONS SAN FRANCISCO PLANNING COMMISSION

In determining to approve a the 706 Mission Street – The Mexican Museum and Residential Tower Project located at 706 Mission Street (Assessor's Block 3706, Lots 093, 275, and 277 (portion)), described in Section I, Project Description below, ("Project"), the San Francisco Planning Commission ("Commission") makes and adopts the following findings of fact regarding the Project and mitigation measures and alternatives, and adopts the statement of overriding considerations and the Mitigation Monitoring and Reporting Program, 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. ("Guidelines"), particularly Section 15091 through 15093 and Chapter 31 of the San Francisco Administrative Code.

This document is organized as follows:

Section I provides a description of the Project, the Project Objectives, the environmental review process for the Project, the approval actions to be taken, and the location of records;

Section II identifies the impacts found not to be significant that do not require mitigation;

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

Section IV identifies significant, unavoidable wind and shadow impacts (specifically cumulative shadow impacts), of the Project that cannot be avoided or reduced to less-than-significant levels through Mitigation Measures;

Section V evaluates the different project alternatives and the economic, legal, social, technological, and other considerations that support approval of the Project as proposed and the rejection of these alternatives; and

Section VI makes a Statement of Overriding Considerations setting forth the specific economic, legal, social, technological, or other benefits of the Project that outweigh the significant and unavoidable adverse environmental effects and support the rejection of the project alternatives.

The Mitigation Monitoring and Reporting Program ("MMRP") for the mitigation measures that have been proposed for adoption is attached with these findings as Exhibit 2. The MMRP is required by CEQA Section 21081.6 and CEQA Guidelines Section 15091. The MMRP provides a table setting forth each

mitigation measure listed in the Final Environmental Impact Report for the Project ("Final EIR") that is required to reduce or avoid a significant adverse impact. The MMRP 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 is set forth in the MMRP.

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 Draft Environmental Impact Report ("Draft EIR" or "DEIR") or the Responses to Comments ("RTC"), which together comprise the Final EIR, are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

MOVED, that the Commission has reviewed and considered the Final EIR and the record associated therewith, including the comments and submissions made to this Commission, and based thereon hereby adopts these findings under the California Environmental Quality Act, including rejecting alternatives as infeasible and adopting a Statement of Overriding Considerations, and adopts the MMRP attached as Exhibit 2 to Motion No. 18875 based on the following findings:

I. Project Description

A. 706 Mission Street – The Mexican Museum and Residential Tower Project

The project site is on the northwest corner of Third and Mission Streets, at 706 Mission Street. It consists of three lots: the entirety of Assessor's Block 3706, Lots 093 and 275, and portions of Assessor's Block 3706, Lot 277. Together, these lots cover an area of approximately 63,468 square feet or approximately 1.45 acres. The area of the project site includes the below-grade publically-owned Jessie Square Garage, which would become private by conveyance to the project sponsor.

Lot 093, an approximately 15,460 square foot, rectangular parcel is currently developed with the 10-story, 154-foot-tall Aronson Building (a 144-foot-tall building with a 10-foot-tall mechanical penthouse). The building was originally constructed in 1903, and two annexes were added in 1978. The Aronson Building is rated "A" (highest importance) by the Foundation for San Francisco's Architectural Heritage, and it is eligible for listing on the National Register of Historic Places and the California Register of Historical Resources. The Aronson Building is also designated as a Category I Significant Building within the New Montgomery-Mission-Second Street Conservation District. Including the annexes, the Aronson Building contains a total of approximately 120,340 gross square feet (gsf), with approximately 13,700 gsf of storage and utility space in the basement, an approximately 10,660-gsf retail space on the ground floor, which is currently occupied by a Rochester Big & Tall retail clothing store, and approximately 95,980 gsf of office space on the second through tenth floors. Including the annexes, the Aronson Building covers approximately 74 percent of Lot 093.

Lot 275 is occupied by the existing ramp that provides vehicular access from Stevenson Street to the subsurface Jessie Square Garage. This lot has an area of approximately 1,635 square feet.

A currently vacant approximately 9,780 square foot portion of Lot 277 is the future permanent home of The Mexican Museum (Mexican Museum parcel). The subsurface Jessie Square Garage is the other

portion of Lot 277 that makes up the project site. The Jessie Square Garage contains 442 parking spaces within a footprint of approximately 45,310 square feet. Currently, vehicles enter the Jessie Square Garage from Stevenson Street and exit onto either Stevenson or Mission Streets.

Prior to project approval, the Project Sponsor proposed modifications to the project to reduce the height of the proposed tower from 520 feet (with a 30-foot-tall elevator/mechanical penthouse) to 480 feet (with a 30-foot-tall elevator/mechanical penthouse). The project described here includes these, and other conforming, modifications. Thus, the proposed project would include a 43-story, 480-foot-tall tower (with a 30-foot-tall elevator/mechanical penthouse), with two floors below grade on The Mexican Museum parcel and the western portion of the Aronson Building parcel. The new tower would be west of, adjacent to, and physically connected to the existing Aronson Building. The overall project would contain space for The Mexican Museum, a ground-floor retail/restaurant use, up to 190 residential units, and associated building services.

In the proposed tower, there would be up to 39 floors of residential space, including mechanical areas, and four floors of museum space. The Mexican Museum would occupy the ground through fourth floors, and residential uses would occupy the fifth through thirty-ninth floors. The fifth floor of the tower would be occupied by residential or residential amenity space, unless the residential amenity space is on the tenth floor of the Aronson Building as discussed below. Approximately 2,100 gsf on Basement Level B2 would be allocated to The Mexican Museum for storage. About 15,900 gsf on Basement Levels B1 and B2 would be occupied by the elevator core and building services.

As part of the proposed project, the historically important Aronson Building would be restored and rehabilitated, and the existing mechanical penthouse on the roof of the Aronson Building would be removed. The Aronson Building currently contains approximately 10,660 gsf of retail space on the ground floor and approximately 95,980 gsf of office space on the second through tenth floors. With the proposed project, the Aronson Building would have lobby space and retail/restaurant space on the ground floor. The Mexican Museum would occupy the second and third floors and possibly some or all of the ground floor of the Aronson Building. The fourth through tenth floors of the Aronson Building would be residential. A proposed "office flex option" that would have allowed these floors of the Aronson Building to be used as office space was eliminated as part of the Project Sponsor's proposed project changes. Building services would occupy a small portion of each floor.

The Jessie Square Garage would be reconfigured to include 470 spaces, of which up to 280 would be made available to the general public. Under the proposed project, all non-project vehicles would continue to enter the Jessie Square Garage from Stevenson Street. Project residents would have the option of parking their own vehicles or using a valet service. Project residents who choose to park their own vehicles would be required to enter the garage from Stevenson Street; they would not be allowed to access the project site from Third Street using the car elevators to enter the garage. Project residents who choose to use the valet service would drive onto the project site from Third Street using the existing curb cut and driveway. As under current conditions, all loading trucks would exit the Jessie Square Garage onto Stevenson Street only, but delivery vans, service vehicles, and all other vehicles would have the option of exiting the garage onto either Stevenson or Mission Streets.

While several vehicular access variants to the proposed project were analyzed in the EIR, none of them are being approved by this Commission or any other City decision-maker. Because of this, these findings do not address the significant and unavoidable impacts that the Final EIR identified would result if the vehicular access variants were to be approved.

B. Successor Agency Project Objectives

The objectives of the Successor Agency are as follows:

- To complete the redevelopment of the Yerba Buena Center (YBC) Redevelopment Project Area envisioned under the *Yerba Buena Center Redevelopment Plan*.

- To stimulate and attract private investment and generate sales taxes and other General Fund revenues from new uses on the project site, thereby improving the City's overall economic health, employment opportunities, tax base, and community economic development opportunities.

- To provide for the development of a museum facility and an endowment for The Mexican Museum on Successor Agency-owned property located adjacent to Jessie Square, at the heart of San Francisco's cultural district location, in a manner that is consistent with *General Plan* Policy VI-1.9, to "create opportunities for private developers to include arts spaces in private developments city-wide."

- To ensure construction of a preeminent building with a superior level of design for this important site across from Yerba Buena Gardens and adjacent to Jessie Square in a manner that complements the landscaping and design of Jessie Square.

- To provide housing in an urban infill location to help alleviate the effects of suburban sprawl.

- To provide temporary and permanent employment and contracting opportunities for minorities, women, qualified economically disadvantaged individuals, and other residents both in the South of Market area and in the City generally, in a manner consistent with the City's current and future equal opportunity programs.

- To create a development that is financially feasible and that can fund the project's capital costs and ongoing operation and maintenance costs related to the redevelopment and long-term operation of the Mexican Museum parcel without reliance on public funds.

- To maximize the quality of the pedestrian experience along Mission Street and Third Street, while maintaining accessibility to the project site for automobiles and loading.

- To transfer ownership of the Jessie Square Garage to a private entity, while providing adequate parking in the Jessie Square Garage for the Contemporary Jewish Museum, St. Patrick's Church, The Mexican Museum, and the public.

- To provide for rehabilitation of the historically important Aronson Building.

- To secure funding for new and affordable below-market rate units beyond the amount currently required by City ordinances.

- To secure additional funding for operations, management, and security of Yerba Buena Gardens.

C. Project Sponsor Objectives

The objectives of the project sponsor, 706 Mission Street Co., LLC, are as follows:

- To construct a residential building of superior quality and design that complements and is generally consistent with the downtown area, furthering the objectives of the *General Plan*'s Urban Design Element and the *Yerba Buena Center Redevelopment Plan*.

- To redevelop the project site with a high-quality residential development that includes a ground-floor retail or restaurant use.

- To provide housing in downtown San Francisco that is accessible to local and regional transit, as well as cultural amenities and attractions, such as performing art centers, and art museums and exhibitions.

- To rehabilitate the historically important Aronson Building.

- To design and construct the project to a minimum of Leadership in Energy and Environmental Design (LEED) Silver standards (or such higher and additional requirements as adopted by the City and County of San Francisco), thereby reducing the project's carbon footprint and maximizing the energy efficiency of the building.

- To develop a project that is financially feasible and financeable, and to create a level of development sufficient to support the costs of providing the public benefits delivered by the project, including space and funding for The Mexican Museum; rehabilitation of the historically important Aronson Building; funding of affordable, below-market-rate housing; and funding for the maintenance of Yerba Buena Gardens, and that can fund project costs.

- To provide adequate parking and vehicular access to serve the needs of project residents and their visitors.

D. Planning and Environmental Review Process

The Project Sponsor submitted an Environmental Evaluation application for the project on June 30, 2008. The Environmental Evaluation application was revised on December 7, 2009, and again on March 5, 2012, to reflect design changes to the proposed project. The San Francisco Planning Department (the "Department") determined that an Environmental Impact Report was required and published and distributed a Notice of Preparation of an EIR ("NOP ") on April 13, 2011. The NOP is Appendix A to the Draft EIR. The public review period on the NOP began on April 14, 2011, and ended on May 13, 2011.

The Department published a Draft Environmental Impact Report (DEIR) on June 27, 2012. The Commission held a public hearing to solicit testimony on the DEIR on July 27, 2013. The Department received written comments on the DEIR from June 28, 2012, to August 13, 2012. The Department published the Responses to Comments on March 7, 2013. The DEIR, together with the Responses to Comments constitute the Final EIR. The FEIR was certified by Planning Commission on March 21, 2013, by Motion No. 18829. Certification of the FEIR was appealed to the Board of Supervisors. On May 7, 2013, the Board of Supervisors rejected the appeal and affirmed the certification of the FEIR.

E. Approval Actions

1. Actions by the Planning Commission

- Certification of the Final EIR on March 21, 2013, by Planning Commission Motion No. 18829;
- General Plan referral to determine project consistency with the General Plan and the Priority Policies.
- Recommend approval to the Board of Supervisors of a Zoning Map amendment to reclassify the existing 400-foot height limit for the project site, shown on Zoning Map Sheet HT01, and to amend Zoning Map Sheet SU01 to show the Special Use District.
- Recommend approval to the Board of Supervisors of a Special Use District to address Floor Area Ratio, height, and other land use controls for the project site, which may include additional provisions regarding permitted uses, the provision of cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations.
- Approval of a Section 309 Determination of Compliance and Request for Exceptions for the construction of a new building in a C-3 District.
- Approval of amendment of the quantitative shadow standard for Union Square that was established on February 7, 1989, pursuant to Planning Commission Resolution No. 11595; and Section 295 shadow significance determination and allocation to project.

2. Action by this Historic Preservation Commission

- Approval of a Major Permit to Alter pursuant to Article 11 of the Planning Code.

3. Actions by the Board of Supervisors

- The Planning Commission's certification of the Final EIR was appealed to the Board of Supervisors, and on May 7, 2013, the Board of Supervisors upheld the certification of the Final EIR.

- Adoption of a Zoning Map amendment to reclassify the existing 400-foot height limit for the project site, shown on Zoning Map Sheet HT01, and to amend Zoning Map Sheet SU01 to show the Special Use District.

- Adoption of a Special Use District to address Floor Area Ratio, height, and other land use controls for the project site, which may include additional provisions regarding permitted uses, the provision of cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations.

4. Actions by the Recreation and Park Commission

- Approval of amendment of the quantitative shadow standard for Union Square that was established on February 7, 1989, pursuant to Planning Commission Resolution No. 11595;

- Recommendation to the Planning Commission regarding the Section 295 shadow significance determination and allocation to project.

5. Actions by the Successor Agency to the Redevelopment Agency, and the Oversight Board of the Successor Agency

- Approval of the Agreement of Purchase and Sale for the Mexican Museum parcel and the Jessie Square Garage.

- Approval of parking structure bond purchase/defeasance documents.

6. Actions by the Department of Public Works

- Approval of the tentative map

7. Actions by the Department of Public Works and the SFMTA Board of Directors

- Approval of a street improvement permit and/or encroachment permit to (1) extend the existing Jessie Square passenger loading/unloading zone on Mission Street by approximately 83 feet, 6 inches to the east, resulting in a 154-foot-long passenger loading/unloading zone; and (2) designate the curb along Third Street in front of the project site as a white zone for passenger loading/unloading.

8. Actions by the Department of Building Inspection

- Approval of the site permit

- Approval of demolition, grading, and building permits

9. Actions by the San Francisco Public Utilities Commission

- Approval of compliance with requirements of the Stormwater Management Ordinance for projects with over 5,000 square feet of disturbed ground area.

F. Location and Custodian of Records

The public hearing transcript, a copy of the letters regarding the Draft EIR received during the public review period, the administrative record, and background documentation for the FEIR are located at the Planning Department, 1650 Mission Street, San Francisco. The Commission Secretary is the custodian of records for the Planning Department and the Commission.

These findings are based upon substantial evidence in the entire record before the Commission.

G. Findings Regarding Project Modifications

As noted above, prior to project approval, the Project Sponsor proposed modifications to the project to reduce the height of the proposed tower from 520 feet (with a 30-foot-tall elevator/mechanical penthouse) to 480 feet (with a 30-foot-tall elevator/mechanical penthouse). The project described here includes these, and other conforming, modifications. Thus, the proposed project would include a 43-story, 480-foot-tall tower (with a 30-foot-tall elevator/mechanical penthouse), with two floors below grade on The Mexican Museum parcel and the western portion of the Aronson Building parcel. The overall project would contain space for The Mexican Museum, a ground-floor retail/restaurant use, up to 190 residential units, and associated building services.

The Commission finds that the Project as currently proposed with a height reduction to 480 feet, with a 30-foot-tall elevator/mechanical penthouse, and conforming reductions in unit count, among other conforming changes, is within the scope of the project analyzed in the Final EIR. The Commission finds that the reduction in the height of the Project has resulted in no substantial changes that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR, no new information has become available that was not known and could not have been known at the time the Final EIR was certified as complete and that would result in new substantially more severe significant environmental impacts not evaluated in the Final EIR, and no mitigation measures or alternatives previously found infeasible would be feasible or mitigation measures or alternatives considerably different than those analyzed in the Final EIR would substantially reduce significant environmental impacts, but the project proponent declines to adopt them. The Commission finds that no supplemental or subsequent EIR is needed and no addendum to the EIR is needed to augment the analysis presented in the Final EIR for the Proposed Project.

II. Impacts Found Not to Be Significant And Thus Do Not Require Mitigation

Under CEQA, no mitigation measures are required for impacts that are less than significant (Pub. Res. Code, § 21002; CEQA Guidelines, § 15126.4, subd. (a)(3), 15091). As more fully described in the Final EIR and based on substantial evidence in the whole record of this proceeding, the Commission hereby finds 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. Land Use and Land Use Planning

- **Impact LU-1:** The proposed project would not physically divide an established community.
- **Impact LU-2:** The proposed project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.
- **Impact LU-3:** The proposed project would not have a substantial adverse impact on the character of the vicinity.
- **Impact C-LU-1:** The proposed project, in combination with past, present, or reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to significant adverse cumulative land use impacts related to a physical division of an established community; to conflicts with applicable land use plans, policies, or regulations of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; and to the existing character of the vicinity.

B. Aesthetics

- **Impact AE-1:** The proposed project would not have a substantial adverse effect on a scenic vista.
- **Impact AE-2:** The proposed project tower would not have a substantial adverse effect on a scenic resource.
- **Impact AE-3:** The proposed project would not have a substantial adverse effect on the visual character or quality of the site and its surroundings.
- **Impact AE-4:** The proposed project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area or which would substantially impact other people or properties.
- **Impact C-AE-1:** The proposed project, in combination with past, present and reasonably foreseeable future projects in the project vicinity, would not make a cumulatively considerable contribution to a significant impact related to aesthetics.

C. Population and Housing

- **Impact PH-1:** The proposed project would not induce substantial population growth in an area, either directly or indirectly.
- **Impact PH-2:** The proposed project would not displace substantial numbers of existing housing units or create demand for additional housing, necessitating the construction of replacement housing elsewhere.
- **Impact PH-3:** The proposed project would not displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.
- **Impact C-PH-1:** The proposed project, in combination with past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to significant adverse cumulative impacts related to population growth, housing, and employment, either directly or indirectly.

D. Cultural and Paleontological Resources

- **Impact CP-5:** The proposed rehabilitation, repair and reuse of the Aronson Building under the proposed project would not cause a substantial adverse change in the significance of the Aronson Building as a historical resource under CEQA.
- **Impact CP-6:** The proposed project tower would not cause a substantial adverse change in the significance of the Aronson Building historical resource.
- **Impact CP-7:** The proposed project tower would not cause a substantial adverse change in the significance of nearby historical resources.
- **Impact C-CP-2:** The proposed project, in combination with other past, present, and reasonably foreseeable future projects in the project vicinity, would not have a cumulatively considerable contribution to a significant impact on historic architectural resources.

E. Transportation and Circulation

- **Impact TR-1:** The proposed project would not cause a substantial increase in traffic that would cause the level of service to decline from LOS D or better to LOS E or F, or from LOS E to F at seven intersections studied in the project vicinity.
- **Impact TR-2:** The proposed project would not cause a substantial increase in transit demand that could not be accommodated by adjacent transit capacity; nor would it cause a substantial increase in delays or costs such that significant adverse impacts in transit service levels could occur.
- **Impact TR-3:** The proposed project would not result in substantial overcrowding on public sidewalks, nor create potentially hazardous conditions for pedestrians, or otherwise interfere with pedestrian accessibility to the site and adjoining areas.
- **Impact TR-4:** The proposed project would not create potentially hazardous conditions for bicyclists, or otherwise substantially interfere with bicycle accessibility to the site and adjoining areas.
- **Impact TR-5:** The loading demand of the proposed project during the peak hour of loading activities would be accommodated within the proposed on-site loading facilities or within convenient on-street loading zones, and would not create potentially hazardous traffic conditions or significant delays involving traffic, transit, bicycles, or pedestrians.
- **Impact TR-6:** Construction and operation of the proposed project would not result in inadequate emergency access.
- **Impact TR-7:** Construction-related impacts of the proposed project would not be considered significant due to their temporary and limited duration.
- **Impact C-TR-1:** The proposed project would not contribute considerably to future cumulative traffic increases that would cause levels of service to deteriorate to unacceptable levels at seven intersections.
- **Impact C-TR-2:** The proposed project would not contribute considerably to cumulative increases in transit ridership that would cause the levels of service to deteriorate to unacceptable levels.
- **Impact C-TR-3:** The construction impacts of the proposed project would not result in a considerable contribution to a significant cumulative impact when combined with other nearby proposed projects due to the temporary and limited duration of the construction of the proposed project and nearby projects.

F. Noise

- Impact NO-4: The proposed project's new residences and cultural uses would not be substantially affected by existing noise levels.
- Impact C-NO-1: Construction of the proposed project, in combination with other past, present, and reasonably foreseeable future projects in the project vicinity, would not result in a cumulatively considerable contribution to significant temporary or periodic increases in ambient noise levels in the project vicinity above levels existing without the proposed project.
- Impact C-NO-3: Operation of the proposed project, in combination with other past, present, and reasonably foreseeable future projects in the project vicinity, would not result in a cumulatively considerable contribution to significant permanent increase in ambient noise levels in the project vicinity above levels existing without the project.
- Impact C-NO-4: Noise from traffic increases generated by the proposed project, when combined with noise from reasonably foreseeable traffic growth forecast to the year 2030, would not contribute considerably to significant cumulative traffic noise impacts.

G. Air Quality

- Impact AQ-1: Construction of the proposed project would not violate an air quality standard or contribute substantially to an existing or projected air quality violation; nor would it result in a cumulatively considerable net increase of criteria air pollutants, for which the project region is in nonattainment under an applicable ambient air quality standard.
- Impact AQ-2: Construction of the proposed project would not expose sensitive receptors to substantial pollutant concentrations of fugitive dust.
- Impact AQ-4: Operation of the proposed project would not violate an air quality standard or contribute substantially to an existing or projected air quality violation; nor would it result in a cumulatively considerable net increase of any criteria air pollutant for which the project region is in nonattainment under an applicable ambient air quality standard.
- Impact AQ-5: Operation of the proposed project would not generate emissions of PM2.5 and toxic air contaminants, including diesel particulate matter, at levels that would expose sensitive receptors to substantial pollutant concentrations.
- Impact AQ-6: Operation of the proposed project would not expose new on-site sensitive receptors to substantial pollutant concentrations.
- Impact AQ-7: Construction and operation of the proposed project would not conflict with or obstruct implementation of the Bay Area 2010 Clean Air Plan (CAP), the applicable air quality plan.
- Impact AQ-8: Construction and operation of the proposed project would not expose a substantial number of people to objectionable odors.
- Impact C-AQ-1: Construction and operation of the proposed project, in combination with other past, present, and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to exposure of sensitive receptors to significant cumulative substantial pollutant concentrations.

H. Greenhouse Gas Emissions

- Impact C-GG-1: The proposed project would be consistent with the City's GHG Reduction Plan and the AB 32 Scoping Plan, and would, therefore, not result in a cumulatively considerable

contribution to significant cumulative GHG emissions or conflict with any policy, plan, or regulation adopted for the purpose of reducing GHG emissions.

I. Wind and Shadow

- **Impact WS-1:** The proposed project would not alter wind in a manner that substantially affects public areas.
- **Impact C-WS-1:** The proposed project, in combination with past, present, and reasonably foreseeable future projects in the project vicinity, would not make a cumulatively considerable contribution to a significant cumulative wind impact.
- **Impact WS-2:** The proposed project would not create new shadow in a manner that substantially affects outdoor recreation facilities and other public areas.

J. Recreation

- **Impact RE-1:** The proposed project would not increase the use of existing park and recreational facilities such that substantial physical deterioration of facilities would occur or be accelerated.
- **Impact RE-2:** The proposed project would not require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.
- **Impact RE-3:** The proposed project would not physically degrade existing recreational resources.
- **Impact C-RE-1:** Construction of the proposed project, in combination with past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to significant adverse cumulative impacts on recreational facilities.

K. Utilities and Service Systems

- **Impact UT-1:** The proposed project would not exceed the wastewater treatment requirements of the Regional Water Quality Control Board.
- **Impact UT-2:** The proposed project would not require or result in the construction of new or the expansion of existing water or wastewater treatment facilities, or stormwater drainage facilities, the construction of which could have significant environmental effects.
- **Impact UT-3:** The proposed project would not result in a determination that there is insufficient capacity in the wastewater treatment system to serve the proposed project's estimated demand in addition to its existing demand.
- **Impact C-UT-1:** Construction of the proposed project, in combination with other past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact regarding the treatment of stormwater runoff or capacity of wastewater treatment facilities or stormwater drainage facilities.
- **Impact UT-4:** The proposed project would be adequately served by existing water entitlements and water supply resources, and would not require new or expanded water supply resources or entitlements.
- **Impact C-UT-2:** Construction of the proposed project, in combination with other past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on water supply.
- **Impact UT-5:** The proposed project would increase the amount of solid waste generated on the project site, but would be adequately served by the City's landfill and would comply with Federal, State, and local statutes and regulations related to solid waste.

- **Impact C-UT-3:** Construction of the proposed project, in combination with other past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on solid waste disposal facilities.

L. Public Services

- **Impact PS-1:** The proposed project would not increase demand for public services to the extent that new facilities would have to be constructed or existing facilities altered in order to maintain acceptable service ratios, response times, or other performance objectives for any public services such as police protection, fire protection and emergency services, schools, or libraries.
- **Impact C-PS-1:** The proposed project, in combination with other past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to significant adverse cumulative impacts that would result in a need for construction of new or physically altered facilities in order to maintain acceptable service ratios, response times, or other performance objectives for any public services, including police protection, fire protection and emergency services, schools, and libraries.

M. Biological Resources

- **Impact BI-1:** The proposed project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFG or USFWS.
- **Impact BI-2:** The proposed project would not have a substantial adverse effect on the movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, nor would it impede the use of native wildlife nursery sites.
- **Impact BI-3:** The proposed project would not conflict with local policies or ordinances protecting biological resources.
- **Impact C-BI-1:** The proposed project, in combination with past, present and reasonably foreseeable future projects in the project vicinity, would not make a cumulatively considerable contribution to a significant adverse cumulative impact on biological resources.

N. Geology and Soils

- **Impact GE-1:** The proposed project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture, ground-shaking, liquefaction, or landslides.
- **Impact GE-2:** The proposed project would not result in substantial soil erosion or loss of topsoil.
- **Impact GE-3:** The proposed project would not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite landslide, lateral spreading, subsidence, liquefaction or collapse.
- **Impact GE-4:** The proposed project would not be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property.
- **Impact C-GE-1:** The proposed project, in combination with other past, present and other reasonably foreseeable future projects in the vicinity, would not result in a cumulatively considerable contribution to significant adverse cumulative impacts with respect to geology, soils, or seismicity.

O. Hydrology and Water Quality

- **Impact HY-1:** The proposed project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade water quality.
- **Impact HY-2:** The proposed project would not substantially deplete groundwater supplies or interfere with groundwater recharge.
- **Impact HY-3:** The proposed project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or off site.
- **Impact HY-4:** Construction of the proposed project would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.
- **Impact HY-5:** Operation of the proposed project would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.
- **Impact C-HY-1:** The proposed project, in combination with other past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on hydrology and water quality.

P. Hazards and Hazardous Materials

- **Impact HZ-1:** The proposed project would not have a substantial adverse effect on the public or the environment through the routine transport, use, or disposal of hazardous materials.
- **Impact HZ-3:** The proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one quarter mile of an existing or proposed school.
- **Impact HZ-4:** The proposed project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.
- **Impact HZ-5:** The proposed project would not expose people or structures to a risk of loss, injury or death involving fires.
- **Impact C-HZ-1:** The proposed project, when combined with other past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on hazards and hazardous materials.

Q. Mineral and Energy Resources

- **Impact ME-1:** The proposed project would not have a significant adverse impact on the availability of a known mineral resource and/or a locally important mineral resource recovery site.
- **Impact ME-2:** The proposed project would not have a substantial adverse effect on the use of fuel, water, or energy consumption, and would not encourage activities that could result in the use of large amounts of fuel, water, or energy, or use these in a wasteful manner.
- **Impact C-ME-1:** The proposed project, in combination with other past, present and reasonably foreseeable future projects in the vicinity, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on mineral and energy resources.

R. Agricultural and Forest Resources

- **Impact AG-1:** The proposed project would not have a substantial adverse effect on the conversion of farmland, would not conflict with existing zoning for agricultural use or with a Williamson Act contract, nor involve other changes that would result in conversion of farmland to non-agricultural use.
- **Impact AG-2:** The proposed project would not conflict with existing zoning for, or cause rezoning of, forest land or timberland, nor would it result in the loss of forest land or the conversion of forest land to non-forest use.
- **Impact C-AG-1:** The proposed project, in combination with other past, present and reasonably foreseeable future projects in the vicinity, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on agricultural resources or forest land or timberland.

III. Potentially Significant Impacts That Are Avoided Or Reduced To A Less-Than-Significant Level And Findings Regarding Mitigation Measures

The following Sections III and IV set forth the Commission's findings about the Final EIR'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 included as part of the Final EIR and adopted by the Commission and other City decision makers as part of the Project. To avoid duplication and redundancy, and because the Commission agrees with, and hereby adopts, the conclusions in the Final EIR, these findings will not repeat the complete analysis and conclusions in the Final EIR, but instead summarizes and incorporates them by reference herein and relies rely upon them as substantial evidence supporting these findings.

In making these findings, the Commission has considered the opinions of City staff and experts, other agencies and members of the public. The Commission finds that the determination of significance thresholds is a judgment decision within the discretion of the City and County of San Francisco; the significance thresholds used in the EIR are supported by substantial evidence in the record, including the expert opinion of the EIR preparers and City staff; and the significance thresholds used in the EIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project.

As set forth below, the Commission adopts and incorporates all of the mitigation measures within its jurisdiction set forth in the Final EIR and the attached MMRP to substantially lessen or avoid the potentially significant and significant impacts of the Project. The Commission and other City decision makers intend to adopt each of the mitigation measures proposed in the Final EIR. Accordingly, in the event a mitigation measure recommended in the Final EIR has inadvertently been omitted in these findings or the MMRP, such mitigation measure 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 Final EIR due to a clerical error, the language of the policies and implementation measures as set forth in the Final EIR shall control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the Final EIR.

The potentially significant impacts of the Project that will be mitigated through implementation of mitigation measures are identified and summarized below along with the corresponding mitigation measures.

A. Cultural and Paleontological Resources

- **Impact CP-1:** Construction activities for the proposed project would cause a substantial adverse change in the significance of archaeological resources, if such resources are present within the project site.
    - Ground-disturbing construction activity within the project site, particularly within previously undisturbed soils, could adversely affect the significance of archaeological resources by impairing the ability of such resources to convey important scientific and historical information. This effect would be considered a substantial adverse change in the significance of an historical resource and would therefore be a potentially significant impact under CEQA.
    - The following mitigation measures, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact CP-1.
        - **Mitigation Measure M-CP-1a:** Archaeological Test, Monitoring, Data Recovery and Reporting
        - **Mitigation Measure M-CP-1b:** Interpretation
    - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-CP-1a and M-CP-1b would reduce Impact CP-1 to a less-than significant-level because Mitigation Measure M-CP-1a would ensure that any potentially affected archaeological deposits would be identified, evaluated, and, as appropriate, subject to data recovery and reporting by a qualified archaeologist under the oversight of the Environmental Review Officer, and Mitigation Measure M-CP-1b would ensure that a plan for the post-recovery interpretation of buried or submerged archaeological resources is developed and implemented with the assistance of qualified archaeologist and under the oversight of the Environmental Review Officer.

- **Impact CP-2:** Construction activities for the proposed project would cause a substantial adverse change in the significance of human remains, if such resources are present within the project site.
    - Ground-disturbing construction activity within the project site, particularly within previously undisturbed soils, could adversely affect the significance of human remains, which would be a potentially significant impact under CEQA.
    - The following mitigation measure, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact CP-2.

- Mitigation Measure M-CP-1a: Archaeological Test, Monitoring, Data Recovery and Reporting
  - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-CP-1a would reduce Impact CP-2 to a less-than significant level because the mitigation measure would ensure that the treatment of any human remains and associated or unassociated funerary objects discovered during soil disturbing activities complies with applicable state and federal laws, including 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 NAHC, who would appoint an MLD.

- Impact CP-3: Construction activities for the proposed project would cause a substantial adverse change in the significance of paleontological resources, if such resources are present within the project site.
  - Paleontological resources could exist in the Franciscan, and possibly the Colma, Formations that underlie the project site. Project construction activities could disturb and impair the significance of such paleontological resources, which would be a potentially significant impact under CEQA.
  - The following mitigation measure, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact CP-3.
    - Mitigation Measure M-CP-3: Paleontological Resources Monitoring and Mitigation Program
  - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-CP-3 would reduce Impact CP-3 to a less-than significant level because the mitigation measure would ensure that a plan for monitoring, recovery, identification, and curation of palenontologic resources would be developed and implemented by a qualified paleontologist under the oversight of the Environmental Review Officer in the event that paleontological resources are present within the project site.

- Impact CP-4: Construction activities for the proposed project would disturb unknown resources if any are present within the project site.
  - Construction activities could disturb or remove unknown human remains within the project site, which could materially impair the physical characteristics of the unknown resource, resulting in a potentially significant impact under CEQA.
  - The following mitigation measure, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact CP-4.
    - Mitigation Measure M-CP-4: Accidental Discovery
  - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-CP-4 would reduce Impact CP-4 to

a less than significant level because the mitigation measure ensures that all field and construction personnel will be informed of the potential presence of archaeological resources within the project site and the procedures that are to be followed in the event such resources are encountered during construction activities.

- **Impact C-CP-1:** Disturbance of archaeological and paleontological resources, if encountered during construction of the proposed project, in combination with other past, present, and future reasonably foreseeable projects, would make a cumulatively considerable contribution to a significant cumulative impact on archaeological resources.
    - When considered with other past and proposed development projects within San Francisco and the Bay Area region, the potential disturbance of archaeological and paleontological resources within the project site could make a cumulatively considerable contribution to a loss of significant historic and scientific information about California, Bay Area, and San Francisco history and prehistory, which would be a potentially significant impact under CEQA.
    - The following mitigation measures, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact C-CP-1.
        - **Mitigation Measure M-CP-1a:** Archaeological Test, Monitoring, Data Recovery and Reporting
        - **Mitigation Measure M-CP-1b:** Interpretation
        - **Mitigation Measure M-CP-3:** Paleontological Resources Monitoring and Mitigation Program
        - **Mitigation Measure M-CP-4:** Accidental Discovery
    - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-CP-1a, M-CP-1b, M-CP-3, and M-CP-4 would reduce the project's contribution to Impact C-CP-1 to a less than cumulatively considerable level because these mitigation measures would ensure that plans for testing, monitoring, data recovery, documentation and interpretation are approved and implemented to preserve and realize the information potential of archaeological and paleontological resources that may be encountered on the project site.

B. <u>Noise</u>

- **Impact NO-1:** Construction of the proposed project would generate noise levels in excess of standards established in the San Francisco General Plan or noise ordinance and would result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.
    - The project's demolition, excavation, and building construction activities would temporarily and intermittently increase noise in the project vicinity to levels that could be considered an annoyance by occupants of nearby properties, which would be a potentially significant impact under CEQA. The loudest construction activities, such as installing piles, grading, and excavation, would occur over the first two year of the

construction period, and once the activity is completed, the associated high noise levels would no longer be experienced by the affected sensitive receptors.

- The following mitigation measures, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact NO-1.
  - **Mitigation Measure M-NO-1a:** Reduce Noise Levels During Construction
  - **Mitigation Measure M-NO-1b:** Noise-Reducing Techniques and Muffling Devices for Pile Installation
- Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-NO-1a and M-NO-1b would reduce Impact NO-1 to a less than significant level because Mitigation Measure M-NO-1 would require the project contractor to use equipment with lower noise emissions and sound controls or barriers where feasible, locate stationary equipment as far as possible from sensitive receptors, and designate a noise coordinator, and Mitigation Measure M-NO-1b would require the use of feasible noise-reducing techniques for installing piles. The combination of these measures would decrease construction noise levels and minimize the significant effects.

- Impact NO-2: Construction of the proposed project would result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.
  - Proposed project demolition, excavation, and building construction activities would temporarily generate groundborne vibration in the project vicinity that could be considered an annoyance by occupants of adjacent properties, especially residential and cultural uses adjacent to the site, and could also damage nearby structures, with the highest levels of groudbourne vibration expected during demolition and the installation of piles for structural support. This would be a potentially significant impact under CEQA.
  - The following mitigation measures, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact NO-2.
    - **Mitigation Measure M-NO-2a:** Minimize Vibration Levels During Construction
    - **Mitigation Measure M-NO-2b:** Pre-Construction Assessment to Protect Structures from Ground Vibration Associated with Pile Installation
    - **Mitigation Measure M-NO-2c:** Vibration Monitoring and Management Plan
  - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-NO-2a, M-NO-2b, and M-NO-2c would reduce Impact NO-2 to a less than significant level because Mitigation Measure M-NO-2a would provide for a community liaison to respond to and address complaints and require protective construction techniques, Mitigation Measure M-NO-2b would implement a pre-construction assessment and, if needed, monitoring during vibration causing activities to detect ground settlement or lateral movement of structures, and Mitigation Measure M-NO-2c would implement a vibration monitoring and management

plan to avoid any adverse vibration-related impact to historic structures. With implementation of Mitigation Measures M-NO-2a and M-NO-2b, potential vibration impacts in the project vicinity would be reduced to levels that would be less than significant. With implementation of Mitigation Measure M-NO-2c, there would be no significant vibration-related impacts to the Aronson Building.

- Impact NO-3: Operation of the proposed project would generate noise levels in excess of standards established in the San Francisco General Plan or noise ordinance and would result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.
    - Operation of the proposed project would introduce additional noise sources to the area, including additional motor vehicle traffic and new mechanical systems, such as ventilation equipment. Although specific information regarding the proposed stationary noise sources is currently not available, building mechanical systems would be capable of generating noise levels in excess of applicable General Plan noise-land use compatibility thresholds on adjacent sensitive receptors, which could result in potentially significant impacts on both the on-site and adjacent noise-sensitive residential and cultural uses.
    - The following mitigation measure, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact NO-3.
        - Mitigation Measure M-NO-3: Stationary Operational Noise Sources
    - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-NO-3 would reduce Impact NO-3 to a less than significant level because this mitigation measure would require the screening, shielding, or setting back of stationary noise sources from noise-sensitive receptors, and would require that a qualified acoustical consultant measure the noise levels of operating exterior equipment within three months after its installation.

- Impact C-NO-2: Construction of the proposed project, in combination with other past, resent, and reasonably foreseeable future projects in the project vicinity, would result in a cumulatively considerable contribution to significant exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.
    - The project along with other nearby projects such as the SFMOMA Expansion (151 Third Street), the Palace Hotel (2 New Montgomery Street), and the Central Subway project have the potential for cumulatively significant groundborne vibration and noise level impacts, particularly during initial phases of proposed project construction. However, the periods when construction vibration impacts would overlap would be brief and limited, and the overall cumulative construction vibration impacts would not be cumulatively significant.
    - The following mitigation measures, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact C-NO-2.

- Mitigation Measure M-NO-2a: Minimize Vibration Levels During Construction
- Mitigation Measure M-NO-2b: Pre-Construction Assessment to Protect Structures from Ground Vibration Associated with Pile Installation
- Mitigation Measure M-NO-2c: Vibration Monitoring and Management Plan

o Based on the final EIR and the entire administrative record, it is hereby found and determined that with implementation of Mitigation Measures M-NO-2a, M-NO-2b, and M-NO-2c, the proposed project would not result in a cumulatively considerable contribution to significant cumulative impacts associated with groundborne vibration for the reasons discussed under Impact NO-2 above and as more fully set forth in the final EIR.

C. Air Quality

- Impact AQ-3: Construction of the proposed project would generate emissions of PM2.5 and toxic air contaminants, including diesel particulate matter, at levels that would expose sensitive receptors to substantial pollutant concentrations.
  - o The Air Quality Technical Report that was prepared for the project found that constructions emissions would exceed the threshold of significance for excess cancer risk at the project MEI if the emissions were not mitigated.
  - o The following mitigation measure, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact AQ-3.
    - Mitigation Measure M-AQ-3: Construction Emissions Mitigation
  - o Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-AQ-3 would reduce Impact AQ-3 to a less than significant level because this mitigation measure would require a Construction Emissions Mitigation Plan designed to reduce construction-related diesel particulate matter emissions from off-road construction equipment used at the site by at least 65 percent as compared to the construction equipment list, schedule, and inventory provided by the sponsor on May 27, 2011, which would bring emissions below the threshold of significance for excess cancer risk.

D. Hazards and Hazardous Materials

- Impact HZ-2: The proposed project would have a substantial adverse effect on the public or the environment through the accidental release of hazardous materials into the environment.
  - o In order to construct the proposed tower, excavation to a depth of approximately 41 feet below the surface on the west side of the Aronson Building would be required, which could have the potential to expose the public and environment to contaminants in the soil.
  - o The following mitigation measure, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact HZ-2.

- **Mitigation Measure M-HZ-2:** Hazardous Materials – Testing for and Handling of Contaminated Soil

  - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-HZ-2 would reduce Impact HZ-2 to a less than significant level because this mitigation measure would require soil testing for contaminants of concern, preparation of a Soil Mitigation Plan for managing contaminated soils on the site, and protocols for the handling, hauling, and disposal of contaminated soils, which would reduce the potential for exposure of the public and the environment to a less than significant level.

The Project Sponsor has agreed to implement all mitigation measures identified in the Final EIR for the project. The required mitigation measures are fully enforceable and will be included as conditions of approval by and the Commission and other City decision makers. Pursuant to CEQA Section 21081.6, adopted mitigation measures will be implemented and monitored as described in the MMRP, which is incorporated herein by reference.

With the required mitigation measures, all potential project impacts, with the exception of impacts described in Section IV below, would be avoided or reduced to a less-than-significant level.

As authorized by CEQA Section 21081 and CEQA Guidelines Section 15091, 15092, and 15093, based on substantial evidence in the whole record of this proceeding, the City finds that, unless otherwise stated, all of the changes or alterations to the Project identified in the mitigation measures have been or will be required in, or incorporated into, the project to mitigate or avoid the significant or potentially significant environmental impacts listed herein, as identified in the Final EIR, that these mitigation measures will be effective to reduce or avoid the potentially significant impacts as described in the EIR, and these mitigation measures are feasible to implement and are within the responsibility and jurisdiction of the City and County of San Francisco to implement or enforce.

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 Commission finds that, where feasible, changes or alterations have been required, or incorporated into, the Project to avoid or substantially lessen the significant environmental impacts. The Commission finds that changes have been required in, or incorporated into, the Project that, pursuant to Public Resources Code section 21002 and CEQA Guidelines section 15091, may substantially lessen, but do not avoid (i.e., reduce to less than significant levels), the potentially significant environmental effect associated with implementation of the Project. The Commission adopts all of the mitigation measures proposed in the Final EIR and set forth in the MMRP. The Commission further finds, however, for the impact listed below, despite the implementation of mitigation measures, the effects remain significant and unavoidable.

The Commission determines that the following significant impact on the environment, as reflected in the Final EIR, is unavoidable, but under Public Resources Code Section 21081(a)(3) and (b), and CEQA Guidelines 15091(a)(3), 15092(b)(2)(B), and 15093, the Commission determines that the impacts are acceptable due to the overriding considerations described in Section VI below. This finding is supported by substantial evidence in the record of this proceeding.

A. Significant and Unavoidable Impacts – Cumulative Shadow

- Impact C-WS-2: The proposed project, in combination with past, present, and reasonably foreseeable future projects in the project vicinity, would create new shadow in a manner that substantially affects outdoor recreation facilities or other public areas, resulting in a significant cumulative shadow impact. The proposed project would make a cumulatively considerable contribution to this significant cumulative shadow impact.

    - There are several proposed projects in the project vicinity that have the potential to shadow outdoor recreation facilities or other public areas, including some of the same open spaces that the proposed project would shadow. Reasonably foreseeable future projects in the vicinity of the project site include 151 Third Street (the San Francisco Museum of Modern Art Expansion Project), 2 New Montgomery Street (the Palace Hotel Project), and the Transit Tower, and the other projects contemplated by the Transit Center District Plan. The proposed project in combination with other proposed projects in the vicinity would add new shadow on various open spaces and public areas. By contributing shadow to open spaces and public areas, the proposed project would make a cumulatively considerable contribution to the significant and unavoidable cumulative shadow impacts.

    - There is no feasible mitigation for the proposed project's contribution to cumulative shadow impacts, because any theoretical mitigation that would address the cumulatively considerable contribution to shadow impacts on outdoor recreation facilities or other public areas within the project vicinity would fundamentally alter the project's basic design and programming parameters. Thus, rather than treat a substantial reduction in height as a mitigation measure, the EIR analyzed a reduction in height in two separate alternatives.

      With regard to the project's shadow impacts on Union Square, other than a reduction in the height of the tower to approximately 351 feet or less, no further modification of the tower could eliminate the tower's net new shadow on Union Square. The project has already undergone design revisions to sculpt the top of the tower in order to reduce shadow on Union Square. The original project proposed by the project sponsor included an elliptical tower design that was approximately 630 feet tall and 170 feet wide at the highest level. That proposal was modified to reflect a shorter and more slender rectangular tower design that was shifted to the west on the project site to reduce shadow impacts on Union Square. The rectangular design ultimately chosen for the project would break up the tower massing and top into smaller volumes at different or staggered heights, particularly along the eastern edge of the site and tower, to further reduce shadow. In addition, the tower massing and the tower core were moved 15 feet to the west on the project site, and the tower cantilever over the Aronson Building was reduced from 106 feet to 8 feet to further reduce shadow impacts on Union Square.

    - On May 21, 2013, a technical memorandum prepared by Turnstone Consulting was submitted analyzing the shadow impacts of the Project on Union Square, based on the

reduced 480-foot roof height. The memorandum concluded that the Project would cast 238,788 sfh of net new shadow on Union Square on a yearly basis, which would be an increase of about 0.06% of the Theoretically Available Annual Sunlight (TAAS) on Union Square. The reduction in the height of the tower results in a reduction of approximately 29% of net new shadow compared with the Project's 520-foot tower design.

- Even if the project's shadow impacts to Union Square were eliminated, the project would still shadow other downtown open spaces and public areas such as sidewalks. A further reduction of the building height beyond that already included would substantially reduce the development program of the proposed project. Thus, the project's cumulatively considerable contribution to the significant and unavoidable impact would remain and there is no feasible mitigation to reduce the project's contribution to this significant cumulative impact to a less-than-cumulatively considerable level. Because a significant decrease in the tower height affects the Project significantly, these height reductions were discussed as alternatives. See also the discussion of the Existing Zoning Alternative and the Reduced Shadow Alternative, below.

- Therefore, the proposed project, in combination with past, present, and reasonably foreseeable future projects in the project vicinity would create new cumulative shadow in a manner that would substantially affect parks, outdoor recreation facilities, or other public areas. This cumulative shadow impact would be significant and unavoidable, and the proposed project would make a cumulatively considerable contribution to this significant cumulative shadow impact.

V. Alternatives Rejected and the Reasons for Rejecting Them as Infeasible

The Commission rejects the Alternatives set forth in the Final EIR and listed below because the Commission finds that there is substantial evidence, including evidence of economic, legal, social, technological, and other considerations described in this Section, in addition to those described in Section VI below, under CEQA Guidelines 15091(a)(3), that make infeasible such Alternatives. In making these determinations, the 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.

The Commission adopts the EIR's analysis and conclusions regarding alternatives eliminated from further consideration, both during the scoping process and in response to comments. The Commission certifies that it has independently reviewed and considered the information on the alternatives provided in the Final EIR and in the record. The Project Sponsor engaged Economic & Planning Systems, Inc. to prepare an economic analysis of the financial feasibility of the project alternatives described in the EIR. (Report on the Financial Feasibility of 706 Mission Street: The Mexican Museum and Residential Tower Project and Alternatives, dated May 2013 (the "EPS Report"). The Successor Agency retained an independent

economic consultant Keyser Marston Associates, Inc., to peer review the EPS Report and Keyser Marston Associates prepared the "Peer Review of Financial Feasibility Report for 706 Mission Street" ("Peer Review"). The Peer Review, independently reviewed and evaluated by the Successor Agency, concurs with the results of the EPS Report. Planning Department staff and the Commission have independently reviewed and concur with the results of the EPS Report and the Peer Review. The Final EIR reflects the Commission's and the City's independent judgment as to the alternatives.

The Commission finds that the Project provides the best balance between satisfaction of the project objectives and mitigation of environmental impacts to the extent feasible, as described and analyzed in the EIR, and adopts a statement of overriding considerations as set forth in Section VI below.

While the Commission makes these findings regarding the environmental impacts and feasibility of each of the alternatives analyzed in the final EIR, if feasible mitigation measures substantially lessen or avoid the significant adverse environmental effects of a project, the project may be approved without an evaluation of the feasibility of project alternatives. *Laurel Hills Homeowners Association v. City Council of Los Angeles*, 83 Cal.App.3d 515, 521 (1978). With respect to the project, all significant impacts can be reduced to a less than significant level with feasible mitigations measures, except for the project's cumulatively considerable contribution to significant cumulative shadow impacts. Thus, although the Commission makes these findings regarding the environmental impacts of each of the alternatives, CEQA only requires that the Commission make findings regarding the alternatives that would substantially lessen or avoid the project's cumulatively considerable contribution to significant cumulative shadow impacts. Findings for the Separate Buildings Alternative and Increased Residential Density Alternative are therefore not required by CEQA, although the Commission nevertheless makes findings for those alternatives below.

The FEIR analyzed five alternatives to the Project: No Project Alternative, Existing Zoning Alternative, Separate Buildings Alternative, Increased Residential Density Alternative, and Reduced Shadow Alternative. These alternatives and the reasons for rejecting them are described below.

1. <u>No Project Alternative</u>

Under the No Project Alternative, the site would remain in its existing condition. Assuming that the existing physical conditions at the project site would remain into the foreseeable future, none of the impacts associated with the proposed project would occur.

The No Project Alternative would not create net new shadow on Union Square, or any other public open spaces, privately owned publicly accessible open spaces, or public sidewalks, and therefore would not result in a cumulatively considerable contribution to the significant unavoidable cumulative shadow impact. Because existing conditions on the project site would not change under this alternative, there would be no impacts related to land use and land use planning, aesthetics, population and housing, cultural and paleontological resources, transportation and circulation, noise, air quality, greenhouse gas emissions, wind, recreation, utilities and service systems, public services, biological resources, geology and soils, hydrology and water quality, hazards and hazardous materials, mineral and energy resources or agricultural and forest resources. Under the proposed project, the impacts with respect to these environmental topics would be either less than significant or less than significant with mitigation, except

for agricultural and forest resources. Both the No Project Alternative and the proposed project would have no impact on agricultural and forest resources.

The No Project Alternative would not be desirable or meet either the Successor Agency or the Project Sponsor's objectives, as more particularly described below. The No Project Alternative is rejected in favor of the project and is found infeasible for the following environmental, economic, legal, social, technological, and/or other reasons:

- The No Project Alternative would not meet any of the Successor Agency or the Project Sponsor's objectives.
- The No Project Alternative would not complete the redevelopment of the YBC Redevelopment Project Area envisioned under the former *Yerba Buena Center Redevelopment Plan*.
- The No Project Alternative would not stimulate and attract private investment and generate sales taxes and other General Fund revenues from new uses on the project site, thereby improving the City's overall economic health, employment opportunities, tax base, and community economic development opportunities.
- The No Project Alternative would not provide for the development of a museum facility and an endowment for The Mexican Museum on Successor Agency-owned property located adjacent to Jessie Square, at the heart of San Francisco's cultural district location, in a manner that is consistent with General Plan Policy VI-1.9, to "create opportunities for private developers to include arts spaces in private developments city-wide."
- The No Project Alternative would not result in construction of a preeminent building with a superior level of design for this important site across from Yerba Buena Gardens and adjacent to Jessie Square in a manner that complements the landscaping and design of Jessie Square.
- The No Project Alternative would not provide housing in an urban infill location to help alleviate the effects of suburban sprawl.
- The No Project Alternative would not provide temporary and permanent employment and contracting opportunities for minorities, women, qualified economically disadvantaged individuals, and other residents both in the South of Market area and in the City generally, in a manner consistent with the City's current and future equal opportunity programs.
- The No Project Alternative would not maximize the quality of the pedestrian experience along Mission Street and Third Street, while maintaining accessibility to the project site for automobiles and loading.
- The No Project Alternative would not provide for rehabilitation of the historically important Aronson Building.

- The No Project Alternative would not secure funding for new and affordable below-market-rate units.

- The No Project Alternative would not secure additional funding for operations, management, and security of Yerba Buena Gardens.

- The No Project Alternative would not result in the construction of a residential building of superior quality and design that complements and is generally consistent with the downtown area, furthering the objectives of the General Plan's *Urban Design Element* and the former *Yerba Buena Center Redevelopment Plan.*

- The No Project Alternative would not redevelop the project site with a high-quality residential development that includes a ground-floor retail or restaurant use.

- The No Project Alternative would not provide housing in downtown San Francisco that is accessible to local and regional transit, as well as cultural amenities and attractions, such as performing art centers, and art museums and exhibitions.

The Commission finds each of these reasons provide sufficient independent grounds for rejecting the No Project Alternative.

2. Existing Zoning Alternative

The intent of the Existing Zoning Alternative is to provide an alternative that meets all applicable provisions of the Planning Code and existing zoning for the project site. In addition, this alternative would reduce the significant and unavoidable cumulative shadow impacts compared to the proposed project, but not to a less than significant level. Under this alternative, a new 13-story, approximately 196-foot-tall building with a 9.0 to 1 FAR would be constructed adjacent to and west of the Aronson Building. As with the proposed project, the Aronson Building would be restored and rehabilitated, and the new building would be connected to it. This alternative would provide an approximately 45,000-gsf cultural space for The Mexican Museum, compared to the approximately 52,285-gsf of cultural space provided for the museum under the proposed project. Vehicular access into and out of the existing subsurface Jessie Square Garage would not change from existing conditions. Unlike the proposed project, under this alternative, there would not be a driveway on Third Street to serve the residential units. The vehicular access variants analyzed for the proposed project would not apply to this alternative.

The Existing Zoning Alternative would reduce as compared to the proposed project the cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact, but not to a less than cumulatively considerable level. While the reduced building height of the new tower under this alternative would not create net new shadow on Union Square, unlike the proposed project, shadow from the proposed tower could still reach some of the same public open spaces, privately owned publicly accessible open spaces, and public sidewalks that would be shadowed by the proposed project, and therefore may contribute to a cumulatively significant shadow impact. As with the proposed project (but generally to a lesser degree than with the proposed project), there would be less-than-significant impacts

related to land use and land use planning, aesthetics, population and housing, transportation and circulation, greenhouse gas emissions, wind, recreation, utilities and service systems, public services, biological resources, geology and soils, hydrology and water quality, and mineral and energy resources. As with the proposed project (but generally to a lesser degree than with the proposed project), there would be less-than-significant impacts with mitigation related to cultural and paleontological resources, noise, air quality, and hazards and hazardous materials. Both the Existing Zoning Alternative and the proposed project would have no impact on agricultural and forest resources.

The Existing Zoning Alternative would meet some, but not all, of the Successor Agency and Project Sponsor's objectives. For example, it would attract private investment and generate sales taxes and other General Fund revenues from new uses on the project site, and would provide housing in an urban infill location, near transit and cultural amenities to help alleviate the effects of suburban sprawl, although not as much housing as under the proposed project. The Existing Zoning Alternative would provide temporary and permanent employment and contracting opportunities for minorities, women, qualified economically disadvantaged individuals, and other residents although the scope of these alternatives would be less than with the proposed project due to the reduced size of the Existing Zoning Alternative. The Existing Zoning Alternative would provide for rehabilitation of the historically important Aronson Building. The Existing Zoning Alternative would design and construct the project to a minimum of Leadership in Energy and Environmental Design (LEED) Silver standards (or such higher and additional requirements as adopted by the City and County of San Francisco), thereby reducing the project's carbon footprint and maximizing the energy efficiency of the building.

But, the Existing Zoning Alternative would reduce but not avoid the proposed project's cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact, although the reduced height of the new tower under this alternative would not create net new shadow on Union Square. Furthermore, the Existing Zoning Alternative would not be desirable or meet many of the Successor Agency and Project Sponsor's objectives and/or would not advance those objectives to the extent that the proposed project would, as more particularly described below.

The EPS Report indicates that the Existing Zoning Alternative is not financially feasible because project costs plus developer targeted return would exceed project revenues under this alternative. The Existing Zoning Alternative is not financially feasible with or without the purchase of TDRs because under this Alternative, the height of the tower is reduced, which reduces the number of revenue generating units, and per square foot construction costs are highest under this alternative due to a decrease in construction cost efficiency. Additionally, the Jessie Square Garage would not be conveyed to the Project Sponsor under this alternative, which means the Alternative does not include defeasance of the outstanding Jessie Square Garage bonds or repayment of the Successor Agency's debt to the City. It also does not generate parking-related revenue.

The Existing Zoning Alternative is projected to generate approximately $149 million under the Residential Flex Option. With the purchase of TDRs, projected development costs, including developer return, are approximately $292 million under the Residential Flex Option. The Project Residuals, above the minimum return on investment needed for project feasibility, are estimated at approximately negative $142.6 million under the Residential Flex Option. With the purchase of TDRs, the Project Residuals for

this Alternative are estimated at approximately negative $143.4 million under the Residential Flex Option. The Peer Review concurs with this opinion.

Therefore, the Existing Zoning Alternative is rejected in favor of the project and is found infeasible for the following environmental, economic, legal, social, technological, and/or other reasons:

- The Existing Zoning Alternative would not avoid the proposed project's cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact.

- The Existing Zoning Alternative would not transfer ownership of the Jessie Square Garage to a private entity and therefore does not include defeasance of the outstanding Jessie Square Garage bonds or repayment of the Successor Agency's debt to the City.

- The Existing Zoning Alternative would not create a development that meets the Successor Agency's and Project Sponsor's objective to be financially feasible with the ability to fund the Project's capital costs and ongoing operation and maintenance costs related to the redevelopment and long-term operation of the Mexican Museum parcel without reliance on public funds.

- Because the Existing Zoning Alternative would not create a development that is financially feasible, the Existing Zoning Alternative would not be constructed, and none of the benefits associated with the Project, such as the construction of The Mexican Museum core and shell at no cost to the Successor Agency or City, the endowment for The Mexican Museum, funding for new and affordable market rate units, rehabilitation of the historically important Aronson Building, defeasance of the outstanding Jessie Square Garage bonds and repayment of the Successor Agency's debt to the City, or additional funding for operations, management, and security of Yerba Buena Gardens, would exist under this Alternative. Thus the Existing Zoning Alternative is infeasible because it does not meet the Successor's Agency's objectives to: complete the redevelopment of the Yerba Buena Redevelopment Project Area; to stimulate and attract private development on the site; to provide for the development of a museum facility and an endowment for that facility; and others noted in the EIR on pages II.5 to II.6.

- Because the Existing Zoning Alternative substantially reduces the residential density and the number of housing units produced at this site, this Alternative is infeasible because it does not fully satisfy General Plan policies such as Housing Element Policies 1.1 and 1.4, among others noted in the Department's staff report accompany the Project Approvals on the Determination of Compliance with Section 309, among other approvals. The Project site is well-served by transit, services and shopping and is suited for dense residential development, where residents can commute and satisfy convenience needs without frequent use of a private automobile. The Project Site is located immediately adjacent to employment opportunities within the Downtown Core, and is in an area with abundant local and region-serving transit options, including the future Transit Center. For these reasons, a project with fewer residential units at this site is not compatible with the General Plan and is infeasible.

- The Existing Zoning Alternative is infeasible because it substantially reduces the residential density and the number of housing units produced at this site, and thus does not meet the Successor Agency's objectives to the extent that the Project does. Among other objectives, the Existing Zoning Alternative would not stimulate and attractive private investment, sales tax and other General Fund revenues to the extent that the Project would; would not provide temporary and permanent jobs to the extent that the Project would; and due to its reduced height, it may not provide a preeminent building of the same stature as the Project.

The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Existing Zoning Alternative.

3. Separate Buildings Alternative

The purpose of the Separate Buildings Alternative is to minimize changes to the Aronson Building, while still meeting most of the Project Sponsor's objectives and the objectives of the Successor Agency. Under this alternative, a new 47-story, 520-foot-tall building (with 30 foot tall mechanical/elevator penthouse) would be constructed adjacent to and west of the Aronson Building. The Mexican Museum would occupy space on the first through fifth floors of the new building. Unlike the proposed project, the new building would not be connected to the Aronson Building. Unlike the proposed project, the Separate Buildings Alternative would not undertake the full scope of rehabilitation and restoration of the Aronson Building; only repairs and improvements necessary to prevent further deterioration of the Aronson Building or to permit continued occupancy of the Aronson Building would be undertaken. However, the two non-historic annexes would still be demolished under this alternative. This alternative would include a down ramp along the north side of the Aronson Building from Third Street. The existing curb cut on Third Street would be used to provide vehicular ingress to the existing Jessie Square Garage by project residents for below-grade valet access and project-related delivery and service vehicles via a ramp. The vehicular access variants analyzed for the proposed project would not apply to this alternative.

The Separate Buildings Alternative would result in similar project-level and cumulative impacts as identified under the proposed project. Since the building design and configuration of the proposed tower would be the same as under the proposed project, this alternative would result in significant unavoidable cumulative shadow impact due to the creation of net new shadow on public open spaces, privately owned publicly accessible open spaces, and public sidewalks. As with the proposed project, there would be less-than-significant impacts related to land use and land use planning, aesthetics, population and housing, transportation and circulation, greenhouse gas emissions, wind, recreation, utilities and service systems, public services, biological resources, geology and soils, hydrology and water quality, and mineral and energy resources. As with the proposed project, there would be less-than-significant impacts with mitigation related to cultural and paleontological resources, noise, air quality, and hazards and hazardous materials. Both the Separate Buildings Alternative and the proposed project would have no impact on agricultural and forest resources.

The Separate Building Alternative would meet some but not all of the Successor Agency and Project Sponsor's objectives. It would complete the redevelopment of the YBC Redevelopment Project Area envisioned under the former *Yerba Buena Center Redevelopment Plan* and stimulate and attract private investment and generate sales taxes and other General Fund revenues from new uses on the project site. The Separate Buildings Alternative would provide for the development of a museum facility for The

Mexican Museum. It would provide housing, near transit and cultural amenities, in an urban infill location to help alleviate the effects of suburban sprawl, although not as many housing units as under the proposed project. The Separate Buildings Alternative would provide temporary and permanent employment and contracting opportunities for minorities, women, qualified economically disadvantaged individuals, and other residents, although not as many opportunities as with the proposed project. The Separate Buildings Alternative would transfer ownership of the Jessie Square Garage to a private entity, while providing adequate parking for other cultural uses. The Separate Buildings Alternative would design and construct the project to a minimum of Leadership in Energy and Environmental Design (LEED) Silver standards (or such higher and additional requirements as adopted by the City and County of San Francisco), thereby reducing the project's carbon footprint.

The Separate Buildings Alternative would result in similar project-level and cumulative impacts as the proposed project, and would not avoid or substantially lessen the proposed project's cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact. The Separate Buildings Alternative would not be desirable or meet some of the Successor Agency or the Project Sponsor's objectives, and/or would not advance those objectives to the extent that the proposed project would, as more particularly described below. Therefore, the Separate Buildings Alternative is rejected in favor of the project and is found infeasible for the following environmental, economic, legal, social, technological, and/or other reasons:

- The Separate Buildings Alternative would result in similar project-level and cumulative impacts as the proposed project, and, most significantly, would not avoid or substantially lessen the project's cumulatively considerable contribution to a significant cumulative shadow impact.

- The Separate Buildings Alternative would not undertake the full scope of rehabilitation and restoration of the historically important Aronson Building as would be the case under the proposed project. Instead, only repairs and improvements necessary to prevent further deterioration and/or to permit continued occupancy would be undertaken meaning that the objective of rehabilitating the building would not be met.

The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Separate Buildings Alternative.

4. Increased Residential Density Alternative

The purpose of the Increased Residential Density Alternative is to consider a project that would provide more residential dwelling units within the same amount of floor area as would be provided by the proposed project. Under this alternative, a new 47-story, 520-foot-tall building (with 30 foot tall elevator/mechanical penthouse) would be constructed adjacent to and west of the Aronson Building. As with the proposed project, the Aronson Building would be restored and rehabilitated, and the new building would be connected to the Aronson Building. As with the proposed project, seven floors in the Aronson Building would be designated as flex space for the residential and office flex options. Under the residential flex option, the Aronson Building would include up to 325 residential units (110 more units than under the proposed project) and no office space. Under the office flex option, this building would include up to 283 residential units (92 more units than under the proposed project) and approximately

61,320 gsf of office space. As with the proposed project, the Increased Residential Density Alternative would use the existing curb cut on Third Street to provide vehicular ingress to the existing Jessie Square Garage. This access would be for use by project residents only. As with the proposed project, this alternative would include a residential drop-off area (vehicular access would be the same as under the proposed project). The vehicular access variants analyzed for the proposed project would also apply to this alternative.

The Increased Residential Density Alternative would result in similar project-level and cumulative impacts as identified under the proposed project, although some of the alternative's impacts, such as traffic and circulation and air quality during project operations, would be slightly greater because of the increased density. The Increased Residential Density Alternative would not avoid or reduce any significant environmental effects of the proposed project. Because the building design and configuration of the proposed tower would be the same as under the proposed project, this alternative would result in significant unavoidable cumulative shadow impact due to the creation of net new shadow on Union Square and other public open spaces, privately owned publicly accessible open spaces, and public sidewalks. As with the proposed project, there would be less-than-significant impacts related to land use and land use planning, aesthetics, population and housing, transportation and circulation, greenhouse gas emissions, wind, recreation, utilities and service systems, public services, biological resources, geology and soils, hydrology and water quality, and mineral and energy resources. As with the proposed project, there would be less-than-significant impacts with mitigation related to cultural and paleontological resources, noise, air quality, and hazards and hazardous materials. Both the Increased Residential Density Alternative and the proposed project would have no impact on agricultural and forest resources.

The Increased Residential Density Alternative would meet some but not all of the Project Sponsor's objectives. For example, it would stimulate and attract private investment and generate sales taxes and other General Fund revenues from new uses on the project site. and result in the construction of a preeminent building at this important site across from Yerba Buena Gardens and adjacent to Jessie Square. The Increased Residential Density Alternative would provide housing, close to transit and cultural amenities, in an urban infill location to help alleviate the effects of suburban sprawl. It would provide temporary and permanent employment and contracting opportunities for minorities, women, qualified economically disadvantaged individuals, and other residents; and would transfer ownership of the Jessie Square Garage to a private entity, while providing adequate parking for other existing nonprofit organizations and the public in the Jessie Square Garage. The Increased Residential Density Alternative would provide for rehabilitation of the historically important Aronson Building and would design and construct the project to a minimum of Leadership in Energy and Environmental Design (LEED) Silver standards (or such higher and additional requirements as adopted by the City and County of San Francisco), thereby reducing the project's carbon footprint and maximizing the energy efficiency of the building.

But, the Increased Residential Density Alternative would result in similar project-level and cumulative impacts as identified under the proposed project, would slightly increase some impacts, and would not avoid or substantially lessen the proposed project's cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact.

The Increased Residential Density Alternative would meet most of the Successor Agency and Project Sponsor's objectives but not all of the Successor Agency or Project Sponsor's Objectives. In addition, according to the EPS Report, the Increased Residential Density Alternative is not financially feasible because project costs plus developer targeted return would exceed project revenues under this alternative. The Increased Residential Density Alternative is not financially feasible because the direct per square foot construction costs are higher under the Increased Residential Density Alternative than under the Proposed Project. Though there are more units in the Increased Residential Density Alternative than there are in the Proposed Project, the overall square footage is the same. Because residential revenue is based on a per square foot price (rather than a per unit price), the residential revenue is similar to the Proposed Project.

The Increased Residential Density Alternative is projected to generate approximately $585 million under the Residential Flex Option. Projected development costs, including developer return, are approximately $610 million under the Residential Flex Option. The Project Residuals, above the minimum return on investment needed for project feasibility, are estimated at approximately negative $25.6 million under the Residential Flex Option. The Peer Review concurs with this opinion.

The Increased Residential Density Alternative is rejected in favor of the project and is found not to be feasible or desirable for the following environmental, economic, legal, social, technological, and/or other reasons:

- The Increased Residential Density Alternative would result in similar project-level and cumulative impacts as identified under the proposed project, would slightly increase some impacts, and would not avoid or reduce any significant environmental effects of the proposed project. Specifically, when compared to the proposed project, this alternative would result in incrementally increased impacts under Transportation and Circulation (additional trips on already impacted intersections; additional demand on transit service), Air Quality (additional project related operational emissions), Greenhouse Gas (additional project related emissions increasing the project's carbon footprint), Recreation (additional residents seeking recreation facilities), Public Services (additional residents seeking police or fire protection services), and Utilities and Service Systems (additional residents increasing water usage and generating additional wastewater).

- The Increased Residential Density Alternative would not meet the objective to create a development that is financially feasible and that can fund the Project's capital costs and ongoing operation and maintenance costs related to the redevelopment and long-term operation of the Mexican Museum parcel without reliance on public funds.

- Because the Increased Residential Density Alternative would not create a development that is financially feasible, the Increased Density Alternative would not be constructed, and none of the benefits associated with the Project, such as the construction of The Mexican Museum core and shell at no cost to the Successor Agency or City, the endowment for The Mexican Museum, funding for new and affordable market rate units, rehabilitation of the historically important

Aronson Building, defeasance of the outstanding Jessie Square Garage bonds and repayment of the Successor Agency's debt to the City, or additional funding for operations, management, and security of Yerba Buena Gardens, would exist under this Alternative. Thus the Increased Residential Density Alternative is infeasible because it does not meet the Successor's Agency's objectives mentioned above including, but not limited to: complete the redevelopment of the Yerba Buena Redevelopment Project Area; to stimulate and attract private development on the site; to provide for the development of a museum facility and an endowment for that facility; and others noted in the EIR on pages II.5 to II.6.

The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Increased Residential Density Alternative.

5. Reduced Shadow Alternative

The purpose of the Reduced Shadow Alternative is to reduce the shadow impacts that would be caused by development under the proposed project. Under this alternative, a new 27-story, approximately 351-foot-tall tower, including a mechanical penthouse, would be constructed adjacent to, west of and connected to the Aronson Building, with approximately 45,000 gsf of cultural space for The Mexican Museum as compared to approximately 52,285 square feet under the proposed project. As with the proposed project, the Aronson Building would be restored and rehabilitated. This alternative's residential flex option would include up to 186 residential units (4 fewer residential units than planned under the Proposed Project). This alternative's office flex option would include up to 162 residential units and approximately 52,560 gsf of office space. This alternative would also include approximately 4,800 gsf of retail/restaurant space. As under the proposed project, the Jessie Square Garage would be converted from a public garage to a private garage. Unlike the proposed project, the Reduced Shadow Alternative would not include a driveway from Third Street to serve the residential units. Vehicular access into and out of the existing subsurface Jessie Square Garage would not change from under existing conditions. The vehicular access variants analyzed for the proposed project would not apply to this alternative. The Reduced Shadow Alternative, like the proposed project, would result in a cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact. Although the reduced building height of the new tower under this alternative would substantially reduce shadow impacts and would not create net new shadow on Union Square, unlike the proposed project, shadow from the proposed tower could still reach some of the same public open spaces, privately owned publicly accessible open spaces, and public sidewalks that would be shadowed by the proposed project. Therefore, this alternative may contribute to a cumulatively significant shadow impact. As with the proposed project (but generally to a lesser degree than with the proposed project), there would be less-than-significant impacts related to land use and land use planning, aesthetics, population and housing, transportation and circulation, greenhouse gas emissions, wind, recreation, utilities and service systems, public services, biological resources, geology and soils, hydrology and water quality, and mineral and energy resources. As with the proposed project (but generally to a lesser degree than with the proposed project), there would be less-than-significant impacts with mitigation related to cultural and paleontological resources, noise, air quality, and hazards and hazardous materials. Both the Reduced Shadow Alternative and the proposed project would have no impact on agricultural and forest resources.

The Reduced Shadow Alternative would meet some, but not all of the Successor Agency and Project Sponsor's objectives. It would complete redevelopment of the YBC Redevelopment Project Area envisioned under the Yerba Buena Center Redevelopment Plan and attract private investment and generate sales taxes and other General Fund revenues from new uses on the project site, although to a lesser extent than with the proposed project. The Reduced Shadow Alternative would provide housing, close to transit and cultural amenities, in an urban infill location to help alleviate the effects of suburban sprawl, although fewer housing units than with the proposed project. The Reduced Shadow Alternative would provide temporary and permanent employment and contracting opportunities for minorities, women, qualified economically disadvantaged individuals, and other residents, although to a lesser extent than with the proposed project. The Reduced Shadow Alternative would transfer ownership of the Jessie Square Garage to a private entity, while providing adequate parking in the Jessie Square Garage for adjacent nonprofit organizations and the public. The Reduced Shadow Alternative would provide for rehabilitation of the historically important Aronson Building and would design and construct the project to a minimum of Leadership in Energy and Environmental Design (LEED) Silver standards (or such higher and additional requirements as adopted by the City and County of San Francisco), thereby reducing the project's carbon footprint and maximizing the energy efficiency of the building.

The Reduced Shadow Alternative, like the proposed project, would result in a cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact, although the reduced building height of the new tower under this alternative would reduce shadow impacts and would not create net new shadow on Union Square. The Reduced Shadow Alternative would not be desirable or meet many of the Successor Agency or Project Sponsor's objectives, and/or would not advance those objectives to the extent that the proposed project would, as more particularly described below.

In addition, according to the EPS Report, the Reduced Shadow Alternative is not financially feasible because project costs plus developer targeted return would exceed project revenues under this alternative. The Reduced Shadow Alternative is not financially feasible with or without the purchase of TDRs. In this Alternative, the height of the tower is reduced from 480 feet in the Proposed Project to 351 feet, which reduces the number of residential units to 186 under the Residential Flex Option and reduces potential revenue from residential sales. There are fewer units to generate revenue, and the number of upper floors of the Project, which command substantial price premiums due to views, are not available under the Reduced Shadow Alternative. At the same time, per square foot development costs are higher under the Reduced Shadow Alternative relative to the Proposed Project due to a decrease in construction cost efficiency. Within certain construction type thresholds, the taller the structure, the lower the cost per square foot due to cost-spreading efficiencies. The combination of these factors results in an alternative that is not financially feasible.

The Reduced Shadow Alternative is projected to generate approximately $313 million under the Residential Flex Option. With the purchase of TDRs, projected development costs, including developer return, are approximately $452 million under the Residential Flex Option. The Project Residuals, above the minimum return on investment needed for project feasibility, are estimated at approximately $137.6 million under the Residential Flex Option. With the purchase of TDRs, the Project Residuals for this Alternative are estimated at approximately $139.5 million under the Residential Flex Option. The Peer Review concurs with this opinion.

The Reduced Shadow Alternative is rejected in favor of the project and is found infeasible for the following environmental, economic, legal, social, technological, and/or other reasons:

- While the Reduced Shadow Alternative would include a reduced height tower of 27-stories as compared to the proposed project's 43-story tower and would create a no net new shadow on Union Square, its shadow could still reach some of the same public open spaces, privately owned publicly accessible open spaces, and public sidewalks that would be shadowed by the proposed project.

- The Reduced Shadow Alternative would not result in a development that is financially feasible and thus does not meet the Successor Agency's and Project Sponsor's objective to create a financially feasible project that can fund the project's capital costs and ongoing operation and maintenance costs related to the redevelopment and long-term operation of the Mexican Museum parcel without reliance on public funds.

- Because the Reduced Shadow Alternative would not create a development that is financially feasible, the Reduced Shadow Alternative would not be constructed, and none of the benefits associated with the Project, such as the construction of The Mexican Museum core and shell at no cost to the Successor Agency or City, the endowment for The Mexican Museum, funding for new and affordable market rate units, rehabilitation of the historically important Aronson Building, defeasance of the outstanding Jessie Square Garage bonds and repayment of the Successor Agency's debt to the City, or additional funding for operations, management, and security of Yerba Buena Gardens, would exist under this Alternative. Thus the Reduced Shadow Alternative is infeasible because it does not meet the Successor's Agency's objectives to: complete the redevelopment of the Yerba Buena Redevelopment Project Area; to stimulate and attract private development on the site; to provide for the development of a museum facility and an endowment for that facility; and others noted in the EIR on pages II.5 to II.6.

- Because the Reduced Shadow Alternative substantially reduces the residential density and the number of housing units produced at this site, this Alternative is infeasible because it does not fully satisfy General Plan policies such as Housing Element Policies 1.1 and 1.4, among others noted in the Department's staff report accompany the Project Approvals on the Determination of Compliance with Section 309, among other approvals. The Project site is well-served by transit, services and shopping and is suited for dense residential development, where residents can commute and satisfy convenience needs without frequent use of a private automobile. The Project Site is located immediately adjacent to employment opportunities within the Downtown Core, and is in an area with abundant local and region-serving transit options, including the future Transit Center. For these reasons, a project with fewer residential units at this site is not compatible with the General Plan and is infeasible.

- The Reduced Shadow Alternative is infeasible because it substantially reduces the residential density and the number of housing units produced at this site, and thus does not meet the Successor Agency's objectives to the extent that the Project does. Among other objectives, the

Existing Zoning Alternative would not stimulate and attractive private investment, sales tax and other General Fund revenues to the extent that the Project would; would not provide temporary and permanent jobs to the extent that the Project would; and due to its reduced height, it may not provide a preeminent building of the same stature as the Project. t

The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Reduced Shadow Alternative.

Alternatives Rejected and Reasons for Rejection

The EIR identifies alternatives that were considered by the Planning Department as lead agency, or the Successor Agency, but were rejected as infeasible during the design development and scoping process, and explains the reasons underlying this determination. Among the factors that were considered include the failure to meet most of the basic objectives of the proposed project and inability to avoid significant environmental impacts. These considered and rejected alternatives are the Off-Site Alternative, a Freestanding Alternative, an Office Use Alternative, and Elliptical Tower Plan Alternative.

1. Off-Site Alternative. An Off-Site Alternative that would consist of a project design and programming similar to the proposed project, but in a different, though comparable in-fill location within the City and County of San Francisco was considered but rejected. An Off-Site Alternative would not meet many of the project objectives, particularly the objective of completing the redevelopment of the Yerba Buena Center Redevelopment Project Area and providing for the development of a museum facility and endowment for The Mexican Museum on the Successor Agency-owned property adjacent to Jessie Square. An Off-Site Alternative was also rejected since it would not include rehabilitation of the Aronson Building. The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Off-Site Alternative.

2. Freestanding Alternative. A Freestanding Alternative that would result in a development on the Mexican Museum parcel of a freestanding museum with no development, including rehabilitation of the Aronson Building, on the 706 Mission Street parcel, was considered and rejected. Construction of a freestanding museum for The Mexican Museum by the prior San Francisco Redevelopment Agency ("SFRA") was considered not financeable because the SFRA did not, and the Successor Agency does not, have sufficient funds to cover the costs of constructing a freestanding museum on that parcel. Also, this alternative would not meet any of the project objectives. Lastly, a Freestanding Alternative was rejected because it would not result in any reduced impacts that are not already being evaluated in other alternatives, such as the Existing Zoning Alternative. The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Freestanding Alternative.

3. Office Use Alternative. An Office Use Alternative that would include only office use in both the proposed tower and Aronson Building was considered and rejected. This alternative was rejected because the proposed project already has an office flex option that includes fewer proposed residential units and office-only use in the existing Aronson Building, and because an Office Use Alternative would generate more peak hour trips than would the proposed project. Further, an Office Use Alternative would not result in any reduced impacts, due to increased trip generation related to a project

containing more office space. In addition, the Office Use Alternative was rejected because it would not meet the Successor Agency's project objective of providing housing in an urban infill location. The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Office Use Alternative.

4. Elliptical Tower Plan. The Environmental Evaluation Application, as originally submitted to the Planning Department in 2008, called for partial demolition of the Aronson Building and construction of a 42-story, approximately 630-foot-tall tower to the west of, adjacent to, and partially within, the Aronson Building at its northwest corner. This scheme was disfavored by Planning Department staff both because of its impacts on the physical integrity of the historic Aronson Building, as well as due to staff concerns regarding aesthetics related to its elliptical tower plan design. The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Elliptical Tower Plan.

Additional Alternatives Proposed by the Public

Various comments have proposed additional alternatives to the project. To the extent that these comments addressed the adequacy of the EIR analysis, they were described and analyzed in the RTC. As presented in the record, the Final EIR reviewed a reasonable range of alternatives, and CEQA does not require the City or the project sponsor to consider every proposed alternative so long as the CEQA requirements for alternatives analysis have been satisfied. For the foregoing reasons, as well as economic, legal, social, technological and/or other considerations set forth herein, and elsewhere in the record, these alternatives are rejected.

VI. Statement of Overriding Considerations

Pursuant to CEQA section 21081 and CEQA Guideline 15093, the Commission hereby finds, after consideration of the Final EIR 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 of the project 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 Final EIR and in the documents found in the administrative record.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, the Commission specifically finds that there are significant benefits 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 mitigation measures proposed in the Final EIR for the proposed Project are adopted as part of this approval action. 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. In addition, the Commission finds that the rejected Project Alternatives are also rejected for the following specific economic, social, or other considerations, in addition to the specific reasons discussed in Section V, above.

- The Project will provide a new permanent home for The Mexican Museum, a longtime cultural attraction of the City. The permanent home of The Mexican Museum will contribute to the City's reputation as home to first class cultural amenities and attractions.

- The Project will provide a $5 million operating endowment for The Mexican Museum to support its ongoing operations.

- The Project will rehabilitate the historic Aronson Building, which is rated "A" (highest importance) by the Foundation for San Francisco's Architectural Heritage and is eligible for listing on the National Register of Historic Places and the California Register of Historical Resources, and which was recently designated as a Category I Significant Building in the expanded New Montgomery-Mission-Second Street Conservation District, and which is in need of repair.

- The Project will create up to 190 new housing units, which will increase the City's and region's housing supply. These new housing units will be in close proximity to transit, employment opportunities, and neighborhood serving retail uses.

- The Project will pay an affordable housing in-lieu fee in an amount equivalent to a 28% housing production requirement, which is substantially in excess of the 20% requirement under the City's Planning Code. The Project's affordable housing in-lieu fee will be used to construct much needed affordable housing in the City.

- The Project will provide additional private funding for operations, management, and security of Yerba Buena Gardens; funding which would not be available without the project.

- The Project will construct a high quality, world-class, mixed-use development, designed by an internationally recognized architecture firm in accordance with sound urban design principles. The Project will create a new mixed-use residential development on an urban infill site in close proximity to transit, the Downtown and SOMA employment centers, the Yerba Buena cultural district, and retail uses.

- The Project's residential tower will be built to at least Leadership in Energy and Environmental Design (LEED) Silver construction standards consistent with the requirements of the Building Code for the City and County of San Francisco (or such higher and additional requirements as adopted by the City and County of San Francisco). The LEED Silver standard will help reduce the City's overall contribution to greenhouse gas emissions and global warming as well as reducing the project's carbon footprint by providing for a highly energy efficient building.

- In redeveloping the project site with a high quality residential development that includes a cultural component and a ground floor retail or restaurant use, the project will further the objectives of the General Plan's Urban Design Element and complete the development of the former Yerba Buena Center Redevelopment Plan.

Agenda Item 1C

Recreation and Park Commission
Resolution 1305-015

HEARING DATE: May 23, 2013

RECOMMENDING TO THE PLANNING COMMISSION THAT THE NET NEW SHADOW CAST BY THE PROPOSED PROJECT AT 706 MISSION STREET WILL NOT HAVE AN ADVERSE IMPACT ON THE USE OF UNION SQUARE PARK, AS REQUIRED BY PLANNING CODE SECTION 295 (THE SUNLIGHT ORDINANCE).

PREAMBLE

Under Planning Code Section 295 (also referred to as Proposition K from 1984), a building permit application for a project exceeding a height of 40 feet cannot be approved if there is any shadow impact on a property under the jurisdiction of the Recreation and Park Department, unless the Planning Commission, upon recommendation from the General Manager of the Recreation and Park Department, in consultation with the Recreation and Park Commission, makes a determination that the shadow impact will not be significant or adverse to the use of the property.

On February 7, 1989, the Recreation and Park Commission and the Planning Commission adopted criteria establishing absolute cumulative limits ("ACL") for additional shadows on 14 parks throughout San Francisco (Planning Commission Resolution No. 11595), as set forth in a February 3, 1989 memorandum (the "1989 Memo"). The ACL for each park is expressed as a percentage of the Theoretically Available Annual Sunlight ("TAAS") on the Park (with no adjacent structures present).

Union Square ("Park"), which is 0.25 miles northwest of 706 Mission Street ("Project Site"), is a public open space that is under the jurisdiction of the Recreation and Park Commission. Union Square is an approximately 2.58-acre park that occupies the entire block bounded by Post Street on the north, Stockton Street on the east, Geary Street on the south, and Powell Street on the west. The plaza is primarily hardscaped and oriented to passive recreational uses, large civic gatherings, and ancillary retail. There are no recreational facilities and some grassy areas exist along its southern perimeter. There are pedestrian walkways and seating areas throughout the park, several retail kiosks, one café on the west side of the park and one cafe on the east side of the park. The park includes portable tables and chairs that can be moved to different locations. A 97-foot-tall monument commemorating the Battle of Manila Bay from the Spanish American War occupies the center of the park. Residents, shoppers, tourists, and workers use the park as an outdoor lunch destination and a mid-block pedestrian crossing. Throughout the year, the park is sunny during the middle of the day; it is shadowed by existing buildings to the east, south, and west during the early morning, late afternoon, and early evening. During the spring and autumn, Union Square is sunny from approximately 9:00 AM until 3:00 PM; it is shadowed by existing buildings during

the early morning, late afternoon, and early evening. During the summer, Union Square is sunny from approximately 10:00 AM until 4:00 PM; it is shadowed by existing buildings during the early morning, late afternoon, and early evening. During the winter, Union Square is mostly sunny from approximately noon until 2:00 PM; it is shadowed by existing buildings during the rest of the day.

Union Square receives about 392,663,521 square-foot-hours ("sfh") of TAAS. Currently, there are about 150,265,376 sfh of existing annual shadow on the Park. The ACL that was established for Union Square in 1989 is additional shadow that was equal to 0.1 percent of the TAAS on Union Square, which is approximately 392,663.5 sfh. Until October of 2012, Union Square had a remaining shadow allocation, or shadow budget, of approximately 323,123.5 sfh. Since the quantitative standard for Union Square was established in 1989, two completed development projects have affected the shadow conditions on Union Square. In 1996, a project to expand Macy's department store altered the massing of the structure and resulted in a net reduction of 194,293 sfh of existing shadow (with a corresponding increase in the amount of sunlight on the park), and in 2003, a project at 690 Market Street added 69,540 sfh of net new shadow on Union Square. Although the Macy's expansion project reduced the amount of existing shadow and increased the amount of available sunlight on Union Square, this amount has not been added back to the shadow budget for Union Square by the Planning Commission and the Recreation and Park Commission to account for these conditions.

Additionally, on October 11, 2012, the Planning Commission and the Recreation and Park Commission held a duly noticed joint public hearing and adopted Planning Commission Resolution No. 18717 and Recreation and Park Commission Resolution No. 1201-001 amending the 1989 Memo and raising the absolute cumulative shadow limits for seven open spaces under the jurisdiction of the Recreation and Park Department that could be shadowed by likely cumulative development sites in the Transit Center District Plan ("Plan") Area, including Union Square. In revising these ACLs, the Commissions also adopted qualitative criteria for each park related to the characteristics of shading within these ACLs by development sites in the Plan Area that would not be considered adverse, including the duration, time of day, time of year, and location of shadows on the particular parks. Under these amendments to the 1989 Memo, any consideration of allocation of "shadow" within these newly increased ACLs for projects within the Plan Area must be consistent with these characteristics. The Commissions also found that the "public benefit" of any proposed project in the Plan Area should be considered in the context of the public benefits of the Transit Center District Plan as a whole. During a joint public hearing on October 11, 2012, the Planning Commission and the Recreation and Park Commission increased the ACLs for seven downtown parks, including Union Square, to allow for shadow cast by development proposed under the Transit Center District Plan (TCDP). The ACL for Union Square was increased from the original limit of 0.1 percent of the TAAS (approximately 392,663.5 sfh) to 0.19 percent of the TAAS (approximately 746,060.7 sfh), but all of the available shadow budget within this ACL was reserved for development within the Plan Area.

On October 11, 2012, following the joint hearing regarding the TCDP, the Recreation and Park Commission reviewed the shadow impacts of the proposed Transbay Tower at 101 First Street and made a formal recommendation to the Planning Commission to allocate a portion of the newly adopted ACL for Union Square to the Transbay Tower. On October 18, 2012, the Planning Commission allocated a portion of the newly adopted ACL to the Transbay Tower (Motion No. 18724, Case No. 2008.0789K).

On November 15, 2012, the Recreation and Park Commission made a formal recommendation to the Planning Commission to allocate a portion of the newly adopted ACL for Union Square to a proposed project at 181 Fremont Street. On December 6, 2012, the Planning Commission allocated a portion of the newly adopted ACL to 181 Fremont Street. As a result of these actions, the remaining ACL for Union Square is 0.1785 percent of the TAAS, which means that approximately 700,904.4 sfh of net new shadow could be cast on Union Square by other development proposed under the TCDP (Motion No. 18763, Case No. 2007.0456K).

On September 25, 2008, Sean Jeffries of Millennium Partners, acting on behalf of 706 Mission Street, LLC ("Project Sponsor") submitted a request for review of a development exceeding 40 feet in height, pursuant to Section 295, analyzing the potential shadow impacts of the Project to properties under the jurisdiction of the Recreation and Parks Department (Case No. 2008.1084K). Department staff prepared a shadow fan depicting the potential shadow cast by the development and concluded that the Project could have a potential impact to properties subject to Section 295.

On October 24, 2012, the Project Sponsor filed an application with the Planning Department ("Department") for a Determination of Compliance pursuant to Planning Code Section ("Section") 309 with requested Exceptions from Planning Code ("Code") requirements for "Reduction of Ground-Level Wind Currents in C-3 Districts", "Off-Street Parking Quantity", "Rear Yard, and "General Standards for Off-Street Parking and Loading" to allow curb cuts on Third and Mission Streets, for a project to rehabilitate an existing 10-story, 144-foot-tall building (the Aronson Building), and construct a new, adjacent 47-story tower, reaching a roof height of 520 feet with a 30-foot tall mechanical penthouse. The two buildings would be connected and would contain up to 215 dwelling units, a "core-and-shell" museum space measuring approximately 52,000 square feet, and approximately 4,800 square feet of retail space. The project would reconfigure portions of the existing Jessie Square Garage to increase the number of parking spaces from 442 spaces to 470 spaces, add loading and service vehicle spaces, and would allocate up to 215 parking spaces within the garage to serve the proposed residential uses. The Project Sponsor has proposed a "flex option" that would retain approximately 61,000 square feet of office uses within the existing Aronson Building, and would reduce the residential component of the project to 191 dwelling units. On May 20, 2013, the Project Sponsor reduced the height of the proposed tower from 520 feet (with a 30-foot-tall elevator/mechanical penthouse) to 480 feet (with a 30-foot-tall elevator/mechanical penthouse). As a result, the number of dwelling units in the Project was reduced from a maximum of 215 dwelling units to a maximum of 190 dwelling units, the number of residential parking spaces was reduced from a maximum of 215 spaces to a maximum of 190 spaces, and the "flex option" of retaining office space within the project was deleted. The project is located at 706 Mission Street, Lots 093, 276, and portions of Lot 277 within Assessor's Block 3706 ("Project Site"), within the C-3-R District and the 400-I Height and Bulk District (collectively, "Project", Case No. 2008.1084X).

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

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

On October 24, 2012, the submitted a request to amend Zoning Map SU01 and the text of the Planning Code to establish the "Yerba Buena Center Mixed-Use Special Use District" (SUD) on the property. The proposed SUD would modify specific Planning Code regulations related to permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations (Case No. 2008.1084T). On April 11, 2013, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting and adopted Resolution No. 18879, recommending that the Board of Supervisors approve the requested Height Reclassification and Planning Code Text Amendment.

A technical memorandum, prepared by Turnstone Consulting, was submitted on June 9, 2011, analyzing the potential shadow impacts of the Project (at its originally proposed 520-foot roof height) to properties under the jurisdiction of the Recreation and Parks Department (Case No. 2008.1084K). The memorandum concluded that the Project would cast 337,744 sfh of net new shadow on Union Square on a yearly basis, which would be an increase of about 0.09% of the TAAS on Union Square for projects outside of the TCDP. On May 21, 2013, a technical memorandum prepared by Turnstone Consulting was submitted analyzing the shadow impacts of the Project on Union Square, based on the reduced 480-foot roof height. The memorandum concluded that the Project would cast 238,788 sfh of net new shadow on Union Square on a yearly basis, which would be an increase of about 0.06% of the TAAS on Union Square. The reduction in the height of the tower results in a reduction of approximately 29% of net new shadow compared with the Project's original design.

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

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

The EIR concludes that the Project would not result in a project-specific significant shadow impact to recreation facilities or other public areas. With respect to Union Square, the EIR indicates that the net new shadow would be of limited duration and the new shadowing would occur at times when the use of Union Square is limited. The EIR concludes that the Project would, however, make a cumulatively

considerable contribution to a significant cumulative shadow impact on public opens spaces when taking into account other reasonably foreseeable future projects, such as the Transit Tower and the Palace Hotel Project, that would also result in new shadowing of public areas, including Union Square.

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

As part of their actions on October 11, 2012 to increase the ACLs for seven downtown parks, the Planning Commission and the Recreation and Park Commission designated the ACLs exclusively for projects that meet the criteria set forth in the TCDP. Projects that do not meet the criteria set forth in the TCDP may not utilize any portion of the amended ACLs if they cast net new shadow on any of the seven downtown parks for which the ACLs were amended. Such projects would be required to seek their own amendments to the ACLs for these seven downtown parks. The Project is located outside the Plan area and is not eligible to utilize newly adopted ACL on the Park.

On May 23, 2013, the Planning Commission adopted Motion No. 18875, adopting CEQA findings, including a Statement of Overriding Considerations, and adopting the Mitigation Monitoring and Reporting Program ("MMRP"), which findings and adoption of the MMRP are hereby incorporated by reference as though fully set forth herein. The Planning Commission found that the reduction in the height of the Project has resulted in no substantial changes that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR, no new information has become available that was not known and could not have been known at the time the Final EIR was certified as complete and that would result in new substantially more severe significant environmental impacts not evaluated in the Final EIR, and no mitigation measures or alternatives previously found infeasible would be feasible or mitigation measures or alternatives considerably different than those analyzed in the Final EIR would substantially reduce significant environmental impacts, but the project proponent declines to adopt them.

The Recreation and Parks Department Commission Secretary, Margaret McArthur, is the custodian of records for this action, and such records are located at 501 Stanyan Street, San Francisco, CA.

The Planning Commission and the Recreation and Park Commission held a duly advertised joint public hearing on May 23, 2013 and adopted Recreation and Park Commission Resolution No. 1305-4015 and Planning Commission Resolution No. 18876, increasing the ACL for Union Square by 0.05 percent of the TAAS for Union Square to account for the additional sunlight that resulted from the Macy's expansion project in 1996, and to increase the ACL an additional 0.01 percent, for a total increase of 0.06 percent of the TAAS for Union Square, for a total of 238,788 sfh of net new shadow (equal to approximately 0.06 percent of the TAAS for Union Square).

The Recreation and Park Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Project.

The Recreation and Park Commission has heard and considered the testimony presented at the public hearing and has further considered the written materials and oral testimony presented on behalf of the Project Sponsor, Department staff, and other interested parties.

RECREATION AND PARK COMMISSION FINDINGS

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

1. The foregoing recitals are accurate, and also constitute findings of this Commission.

2. The additional shadow cast by the proposed Project on Union Square, while numerically significant, would not be adverse to the use of Union Square, and is not expected to interfere with the use of the Park, for the following reasons: (1) the new shadow would not occur after 9:15 a.m. any day of the year (maximum new shadow range would be 8:30 a.m. to 9:15 a.m. during daylight savings time, or 7:30 a.m. to 8:15 a.m. during standard time)) and would be consistent with the 1989 Memo qualitative standards for Union Square in that the new net shadow would not occur during mid-day hours; (2) the new shadow would generally occur in the morning hours during periods of relatively low park usage; (3) the new shadow would occur for a limited amount of time from October 11th to November 8th and from February 2nd to March 2nd for less than one hour on any given day during the hours subject to Section 295; and (4) the new shadow does not affect the manner in which Union Square is used, which is mainly for passive recreational opportunities.

3. A determination by the Planning Commission and/or the Recreation and Park Commission to allocate net new shadow to the Project does not constitute an approval of the Project.

4. The reduction in the height of the Project has resulted in no substantial changes that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR, no new information has become available that was not known and could not have been known at the time the Final EIR was certified as complete and that would result in new substantially more severe significant environmental impacts not evaluated in the Final EIR, and no mitigation measures or alternatives previously found infeasible would be feasible or mitigation measures or alternatives considerably different than those analyzed in the Final EIR would substantially reduce significant environmental impacts, but the project proponent declines to adopt them.

DECISION

Based upon the Record, the submissions by the Project Sponsor and by the staff of the Recreation and Park and Planning Departments, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, the Recreation and Park Commission hereby RECOMMENDS that the Planning Commission find, under Shadow Analysis Application No.

2008.1084K, that the net new shadow cast by the Project on Union Square will not have an adverse impact on the use of Union Square Park.

I hereby certify that the foregoing Resolution was ADOPTED by the Recreation and Commission at the meeting on May 23, 2013.

Margaret McArthur
Commission Secretary

AYES:	6
NOES:	0
ABSENT:	1

ADOPTED: May 23, 2013

SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

June 3, 2013

Ms. Angela Calvillo, Clerk
Honorable Supervisor Chiu
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2008.1084TZ:**
706 Mission Street
T Case: Planning Code Text Amendment and Zoning Map Amendment – Adoption of "Yerba Buena Center Mixed-Use Special Use District"
Z Case: Rezoning (Height Reclassification)
Planning Commission Recommendation: ***Approval***

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2013 JUN -3 AM 11:56

Dear Ms. Calvillo:

On May 23, 2013, the Planning Commission conducted a duly noticed public hearing to consider proposed amendments to the Zoning Map and the Planning Code, in association with a proposed development located at 706 Mission Street to rehabilitate the existing 10-story, 144-foot tall Aronson Building, and construct a new, adjacent 43-story tower, with a roof height of 480 feet and an additional 30-foot tall mechanical penthouse (for a maximum height of 510 feet). The two buildings would be connected and would contain up to 190 dwelling units, a "core-and-shell" museum space measuring approximately 52,000 square feet that will house the permanent home of the Mexican Museum, and approximately 4,800 square feet of retail space. The project would reconfigure portions of the existing Jessie Square Garage to increase the number of parking spaces from 442 spaces to 470 spaces, add loading and service vehicle spaces, and would allocate up to 190 parking spaces within the garage to serve the proposed residential uses.

It should be noted that, since the publication of the initial Planning Commission staff report (including the attached Executive Summary), the Project Sponsor reduced the height of the proposed tower from a maximum roof height of 520 feet, to a roof height of 480 feet. The roofline profile of the tower would not change, with the top of the mechanical penthouse reaching a height of 510 feet (reduced from a previous height of 550 feet). No other changes to the tower envelope or architectural expression are proposed. The reduction in tower height would also reduce the number of dwelling units from a range of 162 to 215 units in the initial proposal, to a range of 145 to 190 units. As a result of the reduced height, the Project sponsor is no longer seeking approval of the "office flex" option described in the Executive Summary.

The proposed Ordinance would do the following:

1. Zoning Map Amendments: Proposal would amend Zoning Map HT01 to reclassify the subject property from the 400-I Height and Bulk District to the 480-I Height and Bulk District, and would amend Zoning Map SU01 to establish the "Yerba Buena Center Mixed-Use Special Use District" on the subject property.

2. Planning Code Text Amendment: Proposal would add the "Yerba Buena Center Mixed-Use Special Use District" to the Planning Code, specify permitted uses and required cultural uses, and modify specific Planning Code regulations including Floor Area Ratio ("FAR") limitations, dwelling unit exposure, rooftop screening features, bulk limitations, curb cuts on Mission on Third Streets, and dwelling unit density. In addition, the SUD is proposed with a five-year sunset provision.

At the May 23, 2013 Planning Commission hearing, the Commission voted to recommend approval of the proposed Ordinance.

Please find attached documents relating to the action of the Commission. Additional supporting documents will be transmitted under separate cover, prior to any Land Use Committee hearing on these items. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

John Rahaim
Director of Planning

cc:
Jon Givner, City Attorney
Susan Cleveland-Knowles, City Attorney
Marlena Byrne, City Attorney
Jason Elliot, Mayor's Director of Legislative & Government Affairs

Attachments (two hard copies of the following):
Planning Commission Resolution
Draft Ordinance
Planning Department Executive Summary

SAN FRANCISCO
PLANNING DEPARTMENT

Subject to: (Select only if applicable)
☑ Inclusionary Housing
☐ Childcare Requirement
☐ Jobs Housing Linkage Program
☐ Downtown Park Fee
☑ Public Art
☐ Public Open Space
☑ First Source Hiring (Admin. Code)
☑ Transit Impact Development Fee
☐ Other

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion 18875
CEQA Findings

HEARING DATE: MAY 23, 2013

Date:	March 28, 2013
Case No.:	2008.1084EHKXRTZ
Project Address:	706 Mission Street
Project Site Zoning:	C-3-R (Downtown, Retail, Commercial) 400-I Height and Bulk District
Block/Lots:	3706/093, 275, portions of 277 (706 Mission Street) 0308/001 (Union Square)
Project Sponsor:	~~706~~ Mission Street, LLC c/o Sean Jeffries of Millennium Partners 735 Market Street, 4th Floor San Francisco, CA 94107
Staff Contact:	Kevin Guy – (415) 558-6163 Kevin.Guy@sfgov.org

ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, INCLUDING FINDINGS OF FACT, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, AND STATEMENT OF OVERRIDING CONSIDERATIONS, RELATED TO APPROVALS FOR A PROJECT TO REHABILITATE AN EXISTING 10-STORY, 144-FOOT TALL BUILDING (THE ARONSON BUILDING), AND CONSTRUCT A NEW, ADJACENT 43-STORY TOWER, REACHING A ROOF HEIGHT OF 480 FEET WITH A 30-FOOT TALL MECHANICAL PENTHOUSE. THE TWO BUILDINGS WOULD BE CONNECTED AND WOULD CONTAIN UP TO 190 DWELLING UNITS, A "CORE-AND-SHELL" MUSEUM SPACE MEASURING APPROXIMATELY 52,000 SQUARE FEET, AND APPROXIMATELY 4,800 SQUARE FEET OF RETAIL SPACE. THE PROJECT WOULD RECONFIGURE PORTIONS OF THE EXISTING JESSIE SQUARE GARAGE TO INCREASE THE NUMBER OF PARKING SPACES FROM 442 SPACES TO 470 SPACES, ADD LOADING AND SERVICE VEHICLE SPACES, AND WOULD ALLOCATE UP TO 190 PARKING SPACES WITHIN THE GARAGE TO SERVE THE PROPOSED RESIDENTIAL USES. THE PROJECT SITE IS LOCATED AT 706 MISSION STREET (ASSESSOR'S BLOCK 3706, LOTS 093, 275, AND PORTIONS OF LOT 277), WITHIN THE C-3-R (DOWNTOWN OFFICE) DISTRICT AND THE 400-I HEIGHT AND BULK DISTRICT.

In determining to approve a the 706 Mission Street – The Mexican Museum and Residential Tower Project located at 706 Mission Street (Assessor's Block 3706, Lots 093, 275, and 277 (portion)), described in Section I, Project Description below, ("Project"), the San Francisco Planning Commission ("Commission") makes and adopts the following findings of fact regarding the Project and mitigation measures and alternatives, and adopts the statement of overriding considerations and the Mitigation Monitoring and Reporting Program, 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. ("Guidelines"), particularly Section 15091 through 15093 and Chapter 31 of the San Francisco Administrative Code.

This document is organized as follows:

Section I provides a description of the Project, the Project Objectives, the environmental review process for the Project, the approval actions to be taken, and the location of records;

Section II identifies the impacts found not to be significant that do not require mitigation;

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

Section IV identifies significant, unavoidable wind and shadow impacts (specifically cumulative shadow impacts), of the Project that cannot be avoided or reduced to less-than-significant levels through Mitigation Measures;

Section V evaluates the different project alternatives and the economic, legal, social, technological, and other considerations that support approval of the Project as proposed and the rejection of these alternatives; and

Section VI makes a Statement of Overriding Considerations setting forth the specific economic, legal, social, technological, or other benefits of the Project that outweigh the significant and unavoidable adverse environmental effects and support the rejection of the project alternatives.

The **Mitigation Monitoring and Reporting Program ("MMRP")** for the mitigation measures that have been proposed for adoption is attached with these findings as Exhibit A. The MMRP is required by CEQA.

Section 21081.6 and CEQA Guidelines Section 15091. The MMRP provides a table setting forth each mitigation measure listed in the Final Environmental Impact Report for the Project ("Final EIR") that is required to reduce or avoid a significant adverse impact. The MMRP 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 is set forth in the MMRP.

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 Draft Environmental Impact

Report ("Draft EIR" or "DEIR") or the Responses to Comments ("RTC"), which together comprise the Final EIR, are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

MOVED, that the Commission has reviewed and considered the Final EIR and the record associated therewith, including the comments and submissions made to this Commission, and based thereon hereby adopts these findings under the California Environmental Quality Act, including rejecting alternatives as infeasible and adopting a Statement of Overriding Considerations, and adopts the MMRP attached as Exhibit A to Motion No. 18875 based on the following findings:

I. Project Description

A. 706 MISSION STREET – THE MEXICAN MUSEUM AND RESIDENTIAL TOWER PROJECT

The project site is on the northwest corner of Third and Mission Streets, at 706 Mission Street. It consists of three lots: the entirety of Assessor's Block 3706, Lots 093 and 275, and portions of Assessor's Block 3706, Lot 277. Together, these lots cover an area of approximately 63,468 square feet or approximately 1.45 acres. The area of the project site includes the below-grade publically-owned Jessie Square Garage, which would become private by conveyance to the project sponsor.

Lot 093, an approximately 15,460 square foot, rectangular parcel is currently developed with the 10-story, 154-foot-tall Aronson Building (a 144-foot-tall building with a 10-foot-tall mechanical penthouse). The building was originally constructed in 1903, and two annexes were added in 1978. The Aronson Building is rated "A" (highest importance) by the Foundation for San Francisco's Architectural Heritage, and it is eligible for listing on the National Register of Historic Places and the California Register of Historical Resources. The Aronson Building is also designated as a Category I Significant Building within the New Montgomery-Mission-Second Street Conservation District. Including the annexes, the Aronson Building contains a total of approximately 120,340 gross square feet (gsf), with approximately 13,700 gsf of storage and utility space in the basement, an approximately 10,660-gsf retail space on the ground floor, which is currently occupied by a Rochester Big & Tall retail clothing store, and approximately 95,980 gsf of office space on the second through tenth floors. Including the annexes, the Aronson Building covers approximately 74 percent of Lot 093.

Lot 275 is occupied by the existing ramp that provides vehicular access from Stevenson Street to the subsurface Jessie Square Garage. This lot has an area of approximately 1,635 square feet.

A currently vacant approximately 9,780 square foot portion of Lot 277 is the future permanent home of The Mexican Museum (Mexican Museum parcel). The subsurface Jessie Square Garage is the other portion of Lot 277 that makes up the project site. The Jessie Square Garage contains 442 parking spaces within a footprint of approximately 45,310 square feet. Currently, vehicles enter the Jessie Square Garage from Stevenson Street and exit onto either Stevenson or Mission Streets.

Prior to project approval, the Project Sponsor proposed modifications to the project to reduce the height of the proposed tower from 520 feet (with a 30-foot-tall elevator/mechanical penthouse) to 480 feet (with a

30-foot-tall elevator/mechanical penthouse). The project described here includes these, and other conforming, modifications. Thus, the proposed project would include a 43-story, 480-foot-tall tower (with a 30-foot-tall elevator/mechanical penthouse), with two floors below grade on The Mexican Museum parcel and the western portion of the Aronson Building parcel. The new tower would be west of, adjacent to, and physically connected to the existing Aronson Building. The overall project would contain space for The Mexican Museum, a ground-floor retail/restaurant use, up to 190 residential units, and associated building services.

In the proposed tower, there would be up to 39 floors of residential space, including mechanical areas, and four floors of museum space. The Mexican Museum would occupy the ground through fourth floors, and residential uses would occupy the fifth through thirty-ninth floors. The fifth floor of the tower would be occupied by residential or residential amenity space, unless the residential amenity space is on the tenth floor of the Aronson Building as discussed below. Approximately 2,100 gsf on Basement Level B2 would be allocated to The Mexican Museum for storage. About 15,900 gsf on Basement Levels B1 and B2 would be occupied by the elevator core and building services.

As part of the proposed project, the historically important Aronson Building would be restored and rehabilitated, and the existing mechanical penthouse on the roof of the Aronson Building would be removed. The Aronson Building currently contains approximately 10,660 gsf of retail space on the ground floor and approximately 95,980 gsf of office space on the second through tenth floors. With the proposed project, the Aronson Building would have lobby space and retail/restaurant space on the ground floor. The Mexican Museum would occupy the second and third floors and possibly some or all of the ground floor of the Aronson Building. The fourth through tenth floors of the Aronson Building would be residential. A proposed "office flex option" that would have allowed these floors of the Aronson Building to be used as office space was eliminated as part of the Project Sponsor's proposed project changes. Building services would occupy a small portion of each floor.

The Jessie Square Garage would be reconfigured to include 470 spaces, of which up to 280 would be made available to the general public. Under the proposed project, all non-project vehicles would continue to enter the Jessie Square Garage from Stevenson Street. Project residents would have the option of parking their own vehicles or using a valet service. Project residents who choose to park their own vehicles would be required to enter the garage from Stevenson Street; they would not be allowed to access the project site from Third Street using the car elevators to enter the garage. Project residents who choose to use the valet service would drive onto the project site from Third Street using the existing curb cut and driveway. As under current conditions, all loading trucks would exit the Jessie Square Garage onto Stevenson Street only, but delivery vans, service vehicles, and all other vehicles would have the option of exiting the garage onto either Stevenson or Mission Streets.

While several vehicular access variants to the proposed project were analyzed in the EIR, none of them are being approved by this Commission or any other City decision-maker. Because of this, these findings do not address the significant and unavoidable impacts that the Final EIR identified would result if the vehicular access variants were to be approved.

B. SUCCESSOR AGENCY PROJECT OBJECTIVES

The objectives of the Successor Agency are as follows:

- To complete the redevelopment of the Yerba Buena Center (YBC) Redevelopment Project Area envisioned under the *Yerba Buena Center Redevelopment Plan*.
- To stimulate and attract private investment and generate sales taxes and other General Fund revenues from new uses on the project site, thereby improving the City's overall economic health, employment opportunities, tax base, and community economic development opportunities.
- To provide for the development of a museum facility and an endowment for The Mexican Museum on Successor Agency-owned property located adjacent to Jessie Square, at the heart of San Francisco's cultural district location, in a manner that is consistent with *General Plan* Policy VI-1.9, to "create opportunities for private developers to include arts spaces in private developments city-wide."
- To ensure construction of a preeminent building with a superior level of design for this important site across from Yerba Buena Gardens and adjacent to Jessie Square in a manner that complements the landscaping and design of Jessie Square.
- To provide housing in an urban infill location to help alleviate the effects of suburban sprawl.
- To provide temporary and permanent employment and contracting opportunities for minorities, women, qualified economically disadvantaged individuals, and other residents both in the South of Market area and in the City generally, in a manner consistent with the City's current and future equal opportunity programs.
- To create a development that is financially feasible and that can fund the project's capital costs and ongoing operation and maintenance costs related to the redevelopment and long-term operation of the Mexican Museum parcel without reliance on public funds.
- To maximize the quality of the pedestrian experience along Mission Street and Third Street, while maintaining accessibility to the project site for automobiles and loading.
- To transfer ownership of the Jessie Square Garage to a private entity, while providing adequate parking in the Jessie Square Garage for the Contemporary Jewish Museum, St. Patrick's Church, The Mexican Museum, and the public.
- To provide for rehabilitation of the historically important Aronson Building.
- To secure funding for new and affordable below-market rate units beyond the amount currently required by City ordinances.
- To secure additional funding for operations, management, and security of Yerba Buena Gardens.

C. PROJECT SPONSOR OBJECTIVES

The objectives of the project sponsor, 706 Mission Street Co., LLC, are as follows:

- To construct a residential building of superior quality and design that complements and is generally consistent with the downtown area, furthering the objectives of the *General Plan's* Urban Design Element and the *Yerba Buena Center Redevelopment Plan.*

- To redevelop the project site with a high-quality residential development that includes a ground-floor retail or restaurant use.

- To provide housing in downtown San Francisco that is accessible to local and regional transit, as well as cultural amenities and attractions, such as performing art centers, and art museums and exhibitions.

- To rehabilitate the historically important Aronson Building.

- To design and construct the project to a minimum of Leadership in Energy and Environmental Design (LEED) Silver standards (or such higher and additional requirements as adopted by the City and County of San Francisco), thereby reducing the project's carbon footprint and maximizing the energy efficiency of the building.

- To develop a project that is financially feasible and financeable, and to create a level of development sufficient to support the costs of providing the public benefits delivered by the project, including space and funding for The Mexican Museum; rehabilitation of the historically important Aronson Building; funding of affordable, below-market-rate housing; and funding for the maintenance of Yerba Buena Gardens, and that can fund project costs.

- To provide adequate parking and vehicular access to serve the needs of project residents and their visitors.

D. PLANNING AND ENVIRONMENTAL REVIEW PROCESS

The Project Sponsor submitted an Environmental Evaluation application for the project on June 30, 2008. The Environmental Evaluation application was revised on December 7, 2009, and again on March 5, 2012, to reflect design changes to the proposed project. The San Francisco Planning Department (the "Department") determined that an Environmental Impact Report was required and published and distributed a Notice of Preparation of an EIR ("NOP ") on April 13, 2011. The NOP is Appendix A to the Draft EIR. The public review period on the NOP began on April 14, 2011, and ended on May 13, 2011.

The Department published a Draft Environmental Impact Report (DEIR) on June 27, 2012. The Commission held a public hearing to solicit testimony on the DEIR on July 27, 2013. The Department received written comments on the DEIR from June 28, 2012, to August 13, 2012. The Department published the Responses to Comments on March 7, 2013. The DEIR, together with the Responses to Comments constitute the Final EIR. The FEIR was certified by Planning Commission on March 21, 2013,

by Motion No. 18829. Certification of the FEIR was appealed to the Board of Supervisors. On May 7, 2013, the Board of Supervisors rejected the appeal and affirmed the certification of the FEIR.

E. APPROVAL ACTIONS

1. *Actions by the Planning Commission*

- Certification of the Final EIR on March 21, 2013, by Planning Commission Motion No. 18829;

- General Plan referral to determine project consistency with the General Plan and the Priority Policies.

- Recommend approval to the Board of Supervisors of a Zoning Map amendment to reclassify the existing 400-foot height limit for the project site, shown on Zoning Map Sheet HT01, and to amend Zoning Map Sheet SU01 to show the Special Use District.

- Recommend approval to the Board of Supervisors of a Special Use District to address Floor Area Ratio, height, and other land use controls for the project site, which may include additional provisions regarding permitted uses, the provision of cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations.

- Approval of a Section 309 Determination of Compliance and Request for Exceptions for the construction of a new building in a C-3 District.

- Approval of amendment of the quantitative shadow standard for Union Square that was established on February 7, 1989, pursuant to Planning Commission Resolution No. 11595; and Section 295 shadow significance determination and allocation to project.

2. *Action by this Historic Preservation Commission*

- Approval of a Major Permit to Alter pursuant to Article 11 of the Planning Code.

3. *Actions by the Board of Supervisors*

- The Planning Commission's certification of the Final EIR was appealed to the Board of Supervisors, and on May 7, 2013, the Board of Supervisors upheld the certification of the Final EIR.

- Adoption of a Zoning Map amendment to reclassify the existing 400-foot height limit for the project site, shown on Zoning Map Sheet HT01, and to amend Zoning Map Sheet SU01 to show the Special Use District.

- Adoption of a Special Use District to address Floor Area Ratio, height, and other land use controls for the project site, which may include additional provisions regarding permitted uses,

the provision of cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations.

4. *Actions by the Recreation and Park Commission*

- Approval of amendment of the quantitative shadow standard for Union Square that was established on February 7, 1989, pursuant to Planning Commission Resolution No. 11595;

- Recommendation to the Planning Commission regarding the Section 295 shadow significance determination and allocation to project.

5. *Actions by the Successor Agency to the Redevelopment Agency, and the Oversight Board of the Successor Agency*

- Approval of the Agreement of Purchase and Sale for the Mexican Museum parcel and the Jessie Square Garage.

- Approval of parking structure bond purchase/defeasance documents.

6. Actions by the Department of Public Works

- Approval of the tentative map

7. Actions by the Department of Public Works and the SFMTA Board of Directors

- Approval of a street improvement permit and/or encroachment permit to (1) extend the existing Jessie Square passenger loading/unloading zone on Mission Street by approximately 83 feet, 6 inches to the east, resulting in a 154-foot-long passenger loading/unloading zone; and (2) designate the curb along Third Street in front of the project site as a white zone for passenger loading/unloading.

8. Actions by the Department of Building Inspection

- Approval of the site permit

- Approval of demolition, grading, and building permits

9. Actions by the San Francisco Public Utilities Commission

- Approval of compliance with requirements of the Stormwater Management Ordinance for projects with over 5,000 square feet of disturbed ground area.

F. LOCATION AND CUSTODIAN OF RECORDS

The public hearing transcript, a copy of the letters regarding the Draft EIR received during the public review period, the administrative record, and background documentation for the FEIR are located at the Planning Department, 1650 Mission Street, San Francisco. The Commission Secretary is the custodian of records for the Planning Department and the Commission.

These findings are based upon substantial evidence in the entire record before the Commission.

G. FINDINGS REGARDING PROJECT MODIFICATIONS

As noted above, prior to project approval, the Project Sponsor proposed modifications to the project to reduce the height of the proposed tower from 520 feet (with a 30-foot-tall elevator/mechanical penthouse) to 480 feet (with a 30-foot-tall elevator/mechanical penthouse). The project described here includes these, and other conforming, modifications. Thus, the proposed project would include a 43-story, 480-foot-tall tower (with a 30-foot-tall elevator/mechanical penthouse), with two floors below grade on The Mexican Museum parcel and the western portion of the Aronson Building parcel. The overall project would contain space for The Mexican Museum, a ground-floor retail/restaurant use, up to 190 residential units, and associated building services.

The Commission finds that the Project as currently proposed with a height reduction to 480 feet, with a 30-foot-tall elevator/mechanical penthouse, and conforming reductions in unit count, among other conforming changes, is within the scope of the project analyzed in the Final EIR. The Commission finds that the reduction in the height of the Project has resulted in no substantial changes that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR, no new information has become available that was not known and could not have been known at the time the Final EIR was certified as complete and that would result in new substantially more severe significant environmental impacts not evaluated in the Final EIR, and no mitigation measures or alternatives previously found infeasible would be feasible or mitigation measures or alternatives considerably different than those analyzed in the Final EIR would substantially reduce significant environmental impacts, but the project proponent declines to adopt them. The Commission finds that no supplemental or subsequent EIR is needed and no addendum to the EIR is needed to augment the analysis presented in the Final EIR for the Proposed Project.

II. Impacts Found Not to Be Significant And Thus Do Not Require Mitigation

Under CEQA, no mitigation measures are required for impacts that are less than significant (Pub. Res. Code, § 21002; CEQA Guidelines, § 15126.4, subd. (a)(3), 15091). As more fully described in the Final EIR and based on substantial evidence in the whole record of this proceeding, the Commission hereby finds 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. LAND USE AND LAND USE PLANNING

- **Impact LU-1:** The proposed project would not physically divide an established community.

- **Impact LU-2:** The proposed project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.
- **Impact LU-3:** The proposed project would not have a substantial adverse impact on the character of the vicinity.
- **Impact C-LU-1:** The proposed project, in combination with past, present, or reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to significant adverse cumulative land use impacts related to a physical division of an established community; to conflicts with applicable land use plans, policies, or regulations of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; and to the existing character of the vicinity.

B. AESTHETICS

- **Impact AE-1:** The proposed project would not have a substantial adverse effect on a scenic vista.
- **Impact AE-2:** The proposed project tower would not have a substantial adverse effect on a scenic resource.
- **Impact AE-3:** The proposed project would not have a substantial adverse effect on the visual character or quality of the site and its surroundings.
- **Impact AE-4:** The proposed project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area or which would substantially impact other people or properties.
- **Impact C-AE-1:** The proposed project, in combination with past, present and reasonably foreseeable future projects in the project vicinity, would not make a cumulatively considerable contribution to a significant impact related to aesthetics.

C. POPULATION AND HOUSING

- **Impact PH-1:** The proposed project would not induce substantial population growth in an area, either directly or indirectly.
- **Impact PH-2:** The proposed project would not displace substantial numbers of existing housing units or create demand for additional housing, necessitating the construction of replacement housing elsewhere.
- **Impact PH-3:** The proposed project would not displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.
- **Impact C-PH-1:** The proposed project, in combination with past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to significant adverse cumulative impacts related to population growth, housing, and employment, either directly or indirectly.

D. CULTURAL AND PALEONTOLOGICAL RESOURCES

- **Impact CP-5:** The proposed rehabilitation, repair and reuse of the Aronson Building under the proposed project would not cause a substantial adverse change in the significance of the Aronson Building as a historical resource under CEQA.

- **Impact CP-6:** The proposed project tower would not cause a substantial adverse change in the significance of the Aronson Building historical resource.
- **Impact CP-7:** The proposed project tower would not cause a substantial adverse change in the significance of nearby historical resources.
- **Impact C-CP-2:** The proposed project, in combination with other past, present, and reasonably foreseeable future projects in the project vicinity, would not have a cumulatively considerable contribution to a significant impact on historic architectural resources.

E. TRANSPORTATION AND CIRCULATION

- **Impact TR-1:** The proposed project would not cause a substantial increase in traffic that would cause the level of service to decline from LOS D or better to LOS E or F, or from LOS E to F at seven intersections studied in the project vicinity.
- **Impact TR-2:** The proposed project would not cause a substantial increase in transit demand that could not be accommodated by adjacent transit capacity; nor would it cause a substantial increase in delays or costs such that significant adverse impacts in transit service levels could occur.
- **Impact TR-3:** The proposed project would not result in substantial overcrowding on public sidewalks, nor create potentially hazardous conditions for pedestrians, or otherwise interfere with pedestrian accessibility to the site and adjoining areas.
- **Impact TR-4:** The proposed project would not create potentially hazardous conditions for bicyclists, or otherwise substantially interfere with bicycle accessibility to the site and adjoining areas.
- **Impact TR-5:** The loading demand of the proposed project during the peak hour of loading activities would be accommodated within the proposed on-site loading facilities or within convenient on-street loading zones, and would not create potentially hazardous traffic conditions or significant delays involving traffic, transit, bicycles, or pedestrians.
- **Impact TR-6:** Construction and operation of the proposed project would not result in inadequate emergency access.
- **Impact TR-7:** Construction-related impacts of the proposed project would not be considered significant due to their temporary and limited duration.
- **Impact C-TR-1:** The proposed project would not contribute considerably to future cumulative traffic increases that would cause levels of service to deteriorate to unacceptable levels at seven intersections.
- **Impact C-TR-2:** The proposed project would not contribute considerably to cumulative increases in transit ridership that would cause the levels of service to deteriorate to unacceptable levels.
- **Impact C-TR-3:** The construction impacts of the proposed project would not result in a considerable contribution to a significant cumulative impact when combined with other nearby proposed projects due to the temporary and limited duration of the construction of the proposed project and nearby projects.

F. NOISE

- **Impact NO-4:** The proposed project's new residences and cultural uses would not be substantially affected by existing noise levels.
- **Impact C-NO-1:** Construction of the proposed project, in combination with other past, present, and reasonably foreseeable future projects in the project vicinity, would not result in a

cumulatively considerable contribution to significant temporary or periodic increases in ambient noise levels in the project vicinity above levels existing without the proposed project.

- Impact C-NO-3: Operation of the proposed project, in combination with other past, present, and reasonably foreseeable future projects in the project vicinity, would not result in a cumulatively considerable contribution to significant permanent increase in ambient noise levels in the project vicinity above levels existing without the project.
- Impact C-NO-4: Noise from traffic increases generated by the proposed project, when combined with noise from reasonably foreseeable traffic growth forecast to the year 2030, would not contribute considerably to significant cumulative traffic noise impacts.

G. AIR QUALITY

- Impact AQ-1: Construction of the proposed project would not violate an air quality standard or contribute substantially to an existing or projected air quality violation; nor would it result in a cumulatively considerable net increase of criteria air pollutants, for which the project region is in nonattainment under an applicable ambient air quality standard.
- Impact AQ-2: Construction of the proposed project would not expose sensitive receptors to substantial pollutant concentrations of fugitive dust.
- Impact AQ-4: Operation of the proposed project would not violate an air quality standard or contribute substantially to an existing or projected air quality violation; nor would it result in a cumulatively considerable net increase of any criteria air pollutant for which the project region is in nonattainment under an applicable ambient air quality standard.
- Impact AQ-5: Operation of the proposed project would not generate emissions of PM2.5 and toxic air contaminants, including diesel particulate matter, at levels that would expose sensitive receptors to substantial pollutant concentrations.
- Impact AQ-6: Operation of the proposed project would not expose new on-site sensitive receptors to substantial pollutant concentrations.
- Impact AQ-7: Construction and operation of the proposed project would not conflict with or obstruct implementation of the Bay Area 2010 Clean Air Plan (CAP), the applicable air quality plan.
- Impact AQ-8: Construction and operation of the proposed project would not expose a substantial number of people to objectionable odors.
- Impact C-AQ-1: Construction and operation of the proposed project, in combination with other past, present, and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to exposure of sensitive receptors to significant cumulative substantial pollutant concentrations.

H. GREENHOUSE GAS EMISSIONS

- Impact C-GG-1: The proposed project would be consistent with the City's GHG Reduction Plan and the AB 32 Scoping Plan, and would, therefore, not result in a cumulatively considerable contribution to significant cumulative GHG emissions or conflict with any policy, plan, or regulation adopted for the purpose of reducing GHG emissions.

I. WIND AND SHADOW

- Impact WS-1: The proposed project would not alter wind in a manner that substantially affects public areas.

- **Impact C-WS-1:** The proposed project, in combination with past, present, and reasonably foreseeable future projects in the project vicinity, would not make a cumulatively considerable contribution to a significant cumulative wind impact.
- **Impact WS-2:** The proposed project would not create new shadow in a manner that substantially affects outdoor recreation facilities and other public areas.

J. RECREATION

- **Impact RE-1:** The proposed project would not increase the use of existing park and recreational facilities such that substantial physical deterioration of facilities would occur or be accelerated.
- **Impact RE-2:** The proposed project would not require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.
- **Impact RE-3:** The proposed project would not physically degrade existing recreational resources.
- **Impact C-RE-1:** Construction of the proposed project, in combination with past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to significant adverse cumulative impacts on recreational facilities.

K. UTILITIES AND SERVICE SYSTEMS

- **Impact UT-1:** The proposed project would not exceed the wastewater treatment requirements of the Regional Water Quality Control Board.
- **Impact UT-2:** The proposed project would not require or result in the construction of new or the expansion of existing water or wastewater treatment facilities, or stormwater drainage facilities, the construction of which could have significant environmental effects.
- **Impact UT-3:** The proposed project would not result in a determination that there is insufficient capacity in the wastewater treatment system to serve the proposed project's estimated demand in addition to its existing demand.
- **Impact C-UT-1:** Construction of the proposed project, in combination with other past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact regarding the treatment of stormwater runoff or capacity of wastewater treatment facilities or stormwater drainage facilities.
- **Impact UT-4:** The proposed project would be adequately served by existing water entitlements and water supply resources, and would not require new or expanded water supply resources or entitlements.
- **Impact C-UT-2:** Construction of the proposed project, in combination with other past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on water supply.
- **Impact UT-5:** The proposed project would increase the amount of solid waste generated on the project site, but would be adequately served by the City's landfill and would comply with Federal, State, and local statutes and regulations related to solid waste.
- **Impact C-UT-3:** Construction of the proposed project, in combination with other past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on solid waste disposal facilities.

L. PUBLIC SERVICES

- **Impact PS-1:** The proposed project would not increase demand for public services to the extent that new facilities would have to be constructed or existing facilities altered in order to maintain

acceptable service ratios, response times, or other performance objectives for any public services such as police protection, fire protection and emergency services, schools, or libraries.

- Impact C-PS-1: The proposed project, in combination with other past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to significant adverse cumulative impacts that would result in a need for construction of new or physically altered facilities in order to maintain acceptable service ratios, response times, or other performance objectives for any public services, including police protection, fire protection and emergency services, schools, and libraries.

M. BIOLOGICAL RESOURCES

- Impact BI-1: The proposed project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFG or USFWS.
- Impact BI-2: The proposed project would not have a substantial adverse effect on the movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, nor would it impede the use of native wildlife nursery sites.
- Impact BI-3: The proposed project would not conflict with local policies or ordinances protecting biological resources.
- Impact C-BI-1: The proposed project, in combination with past, present and reasonably foreseeable future projects in the project vicinity, would not make a cumulatively considerable contribution to a significant adverse cumulative impact on biological resources.

N. GEOLOGY AND SOILS

- Impact GE-1: The proposed project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture, ground-shaking, liquefaction, or landslides.
- Impact GE-2: The proposed project would not result in substantial soil erosion or loss of topsoil.
- Impact GE-3: The proposed project would not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite landslide, lateral spreading, subsidence, liquefaction or collapse.
- Impact GE-4: The proposed project would not be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property.
- Impact C-GE-1: The proposed project, in combination with other past, present and other reasonably foreseeable future projects in the vicinity, would not result in a cumulatively considerable contribution to significant adverse cumulative impacts with respect to geology, soils, or seismicity.

O. HYDROLOGY AND WATER QUALITY

- Impact HY-1: The proposed project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade water quality.
- Impact HY-2: The proposed project would not substantially deplete groundwater supplies or interfere with groundwater recharge.
- Impact HY-3: The proposed project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner

that would result in substantial erosion or siltation or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or off site.

- **Impact HY-4:** Construction of the proposed project would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.
- **Impact HY-5:** Operation of the proposed project would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.
- **Impact C-HY-1:** The proposed project, in combination with other past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on hydrology and water quality.

P. HAZARDS AND HAZARDOUS MATERIALS

- **Impact HZ-1:** The proposed project would not have a substantial adverse effect on the public or the environment through the routine transport, use, or disposal of hazardous materials.
- **Impact HZ-3:** The proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one quarter mile of an existing or proposed school.
- **Impact HZ-4:** The proposed project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.
- **Impact HZ-5:** The proposed project would not expose people or structures to a risk of loss, injury or death involving fires.
- **Impact C-HZ-1:** The proposed project, when combined with other past, present and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on hazards and hazardous materials.

Q. MINERAL AND ENERGY RESOURCES

- **Impact ME-1:** The proposed project would not have a significant adverse impact on the availability of a known mineral resource and/or a locally important mineral resource recovery site.
- **Impact ME-2:** The proposed project would not have a substantial adverse effect on the use of fuel, water, or energy consumption, and would not encourage activities that could result in the use of large amounts of fuel, water, or energy, or use these in a wasteful manner.
- **Impact C-ME-1:** The proposed project, in combination with other past, present and reasonably foreseeable future projects in the vicinity, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on mineral and energy resources.

R. AGRICULTURAL AND FOREST RESOURCES

- **Impact AG-1:** The proposed project would not have a substantial adverse effect on the conversion of farmland, would not conflict with existing zoning for agricultural use or with a Williamson Act contract, nor involve other changes that would result in conversion of farmland to non-agricultural use.
- **Impact AG-2:** The proposed project would not conflict with existing zoning for, or cause rezoning of, forest land or timberland, nor would it result in the loss of forest land or the conversion of forest land to non-forest use.

- Impact C-AG-1: The proposed project, in combination with other past, present and reasonably foreseeable future projects in the vicinity, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on agricultural resources or forest land or timberland.

III. Potentially Significant Impacts That Are Avoided Or Reduced To A Less-Than-Significant Level And Findings Regarding Mitigation Measures

The following Sections III and IV set forth the Commission's findings about the Final EIR'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 included as part of the Final EIR and adopted by the Commission and other City decision makers as part of the Project. To avoid duplication and redundancy, and because the Commission agrees with, and hereby adopts, the conclusions in the Final EIR, these findings will not repeat the complete analysis and conclusions in the Final EIR, but instead summarizes and incorporates them by reference herein and relies rely upon them as substantial evidence supporting these findings.

In making these findings, the Commission has considered the opinions of City staff and experts, other agencies and members of the public. The Commission finds that the determination of significance thresholds is a judgment decision within the discretion of the City and County of San Francisco; the significance thresholds used in the EIR are supported by substantial evidence in the record, including the expert opinion of the EIR preparers and City staff; and the significance thresholds used in the EIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project.

As set forth below, the Commission adopts and incorporates all of the mitigation measures within its jurisdiction set forth in the Final EIR and the attached MMRP to substantially lessen or avoid the potentially significant and significant impacts of the Project. The Commission and other City decision makers intend to adopt each of the mitigation measures proposed in the Final EIR. Accordingly, in the event a mitigation measure recommended in the Final EIR has inadvertently been omitted in these findings or the MMRP, such mitigation measure 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 Final EIR due to a clerical error, the language of the policies and implementation measures as set forth in the Final EIR shall control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the Final EIR.

The potentially significant impacts of the Project that will be mitigated through implementation of mitigation measures are identified and summarized below along with the corresponding mitigation measures.

A. CULTURAL AND PALEONTOLOGICAL RESOURCES

- **Impact CP-1:** Construction activities for the proposed project would cause a substantial adverse change in the significance of archaeological resources, if such resources are present within the project site.
  - Ground-disturbing construction activity within the project site, particularly within previously undisturbed soils, could adversely affect the significance of archaeological resources by impairing the ability of such resources to convey important scientific and historical information. This effect would be considered a substantial adverse change in the significance of an historical resource and would therefore be a potentially significant impact under CEQA.
  - The following mitigation measures, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact CP-1.
    - **Mitigation Measure M-CP-1a:** Archaeological Test, Monitoring, Data Recovery and Reporting
    - **Mitigation Measure M-CP-1b:** Interpretation
  - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-CP-1a and M-CP-1b would reduce Impact CP-1 to a less-than significant level because Mitigation Measure M-CP-1a would ensure that any potentially affected archaeological deposits would be identified, evaluated, and, as appropriate, subject to data recovery and reporting by a qualified archaeologist under the oversight of the Environmental Review Officer, and Mitigation Measure M-CP-1b would ensure that a plan for the post-recovery interpretation of buried or submerged archaeological resources is developed and implemented with the assistance of qualified archaeologist and under the oversight of the Environmental Review Officer.

- **Impact CP-2:** Construction activities for the proposed project would cause a substantial adverse change in the significance of human remains, if such resources are present within the project site.
  - Ground-disturbing construction activity within the project site, particularly within previously undisturbed soils, could adversely affect the significance of human remains, which would be a potentially significant impact under CEQA.
  - The following mitigation measure, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact CP-2.

- **Mitigation Measure M-CP-1a:** Archaeological Test, Monitoring, Data Recovery and Reporting

- Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-CP-1a would reduce Impact CP-2 to a less-than significant level because the mitigation measure would ensure that the treatment of any human remains and associated or unassociated funerary objects discovered during soil disturbing activities complies with applicable state and federal laws, including 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 NAHC, who would appoint an MLD.

- **Impact CP-3:** Construction activities for the proposed project would cause a substantial adverse change in the significance of paleontological resources, if such resources are present within the project site.
  - Paleontological resources could exist in the Franciscan, and possibly the Colma, Formations that underlie the project site. Project construction activities could disturb and impair the significance of such paleontological resources, which would be a potentially significant impact under CEQA.
  - The following mitigation measure, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact CP-3.
    - **Mitigation Measure M-CP-3:** Paleontological Resources Monitoring and Mitigation Program
  - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-CP-3 would reduce Impact CP-3 to a less-than significant level because the mitigation measure would ensure that a plan for monitoring, recovery, identification, and curation of palenontologic resources would be developed and implemented by a qualified paleontologist under the oversight of the Environmental Review Officer in the event that paleontological resources are present within the project site.

- **Impact CP-4:** Construction activities for the proposed project would disturb unknown resources if any are present within the project site.
  - Construction activities could disturb or remove unknown human remains within the project site, which could materially impair the physical characteristics of the unknown resource, resulting in a potentially significant impact under CEQA.
  - The following mitigation measure, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact CP-4.
    - **Mitigation Measure M-CP-4:** Accidental Discovery
  - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-CP-4 would reduce Impact CP-4 to

a less than significant level because the mitigation measure ensures that all field and construction personnel will be informed of the potential presence of archaeological resources within the project site and the procedures that are to be followed in the event such resources are encountered during construction activities.

- **Impact C-CP-1:** Disturbance of archaeological and paleontological resources, if encountered during construction of the proposed project, in combination with other past, present, and future reasonably foreseeable projects, would make a cumulatively considerable contribution to a significant cumulative impact on archaeological resources.
    - When considered with other past and proposed development projects within San Francisco and the Bay Area region, the potential disturbance of archaeological and paleontological resources within the project site could make a cumulatively considerable contribution to a loss of significant historic and scientific information about California, Bay Area, and San Francisco history and prehistory, which would be a potentially significant impact under CEQA.
    - The following mitigation measures, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact C-CP-1.
        - **Mitigation Measure M-CP-1a:** Archaeological Test, Monitoring, Data Recovery and Reporting
        - **Mitigation Measure M-CP-1b:** Interpretation
        - **Mitigation Measure M-CP-3:** Paleontological Resources Monitoring and Mitigation Program
        - **Mitigation Measure M-CP-4:** Accidental Discovery
    - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-CP-1a, M-CP-1b, M-CP-3, and M-CP-4 would reduce the project's contribution to Impact C-CP-1 to a less than cumulatively considerable level because these mitigation measures would ensure that plans for testing, monitoring, data recovery, documentation and interpretation are approved and implemented to preserve and realize the information potential of archaeological and paleontological resources that may be encountered on the project site.

B. NOISE

- **Impact NO-1:** Construction of the proposed project would generate noise levels in excess of standards established in the San Francisco General Plan or noise ordinance and would result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.
    - The project's demolition, excavation, and building construction activities would temporarily and intermittently increase noise in the project vicinity to levels that could be considered an annoyance by occupants of nearby properties, which would be a potentially significant impact under CEQA. The loudest construction activities, such as installing piles, grading, and excavation, would occur over the first two year of the

construction period, and once the activity is completed, the associated high noise levels would no longer be experienced by the affected sensitive receptors.

- The following mitigation measures, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact NO-1.
  - **Mitigation Measure M-NO-1a:** Reduce Noise Levels During Construction
  - **Mitigation Measure M-NO-1b:** Noise-Reducing Techniques and Muffling Devices for Pile Installation
- Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-NO-1a and M-NO-1b would reduce Impact NO-1 to a less than significant level because Mitigation Measure M-NO-1 would require the project contractor to use equipment with lower noise emissions and sound controls or barriers where feasible, locate stationary equipment as far as possible from sensitive receptors, and designate a noise coordinator, and Mitigation Measure M-NO-1b would require the use of feasible noise-reducing techniques for installing piles. The combination of these measures would decrease construction noise levels and minimize the significant effects.

- **Impact NO-2:** Construction of the proposed project would result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.
  - Proposed project demolition, excavation, and building construction activities would temporarily generate groundborne vibration in the project vicinity that could be considered an annoyance by occupants of adjacent properties, especially residential and cultural uses adjacent to the site, and could also damage nearby structures, with the highest levels of groudbourne vibration expected during demolition and the installation of piles for structural support. This would be a potentially significant impact under CEQA.
  - The following mitigation measures, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact NO-2.
    - **Mitigation Measure M-NO-2a:** Minimize Vibration Levels During Construction
    - **Mitigation Measure M-NO-2b:** Pre-Construction Assessment to Protect Structures from Ground Vibration Associated with Pile Installation
    - **Mitigation Measure M-NO-2c:** Vibration Monitoring and Management Plan
  - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-NO-2a, M-NO-2b, and M-NO-2c would reduce Impact NO-2 to a less than significant level because Mitigation Measure M-NO-2a would provide for a community liaison to respond to and address complaints and require protective construction techniques, Mitigation Measure M-NO-2b would implement a pre-construction assessment and, if needed, monitoring during vibration causing activities to detect ground settlement or lateral movement of structures, and Mitigation Measure M-NO-2c would implement a vibration monitoring and management

plan to avoid any adverse vibration-related impact to historic structures. With implementation of Mitigation Measures M-NO-2a and M-NO-2b, potential vibration impacts in the project vicinity would be reduced to levels that would be less than significant. With implementation of Mitigation Measure M-NO-2c, there would be no significant vibration-related impacts to the Aronson Building.

- **Impact NO-3:** Operation of the proposed project would generate noise levels in excess of standards established in the San Francisco General Plan or noise ordinance and would result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.
    - Operation of the proposed project would introduce additional noise sources to the area, including additional motor vehicle traffic and new mechanical systems, such as ventilation equipment. Although specific information regarding the proposed stationary noise sources is currently not available, building mechanical systems would be capable of generating noise levels in excess of applicable General Plan noise-land use compatibility thresholds on adjacent sensitive receptors, which could result in potentially significant impacts on both the on-site and adjacent noise-sensitive residential and cultural uses.
    - The following mitigation measure, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact NO-3.
        - **Mitigation Measure M-NO-3:** Stationary Operational Noise Sources
    - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-NO-3 would reduce Impact NO-3 to a less than significant level because this mitigation measure would require the screening, shielding, or setting back of stationary noise sources from noise-sensitive receptors, and would require that a qualified acoustical consultant measure the noise levels of operating exterior equipment within three months after its installation.

- **Impact C-NO-2:** Construction of the proposed project, in combination with other past, resent, and reasonably foreseeable future projects in the project vicinity, would result in a cumulatively considerable contribution to significant exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.
    - The project along with other nearby projects such as the SFMOMA Expansion (151 Third Street), the Palace Hotel (2 New Montgomery Street), and the Central Subway project have the potential for cumulatively significant groundborne vibration and noise level impacts, particularly during initial phases of proposed project construction. However, the periods when construction vibration impacts would overlap would be brief and limited, and the overall cumulative construction vibration impacts would not be cumulatively significant.
    - The following mitigation measures, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact C-NO-2.

- **Mitigation Measure M-NO-2a:** Minimize Vibration Levels During Construction
- **Mitigation Measure M-NO-2b:** Pre-Construction Assessment to Protect Structures from Ground Vibration Associated with Pile Installation
- **Mitigation Measure M-NO-2c:** Vibration Monitoring and Management Plan

o Based on the final EIR and the entire administrative record, it is hereby found and determined that with implementation of Mitigation Measures M-NO-2a, M-NO-2b, and M-NO-2c, the proposed project would not result in a cumulatively considerable contribution to significant cumulative impacts associated with groundborne vibration for the reasons discussed under Impact NO-2 above and as more fully set forth in the final EIR.

C. AIR QUALITY

- **Impact AQ-3:** Construction of the proposed project would generate emissions of PM2.5 and toxic air contaminants, including diesel particulate matter, at levels that would expose sensitive receptors to substantial pollutant concentrations.
  - o The Air Quality Technical Report that was prepared for the project found that constructions emissions would exceed the threshold of significance for excess cancer risk at the project MEI if the emissions were not mitigated.
  - o The following mitigation measure, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact AQ-3.
    - **Mitigation Measure M-AQ-3:** Construction Emissions Mitigation
  - o Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-AQ-3 would reduce Impact AQ-3 to a less than significant level because this mitigation measure would require a Construction Emissions Mitigation Plan designed to reduce construction-related diesel particulate matter emissions from off-road construction equipment used at the site by at least 65 percent as compared to the construction equipment list, schedule, and inventory provided by the sponsor on May 27, 2011, which would bring emissions below the threshold of significance for excess cancer risk.

D. HAZARDS AND HAZARDOUS MATERIALS

- **Impact HZ-2:** The proposed project would have a substantial adverse effect on the public or the environment through the accidental release of hazardous materials into the environment.
  - o In order to construct the proposed tower, excavation to a depth of approximately 41 feet below the surface on the west side of the Aronson Building would be required, which could have the potential to expose the public and environment to contaminants in the soil.
  - o The following mitigation measure, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided herein, to mitigate the potentially significant impact of Impact HZ-2.

- **Mitigation Measure M-HZ-2:** Hazardous Materials – Testing for and Handling of Contaminated Soil

  - Based on the final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-HZ-2 would reduce Impact HZ-2 to a less than significant level because this mitigation measure would require soil testing for contaminants of concern, preparation of a Soil Mitigation Plan for managing contaminated soils on the site, and protocols for the handling, hauling, and disposal of contaminated soils, which would reduce the potential for exposure of the public and the environment to a less than significant level.

The Project Sponsor has agreed to implement all mitigation measures identified in the Final EIR for the project. The required mitigation measures are fully enforceable and will be included as conditions of approval by and the Commission and other City decision makers. Pursuant to CEQA Section 21081.6, adopted mitigation measures will be implemented and monitored as described in the MMRP, which is incorporated herein by reference.

With the required mitigation measures, all potential project impacts, with the exception of impacts described in Section IV below, would be avoided or reduced to a less-than-significant level.

As authorized by CEQA Section 21081 and CEQA Guidelines Section 15091, 15092, and 15093, based on substantial evidence in the whole record of this proceeding, the City finds that, unless otherwise stated, all of the changes or alterations to the Project identified in the mitigation measures have been or will be required in, or incorporated into, the project to mitigate or avoid the significant or potentially significant environmental impacts listed herein, as identified in the Final EIR, that these mitigation measures will be effective to reduce or avoid the potentially significant impacts as described in the EIR, and these mitigation measures are feasible to implement and are within the responsibility and jurisdiction of the City and County of San Francisco to implement or enforce.

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 Commission finds that, where feasible, changes or alterations have been required, or incorporated into, the Project to avoid or substantially lessen the significant environmental impacts. The Commission finds that changes have been required in, or incorporated into, the Project that, pursuant to Public Resources Code section 21002 and CEQA Guidelines section 15091, may substantially lessen, but do not avoid (i.e., reduce to less than significant levels), the potentially significant environmental effect associated with implementation of the Project. The Commission adopts all of the mitigation measures proposed in the Final EIR and set forth in the MMRP. The Commission further finds, however, for the impact listed below, despite the implementation of mitigation measures, the effects remain significant and unavoidable.

The Commission determines that the following significant impact on the environment, as reflected in the Final EIR, is unavoidable, but under Public Resources Code Section 21081(a)(3) and (b), and CEQA

Guidelines 15091(a)(3), 15092(b)(2)(B), and 15093, the Commission determines that the impacts are acceptable due to the overriding considerations described in Section VI below. This finding is supported by substantial evidence in the record of this proceeding.

A. SIGNIFICANT AND UNAVOIDABLE IMPACTS – CUMULATIVE SHADOW

- **Impact C-WS-2:** The proposed project, in combination with past, present, and reasonably foreseeable future projects in the project vicinity, would create new shadow in a manner that substantially affects outdoor recreation facilities or other public areas, resulting in a significant cumulative shadow impact. The proposed project would make a cumulatively considerable contribution to this significant cumulative shadow impact.

    - There are several proposed projects in the project vicinity that have the potential to shadow outdoor recreation facilities or other public areas, including some of the same open spaces that the proposed project would shadow. Reasonably foreseeable future projects in the vicinity of the project site include 151 Third Street (the San Francisco Museum of Modern Art Expansion Project), 2 New Montgomery Street (the Palace Hotel Project), and the Transit Tower, and the other projects contemplated by the Transit Center District Plan. The proposed project in combination with other proposed projects in the vicinity would add new shadow on various open spaces and public areas. By contributing shadow to open spaces and public areas, the proposed project would make a cumulatively considerable contribution to the significant and unavoidable cumulative shadow impacts.

    - There is no feasible mitigation for the proposed project's contribution to cumulative shadow impacts, because any theoretical mitigation that would address the cumulatively considerable contribution to shadow impacts on outdoor recreation facilities or other public areas within the project vicinity would fundamentally alter the project's basic design and programming parameters. Thus, rather than treat a substantial reduction in height as a mitigation measure, the EIR analyzed a reduction in height in two separate alternatives.

      With regard to the project's shadow impacts on Union Square, other than a reduction in the height of the tower to approximately 351 feet or less, no further modification of the tower could eliminate the tower's net new shadow on Union Square. The project has already undergone design revisions to sculpt the top of the tower in order to reduce shadow on Union Square. The original project proposed by the project sponsor included an elliptical tower design that was approximately 630 feet tall and 170 feet wide at the highest level. That proposal was modified to reflect a shorter and more slender rectangular tower design that was shifted to the west on the project site to reduce shadow impacts on Union Square. The rectangular design ultimately chosen for the project would break up the tower massing and top into smaller volumes at different or staggered heights, particularly along the eastern edge of the site and tower, to further reduce shadow. In addition, the tower massing and the tower core were moved 15 feet to the

west on the project site, and the tower cantilever over the Aronson Building was reduced from 106 feet to 8 feet to further reduce shadow impacts on Union Square.

- On May 21, 2013, a technical memorandum prepared by Turnstone Consulting was submitted analyzing the shadow impacts of the Project on Union Square, based on the reduced 480-foot roof height. The memorandum concluded that the Project would cast 238,788 sfh of net new shadow on Union Square on a yearly basis, which would be an increase of about 0.06% of the Theoretically Available Annual Sunlight (TAAS) on Union Square. The reduction in the height of the tower results in a reduction of approximately 29% of net new shadow compared with the Project's 520-foot tower design.

- Even if the project's shadow impacts to Union Square were eliminated, the project would still shadow other downtown open spaces and public areas such as sidewalks. A further reduction of the building height beyond that already included would substantially reduce the development program of the proposed project. Thus, the project's cumulatively considerable contribution to the significant and unavoidable impact would remain and there is no feasible mitigation to reduce the project's contribution to this significant cumulative impact to a less-than-cumulatively considerable level. Because a significant decrease in the tower height affects the Project significantly, these height reductions were discussed as alternatives. See also the discussion of the Existing Zoning Alternative and the Reduced Shadow Alternative, below.

- Therefore, the proposed project, in combination with past, present, and reasonably foreseeable future projects in the project vicinity would create new cumulative shadow in a manner that would substantially affect parks, outdoor recreation facilities, or other public areas. This cumulative shadow impact would be significant and unavoidable, and the proposed project would make a cumulatively considerable contribution to this significant cumulative shadow impact.

V. Alternatives Rejected and the Reasons for Rejecting Them as Infeasible

The Commission rejects the Alternatives set forth in the Final EIR and listed below because the Commission finds that there is substantial evidence, including evidence of economic, legal, social, technological, and other considerations described in this Section, in addition to those described in Section VI below, under CEQA Guidelines 15091(a)(3), that make infeasible such Alternatives. In making these determinations, the 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.

The Commission adopts the EIR's analysis and conclusions regarding alternatives eliminated from further consideration, both during the scoping process and in response to comments. The Commission certifies that it has independently reviewed and considered the information on the alternatives provided in the Final EIR and in the record. The Project Sponsor engaged Economic & Planning Systems, Inc. to prepare an economic analysis of the financial feasibility of the project alternatives described in the EIR. (Report on the Financial Feasibility of 706 Mission Street; The Mexican Museum and Residential Tower Project and Alternatives, dated May 2013 (the "EPS Report"). The Successor Agency retained an independent economic consultant Keyser Marston Associates, Inc., to peer review the EPS Report and Keyser Marston Associates prepared the "Peer Review of Financial Feasibility Report for 706 Mission Street" ("Peer Review"). The Peer Review, independently reviewed and evaluated by the Successor Agency, concurs with the results of the EPS Report. Planning Department staff and the Commission have independently reviewed and concur with the results of the EPS Report and the Peer Review. The Final EIR reflects the Commission's and the City's independent judgment as to the alternatives.

The Commission finds that the Project provides the best balance between satisfaction of the project objectives and mitigation of environmental impacts to the extent feasible, as described and analyzed in the EIR, and adopts a statement of overriding considerations as set forth in Section VI below.

While the Commission makes these findings regarding the environmental impacts and feasibility of each of the alternatives analyzed in the final EIR, if feasible mitigation measures substantially lessen or avoid the significant adverse environmental effects of a project, the project may be approved without an evaluation of the feasibility of project alternatives. *Laurel Hills Homeowners Association v. City Council of Los Angeles*, 83 Cal.App.3d 515, 521 (1978). With respect to the project, all significant impacts can be reduced to a less than significant level with feasible mitigations measures, except for the project's cumulatively considerable contribution to significant cumulative shadow impacts. Thus, although the Commission makes these findings regarding the environmental impacts of each of the alternatives, CEQA only requires that the Commission make findings regarding the alternatives that would substantially lessen or avoid the project's cumulatively considerable contribution to significant cumulative shadow

impacts. Findings for the Separate Buildings Alternative and Increased Residential Density Alternative are therefore not required by CEQA, although the Commission nevertheless makes findings for those alternatives below.

The FEIR analyzed five alternatives to the Project: No Project Alternative, Existing Zoning Alternative, Separate Buildings Alternative, Increased Residential Density Alternative, and Reduced Shadow Alternative. These alternatives and the reasons for rejecting them are described below.

1. *No Project Alternative*

Under the No Project Alternative, the site would remain in its existing condition. Assuming that the existing physical conditions at the project site would remain into the foreseeable future, none of the impacts associated with the proposed project would occur.

The No Project Alternative would not create net new shadow on Union Square, or any other public open spaces, privately owned publicly accessible open spaces, or public sidewalks, and therefore would not result in a cumulatively considerable contribution to the significant unavoidable cumulative shadow impact. Because existing conditions on the project site would not change under this alternative, there would be no impacts related to land use and land use planning, aesthetics, population and housing, cultural and paleontological resources, transportation and circulation, noise, air quality, greenhouse gas emissions, wind, recreation, utilities and service systems, public services, biological resources, geology and soils, hydrology and water quality, hazards and hazardous materials, mineral and energy resources or agricultural and forest resources. Under the proposed project, the impacts with respect to these environmental topics would be either less than significant or less than significant with mitigation, except for agricultural and forest resources. Both the No Project Alternative and the proposed project would have no impact on agricultural and forest resources.

The No Project Alternative would not be desirable or meet either the Successor Agency or the Project Sponsor's objectives, as more particularly described below. The No Project Alternative is rejected in favor of the project and is found infeasible for the following environmental, economic, legal, social, technological, and/or other reasons:

- The No Project Alternative would not meet any of the Successor Agency or the Project Sponsor's objectives.
- The No Project Alternative would not complete the redevelopment of the YBC Redevelopment Project Area envisioned under the former *Yerba Buena Center Redevelopment Plan.*
- The No Project Alternative would not stimulate and attract private investment and generate sales taxes and other General Fund revenues from new uses on the project site, thereby improving the City's overall economic health, employment opportunities, tax base, and community economic development opportunities.

- The No Project Alternative would not provide for the development of a museum facility and an endowment for The Mexican Museum on Successor Agency-owned property located adjacent to Jessie Square, at the heart of San Francisco's cultural district location, in a manner that is consistent with General Plan Policy VI-1.9, to "create opportunities for private developers to include arts spaces in private developments city-wide."

- The No Project Alternative would not result in construction of a preeminent building with a superior level of design for this important site across from Yerba Buena Gardens and adjacent to Jessie Square in a manner that complements the landscaping and design of Jessie Square.

- The No Project Alternative would not provide housing in an urban infill location to help alleviate the effects of suburban sprawl.

- The No Project Alternative would not provide temporary and permanent employment and contracting opportunities for minorities, women, qualified economically disadvantaged individuals, and other residents both in the South of Market area and in the City generally, in a manner consistent with the City's current and future equal opportunity programs.

- The No Project Alternative would not maximize the quality of the pedestrian experience along Mission Street and Third Street, while maintaining accessibility to the project site for automobiles and loading.

- The No Project Alternative would not provide for rehabilitation of the historically important Aronson Building.

- The No Project Alternative would not secure funding for new and affordable below-market-rate units.

- The No Project Alternative would not secure additional funding for operations, management, and security of Yerba Buena Gardens.

- The No Project Alternative would not result in the construction of a residential building of superior quality and design that complements and is generally consistent with the downtown area, furthering the objectives of the General Plan's *Urban Design Element* and the former *Yerba Buena Center Redevelopment Plan*.

- The No Project Alternative would not redevelop the project site with a high-quality residential development that includes a ground-floor retail or restaurant use.

- The No Project Alternative would not provide housing in downtown San Francisco that is accessible to local and regional transit, as well as cultural amenities and attractions, such as performing art centers, and art museums and exhibitions.

The Commission finds each of these reasons provide sufficient independent grounds for rejecting the No Project Alternative.

2. *Existing Zoning Alternative*

The intent of the Existing Zoning Alternative is to provide an alternative that meets all applicable provisions of the Planning Code and existing zoning for the project site. In addition, this alternative would reduce the significant and unavoidable cumulative shadow impacts compared to the proposed project, but not to a less than significant level. Under this alternative, a new 13-story, approximately 196-foot-tall building with a 9.0 to 1 FAR would be constructed adjacent to and west of the Aronson Building. As with the proposed project, the Aronson Building would be restored and rehabilitated, and the new building would be connected to it. This alternative would provide an approximately 45,000-gsf cultural space for The Mexican Museum, compared to the approximately 52,285-gsf of cultural space provided for the museum under the proposed project. Vehicular access into and out of the existing subsurface Jessie Square Garage would not change from existing conditions. Unlike the proposed project, under this alternative, there would not be a driveway on Third Street to serve the residential units. The vehicular access variants analyzed for the proposed project would not apply to this alternative.

The Existing Zoning Alternative would reduce as compared to the proposed project the cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact, but not to a less than cumulatively considerable level. While the reduced building height of the new tower under this alternative would not create net new shadow on Union Square, unlike the proposed project, shadow from the proposed tower could still reach some of the same public open spaces, privately owned publicly accessible open spaces, and public sidewalks that would be shadowed by the proposed project, and therefore may contribute to a cumulatively significant shadow impact. As with the proposed project (but generally to a lesser degree than with the proposed project), there would be less-than-significant impacts related to land use and land use planning, aesthetics, population and housing, transportation and circulation, greenhouse gas emissions, wind, recreation, utilities and service systems, public services, biological resources, geology and soils, hydrology and water quality, and mineral and energy resources. As with the proposed project (but generally to a lesser degree than with the proposed project), there would be less-than-significant impacts with mitigation related to cultural and paleontological resources, noise, air quality, and hazards and hazardous materials. Both the Existing Zoning Alternative and the proposed project would have no impact on agricultural and forest resources.

The Existing Zoning Alternative would meet some, but not all, of the Successor Agency and Project Sponsor's objectives. For example, it would attract private investment and generate sales taxes and other General Fund revenues from new uses on the project site, and would provide housing in an urban infill location, near transit and cultural amenities to help alleviate the effects of suburban sprawl, although not as much housing as under the proposed project. The Existing Zoning Alternative would provide temporary and permanent employment and contracting opportunities for minorities, women, qualified economically disadvantaged individuals, and other residents although the scope of these alternatives would be less than with the proposed project due to the reduced size of the Existing Zoning Alternative. The Existing Zoning Alternative would provide for rehabilitation of the historically important Aronson Building. The Existing Zoning Alternative would design and construct the project to a minimum of

Leadership in Energy and Environmental Design (LEED) Silver standards (or such higher and additional requirements as adopted by the City and County of San Francisco), thereby reducing the project's carbon footprint and maximizing the energy efficiency of the building.

But, the Existing Zoning Alternative would reduce but not avoid the proposed project's cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact, although the reduced height of the new tower under this alternative would not create net new shadow on Union Square. Furthermore, the Existing Zoning Alternative would not be desirable or meet many of the Successor Agency and Project Sponsor's objectives and/or would not advance those objectives to the extent that the proposed project would, as more particularly described below.

The EPS Report indicates that the Existing Zoning Alternative is not financially feasible because project costs plus developer targeted return would exceed project revenues under this alternative. The Existing Zoning Alternative is not financially feasible with or without the purchase of TDRs because under this Alternative, the height of the tower is reduced, which reduces the number of revenue generating units, and per square foot construction costs are highest under this alternative due to a decrease in construction cost efficiency. Additionally, the Jessie Square Garage would not be conveyed to the Project Sponsor under this alternative, which means the Alternative does not include defeasance of the outstanding Jessie Square Garage bonds or repayment of the Successor Agency's debt to the City. It also does not generate parking-related revenue.

The Existing Zoning Alternative is projected to generate approximately $149 million under the Residential Flex Option. With the purchase of TDRs, projected development costs, including developer return, are approximately $292 million under the Residential Flex Option. The Project Residuals, above-the minimum return on investment needed for project feasibility, are estimated at approximately negative $142.6 million under the Residential Flex Option. With the purchase of TDRs, the Project Residuals for this Alternative are estimated at approximately negative $143.4 million under the Residential Flex Option. The Peer Review concurs with this opinion.

Therefore, the Existing Zoning Alternative is rejected in favor of the project and is found infeasible for the following environmental, economic, legal, social, technological, and/or other reasons:

- The Existing Zoning Alternative would not avoid the proposed project's cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact.
- The Existing Zoning Alternative would not transfer ownership of the Jessie Square Garage to a private entity and therefore does not include defeasance of the outstanding Jessie Square Garage bonds or repayment of the Successor Agency's debt to the City.
- The Existing Zoning Alternative would not create a development that meets the Successor Agency's and Project Sponsor's objective to be financially feasible with the ability to fund the Project's capital costs and ongoing operation and maintenance costs related to the redevelopment and long-term operation of the Mexican Museum parcel without reliance on public funds.

- Because the Existing Zoning Alternative would not create a development that is financially feasible, the Existing Zoning Alternative would not be constructed, and none of the benefits associated with the Project, such as the construction of The Mexican Museum core and shell at no cost to the Successor Agency or City, the endowment for The Mexican Museum, funding for new and affordable market rate units, rehabilitation of the historically important Aronson Building, defeasance of the outstanding Jessie Square Garage bonds and repayment of the Successor Agency's debt to the City, or additional funding for operations, management, and security of Yerba Buena Gardens, would exist under this Alternative. Thus the Existing Zoning Alternative is infeasible because it does not meet the Successor's Agency's objectives to: complete the redevelopment of the Yerba Buena Redevelopment Project Area; to stimulate and attract private development on the site; to provide for the development of a museum facility and an endowment for that facility; and others noted in the EIR on pages II.5 to II.6.

- Because the Existing Zoning Alternative substantially reduces the residential density and the number of housing units produced at this site, this Alternative is infeasible because it does not fully satisfy General Plan policies such as Housing Element Policies 1.1 and 1.4, among others noted in the Department's staff report accompany the Project Approvals on the Determination of Compliance with Section 309, among other approvals. The Project site is well-served by transit, services and shopping and is suited for dense residential development, where residents can commute and satisfy convenience needs without frequent use of a private automobile. The Project Site is located immediately adjacent to employment opportunities within the Downtown Core, and is in an area with abundant local and region-serving transit options, including the future Transit Center. For these reasons, a project with fewer residential units at this site is not compatible with the General Plan and is infeasible.

- The Existing Zoning Alternative is infeasible because it substantially reduces the residential density and the number of housing units produced at this site, and thus does not meet the Successor Agency's objectives to the extent that the Project does. Among other objectives, the Existing Zoning Alternative would not stimulate and attractive private investment, sales tax and other General Fund revenues to the extent that the Project would; would not provide temporary and permanent jobs to the extent that the Project would; and due to its reduced height, it may not provide a preeminent building of the same stature as the Project.

The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Existing Zoning Alternative.

3. *Separate Buildings Alternative*

The purpose of the Separate Buildings Alternative is to minimize changes to the Aronson Building, while still meeting most of the Project Sponsor's objectives and the objectives of the Successor Agency. Under this alternative, a new 47-story, 520-foot-tall building (with 30 foot tall mechanical/elevator penthouse) would be constructed adjacent to and west of the Aronson Building. The Mexican Museum would occupy space on the first through fifth floors of the new building. Unlike the proposed project, the new building would not be connected to the Aronson Building. Unlike the proposed project, the Separate Buildings

Alternative would not undertake the full scope of rehabilitation and restoration of the Aronson Building; only repairs and improvements necessary to prevent further deterioration of the Aronson Building or to permit continued occupancy of the Aronson Building would be undertaken. However, the two non-historic annexes would still be demolished under this alternative. This alternative would include a down ramp along the north side of the Aronson Building from Third Street. The existing curb cut on Third Street would be used to provide vehicular ingress to the existing Jessie Square Garage by project residents for below-grade valet access and project-related delivery and service vehicles via a ramp. The vehicular access variants analyzed for the proposed project would not apply to this alternative.

The Separate Buildings Alternative would result in similar project-level and cumulative impacts as identified under the proposed project. Since the building design and configuration of the proposed tower would be the same as under the proposed project, this alternative would result in significant unavoidable cumulative shadow impact due to the creation of net new shadow on public open spaces, privately owned publicly accessible open spaces, and public sidewalks. As with the proposed project, there would be less-than-significant impacts related to land use and land use planning, aesthetics, population and housing, transportation and circulation, greenhouse gas emissions, wind, recreation, utilities and service systems, public services, biological resources, geology and soils, hydrology and water quality, and mineral and energy resources. As with the proposed project, there would be less-than-significant impacts with mitigation related to cultural and paleontological resources, noise, air quality, and hazards and hazardous materials. Both the Separate Buildings Alternative and the proposed project would have no impact on agricultural and forest resources.

The Separate Building Alternative would meet some but not all of the Successor Agency and Project Sponsor's objectives. It would complete the redevelopment of the YBC Redevelopment Project Area envisioned under the former *Yerba Buena Center Redevelopment Plan* and stimulate and attract private investment and generate sales taxes and other General Fund revenues from new uses on the project site. The Separate Buildings Alternative would provide for the development of a museum facility for The Mexican Museum. It would provide housing, near transit and cultural amenities, in an urban infill location to help alleviate the effects of suburban sprawl, although not as many housing units as under the proposed project. The Separate Buildings Alternative would provide temporary and permanent employment and contracting opportunities for minorities, women, qualified economically disadvantaged individuals, and other residents, although not as many opportunities as with the proposed project. The Separate Buildings Alternative would transfer ownership of the Jessie Square Garage to a private entity, while providing adequate parking for other cultural uses. The Separate Buildings Alternative would design and construct the project to a minimum of Leadership in Energy and Environmental Design (LEED) Silver standards (or such higher and additional requirements as adopted by the City and County of San Francisco), thereby reducing the project's carbon footprint.

The Separate Buildings Alternative would result in similar project-level and cumulative impacts as the proposed project, and would not avoid or substantially lessen the proposed project's cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact. The Separate Buildings Alternative would not be desirable or meet some of the Successor Agency or the Project Sponsor's objectives, and/or would not advance those objectives to the extent that the proposed project would, as more particularly described below. Therefore, the Separate Buildings Alternative is rejected in favor of the project and is found infeasible for the following environmental, economic, legal, social, technological, and/or other reasons:

- The Separate Buildings Alternative would result in similar project-level and cumulative impacts as the proposed project, and, most significantly, would not avoid or substantially lessen the project's cumulatively considerable contribution to a significant cumulative shadow impact.

- The Separate Buildings Alternative would not undertake the full scope of rehabilitation and restoration of the historically important Aronson Building as would be the case under the proposed project. Instead, only repairs and improvements necessary to prevent further deterioration and/or to permit continued occupancy would be undertaken meaning that the objective of rehabilitating the building would not be met.

The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Separate Buildings Alternative.

4. *Increased Residential Density Alternative*

The purpose of the Increased Residential Density Alternative is to consider a project that would provide more residential dwelling units within the same amount of floor area as would be provided by the proposed project. Under this alternative, a new 47-story, 520-foot-tall building (with 30 foot tall elevator/mechanical penthouse) would be constructed adjacent to and west of the Aronson Building. As with the proposed project, the Aronson Building would be restored and rehabilitated, and the new building would be connected to the Aronson Building. As with the proposed project, seven floors in the Aronson Building would be designated as flex space for the residential and office flex options. Under the residential flex option, the Aronson Building would include up to 325 residential units (110 more units than under the proposed project) and no office space. Under the office flex option, this building would include up to 283 residential units (92 more units than under the proposed project) and approximately 61,320 gsf of office space. As with the proposed project, the Increased Residential Density Alternative would use the existing curb cut on Third Street to provide vehicular ingress to the existing Jessie Square Garage. This access would be for use by project residents only. As with the proposed project, this alternative would include a residential drop-off area (vehicular access would be the same as under the proposed project). The vehicular access variants analyzed for the proposed project would also apply to this alternative.

The Increased Residential Density Alternative would result in similar project-level and cumulative impacts as identified under the proposed project, although some of the alternative's impacts, such as traffic and circulation and air quality during project operations, would be slightly greater because of the increased density. The Increased Residential Density Alternative would not avoid or reduce any significant environmental effects of the proposed project. Because the building design and configuration of the proposed tower would be the same as under the proposed project, this alternative would result in significant unavoidable cumulative shadow impact due to the creation of net new shadow on Union Square and other public open spaces, privately owned publicly accessible open spaces, and public sidewalks. As with the proposed project, there would be less-than-significant impacts related to land use and land use planning, aesthetics, population and housing, transportation and circulation, greenhouse gas emissions, wind, recreation, utilities and service systems, public services, biological resources,

geology and soils, hydrology and water quality, and mineral and energy resources. As with the proposed project, there would be less-than-significant impacts with mitigation related to cultural and paleontological resources, noise, air quality, and hazards and hazardous materials. Both the Increased Residential Density Alternative and the proposed project would have no impact on agricultural and forest resources.

The Increased Residential Density Alternative would meet some but not all of the Project Sponsor's objectives. For example, it would stimulate and attract private investment and generate sales taxes and other General Fund revenues from new uses on the project site. and result in the construction of a preeminent building at this important site across from Yerba Buena Gardens and adjacent to Jessie Square. The Increased Residential Density Alternative would provide housing, close to transit and cultural amenities, in an urban infill location to help alleviate the effects of suburban sprawl. It would provide temporary and permanent employment and contracting opportunities for minorities, women, qualified economically disadvantaged individuals, and other residents. and would transfer ownership of the Jessie Square Garage to a private entity, while providing adequate parking for other existing nonprofit organizations and the public in the Jessie Square Garage. The Increased Residential Density Alternative would provide for rehabilitation of the historically important Aronson Building and would design and construct the project to a minimum of Leadership in Energy and Environmental Design (LEED) Silver standards (or such higher and additional requirements as adopted by the City and County of San Francisco), thereby reducing the project's carbon footprint and maximizing the energy efficiency of the building.

But, the Increased Residential Density Alternative would result in similar project-level and cumulative impacts as identified under the proposed project, would slightly increase some impacts, and would not avoid or substantially lessen the proposed project's cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact.

The Increased Residential Density Alternative would meet most of the Successor Agency and Project Sponsor's objectives but not all of the Successor Agency or Project Sponsor's Objectives. In addition, according to the EPS Report, the Increased Residential Density Alternative is not financially feasible because project costs plus developer targeted return would exceed project revenues under this alternative. The Increased Residential Density Alternative is not financially feasible because the direct per square foot construction costs are higher under the Increased Residential Density Alternative than under the Proposed Project. Though there are more units in the Increased Residential Density Alternative than there are in the Proposed Project, the overall square footage is the same. Because residential revenue is based on a per square foot price (rather than a per unit price), the residential revenue is similar to the Proposed Project.

The Increased Residential Density Alternative is projected to generate approximately $585 million under the Residential Flex Option. Projected development costs, including developer return, are approximately $610 million under the Residential Flex Option. The Project Residuals, above the minimum return on investment needed for project feasibility, are estimated at approximately negative $25.6 million under the Residential Flex Option. The Peer Review concurs with this opinion.

The Increased Residential Density Alternative is rejected in favor of the project and is found not to be feasible or desirable for the following environmental, economic, legal, social, technological, and/or other reasons:

- The Increased Residential Density Alternative would result in similar project-level and cumulative impacts as identified under the proposed project, would slightly increase some impacts, and would not avoid or reduce any significant environmental effects of the proposed project. Specifically, when compared to the proposed project, this alternative would result in incrementally increased impacts under Transportation and Circulation (additional trips on already impacted intersections; additional demand on transit service), Air Quality (additional project related operational emissions), Greenhouse Gas (additional project related emissions increasing the project's carbon footprint), Recreation (additional residents seeking recreation facilities), Public Services (additional residents seeking police or fire protection services), and Utilities and Service Systems (additional residents increasing water usage and generating additional wastewater).

- The Increased Residential Density Alternative would not meet the objective to create a development that is financially feasible and that can fund the Project's capital costs and ongoing operation and maintenance costs related to the redevelopment and long-term operation of the Mexican Museum parcel without reliance on public funds.

- Because the Increased Residential Density Alternative would not create a development that is financially feasible, the Increased Density Alternative would not be constructed, and none of the benefits associated with the Project, such as the construction of The Mexican Museum core and shell at no cost to the Successor Agency or City, the endowment for The Mexican Museum, funding for new and affordable market rate units, rehabilitation of the historically important Aronson Building, defeasance of the outstanding Jessie Square Garage bonds and repayment of the Successor Agency's debt to the City, or additional funding for operations, management, and security of Yerba Buena Gardens, would exist under this Alternative. Thus the Increased Residential Density Alternative is infeasible because it does not meet the Successor's Agency's objectives mentioned above including, but not limited to: complete the redevelopment of the Yerba Buena Redevelopment Project Area; to stimulate and attract private development on the site; to provide for the development of a museum facility and an endowment for that facility; and others noted in the EIR on pages II.5 to II.6.

The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Increased Residential Density Alternative.

5. *Reduced Shadow Alternative*

The purpose of the Reduced Shadow Alternative is to reduce the shadow impacts that would be caused by development under the proposed project. Under this alternative, a new 27-story, approximately 351-foot-tall tower, including a mechanical penthouse, would be constructed adjacent to, west of and connected to the Aronson Building, with approximately 45,000 gsf of cultural space for The Mexican

Museum as compared to approximately 52,285 square feet under the proposed project. As with the proposed project, the Aronson Building would be restored and rehabilitated. This alternative's residential flex option would include up to 186 residential units (4 fewer residential units than planned under the Proposed Project). This alternative's office flex option would include up to 162 residential units and approximately 52,560 gsf of office space. This alternative would also include approximately 4,800 gsf of retail/restaurant space. As under the proposed project, the Jessie Square Garage would be converted from a public garage to a private garage. Unlike the proposed project, the Reduced Shadow Alternative would not include a driveway from Third Street to serve the residential units. Vehicular access into and out of the existing subsurface Jessie Square Garage would not change from under existing conditions. The vehicular access variants analyzed for the proposed project would not apply to this alternative.
The Reduced Shadow Alternative, like the proposed project, would result in a cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact. Although the reduced building height of the new tower under this alternative would substantially reduce shadow impacts and would not create net new shadow on Union Square, unlike the proposed project, shadow from the proposed tower could still reach some of the same public open spaces, privately owned publicly accessible open spaces, and public sidewalks that would be shadowed by the proposed project. Therefore, this alternative may contribute to a cumulatively significant shadow impact. As with the proposed project (but generally to a lesser degree than with the proposed project), there would be less-than-significant impacts related to land use and land use planning, aesthetics, population and housing, transportation and circulation, greenhouse gas emissions, wind, recreation, utilities and service systems, public services, biological resources, geology and soils, hydrology and water quality, and mineral and energy resources. As with the proposed project (but generally to a lesser degree than with the proposed project), there would be less-than-significant impacts with mitigation related to cultural and paleontological resources, noise, air quality, and hazards and hazardous materials. Both the Reduced Shadow Alternative and the proposed project would have no impact on agricultural and forest resources.

The Reduced Shadow Alternative would meet some, but not all of the Successor Agency and Project Sponsor's objectives. It would complete redevelopment of the YBC Redevelopment Project Area envisioned under the Yerba Buena Center Redevelopment Plan and attract private investment and generate sales taxes and other General Fund revenues from new uses on the project site, although to a lesser extent than with the proposed project. The Reduced Shadow Alternative would provide housing, close to transit and cultural amenities, in an urban infill location to help alleviate the effects of suburban sprawl, although fewer housing units than with the proposed project. The Reduced Shadow Alternative would provide temporary and permanent employment and contracting opportunities for minorities, women, qualified economically disadvantaged individuals, and other residents, although to a lesser extent than with the proposed project. The Reduced Shadow Alternative would transfer ownership of the Jessie Square Garage to a private entity, while providing adequate parking in the Jessie Square Garage for adjacent nonprofit organizations and the public. The Reduced Shadow Alternative would provide for rehabilitation of the historically important Aronson Building and would design and construct the project to a minimum of Leadership in Energy and Environmental Design (LEED) Silver standards (or such higher and additional requirements as adopted by the City and County of San Francisco), thereby reducing the project's carbon footprint and maximizing the energy efficiency of the building.

The Reduced Shadow Alternative, like the proposed project, would result in a cumulatively considerable contribution to a significant and unavoidable cumulative shadow impact, although the reduced building height of the new tower under this alternative would reduce shadow impacts and would not create net new shadow on Union Square. The Reduced Shadow Alternative would not be desirable or meet many of the Successor Agency or Project Sponsor's objectives, and/or would not advance those objectives to the extent that the proposed project would, as more particularly described below.

In addition, according to the EPS Report, the Reduced Shadow Alternative is not financially feasible because project costs plus developer targeted return would exceed project revenues under this alternative. The Reduced Shadow Alternative is not financially feasible with or without the purchase of TDRs. In this Alternative, the height of the tower is reduced from 480 feet in the Proposed Project to 351 feet, which reduces the number of residential units to 186 under the Residential Flex Option and reduces potential revenue from residential sales. There are fewer units to generate revenue, and the number of upper floors of the Project, which command substantial price premiums due to views, are not available under the Reduced Shadow Alternative. At the same time, per square foot development costs are higher under the Reduced Shadow Alternative relative to the Proposed Project due to a decrease in construction cost efficiency. Within certain construction type thresholds, the taller the structure, the lower the cost per square foot due to cost-spreading efficiencies. The combination of these factors results in an alternative that is not financially feasible.

The Reduced Shadow Alternative is projected to generate approximately $313 million under the Residential Flex Option. With the purchase of TDRs, projected development costs, including developer return, are approximately $452 million under the Residential Flex Option. The Project Residuals, above the minimum return on investment needed for project feasibility, are estimated at approximately $137.6 million under the Residential Flex Option. With the purchase of TDRs, the Project Residuals for this Alternative are estimated at approximately $139.5 million under the Residential Flex Option. The Peer Review concurs with this opinion.

The Reduced Shadow Alternative is rejected in favor of the project and is found infeasible for the following environmental, economic, legal, social, technological, and/or other reasons:

- While the Reduced Shadow Alternative would include a reduced height tower of 27-stories as compared to the proposed project's 43-story tower and would create a no net new shadow on Union Square, its shadow could still reach some of the same public open spaces, privately owned publicly accessible open spaces, and public sidewalks that would be shadowed by the proposed project.

- The Reduced Shadow Alternative would not result in a development that is financially feasible and thus does not meet the Successor Agency's and Project Sponsor's objective to create a financially feasible project that can fund the project's capital costs and ongoing operation and maintenance costs related to the redevelopment and long-term operation of the Mexican Museum parcel without reliance on public funds.

- Because the Reduced Shadow Alternative would not create a development that is financially feasible, the Reduced Shadow Alternative would not be constructed, and none of the benefits associated with the Project, such as the construction of The Mexican Museum core and shell at no cost to the Successor Agency or City, the endowment for The Mexican Museum, funding for new and affordable market rate units, rehabilitation of the historically important Aronson Building, defeasance of the outstanding Jessie Square Garage bonds and repayment of the Successor Agency's debt to the City, or additional funding for operations, management, and security of Yerba Buena Gardens, would exist under this Alternative. Thus the Reduced Shadow Alternative is infeasible because it does not meet the Successor's Agency's objectives to: complete the redevelopment of the Yerba Buena Redevelopment Project Area; to stimulate and attract private development on the site; to provide for the development of a museum facility and an endowment for that facility; and others noted in the EIR on pages II.5 to II.6.

- Because the Reduced Shadow Alternative substantially reduces the residential density and the number of housing units produced at this site, this Alternative is infeasible because it does not fully satisfy General Plan policies such as Housing Element Policies 1.1 and 1.4, among others noted in the Department's staff report accompany the Project Approvals on the Determination of Compliance with Section 309, among other approvals. The Project site is well-served by transit, services and shopping and is suited for dense residential development, where residents can commute and satisfy convenience needs without frequent use of a private automobile. The Project Site is located immediately adjacent to employment opportunities within the Downtown Core, and is in an area with abundant local and region-serving transit options, including the future Transit Center. For these reasons, a project with fewer residential units at this site is not compatible with the General Plan and is infeasible.

- The Reduced Shadow Alternative is infeasible because it substantially reduces the residential density and the number of housing units produced at this site, and thus does not meet the Successor Agency's objectives to the extent that the Project does. Among other objectives, the Existing Zoning Alternative would not stimulate and attractive private investment, sales tax and other General Fund revenues to the extent that the Project would; would not provide temporary and permanent jobs to the extent that the Project would; and due to its reduced height, it may not provide a preeminent building of the same stature as the Project.

The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Reduced Shadow Alternative.

Alternatives Rejected And Reasons For Rejection

The EIR identifies alternatives that were considered by the Planning Department as lead agency, or the Successor Agency, but were rejected as infeasible during the design development and scoping process, and explains the reasons underlying this determination. Among the factors that were considered include the failure to meet most of the basic objectives of the proposed project and inability to avoid significant environmental impacts. These considered and rejected alternatives are the Off-Site Alternative, a Freestanding Alternative, an Office Use Alternative, and Elliptical Tower Plan Alternative.

1. Off-Site Alternative. An Off-Site Alternative that would consist of a project design and programming similar to the proposed project, but in a different, though comparable in-fill location within the City and County of San Francisco was considered but rejected. An Off-Site Alternative would not meet many of the project objectives, particularly the objective of completing the redevelopment of the Yerba Buena Center Redevelopment Project Area and providing for the development of a museum facility and endowment for The Mexican Museum on the Successor Agency-owned property adjacent to Jessie Square. An Off-Site Alternative was also rejected since it would not include rehabilitation of the Aronson Building. The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Off-Site Alternative.

2. Freestanding Alternative. A Freestanding Alternative that would result in a development on the Mexican Museum parcel of a freestanding museum with no development, including rehabilitation of the Aronson Building, on the 706 Mission Street parcel, was considered and rejected. Construction of a freestanding museum for The Mexican Museum by the prior San Francisco Redevelopment Agency ("SFRA") was considered not financeable because the SFRA did not, and the Successor Agency does not, have sufficient funds to cover the costs of constructing a freestanding museum on that parcel. Also, this alternative would not meet any of the project objectives. Lastly, a Freestanding Alternative was rejected because it would not result in any reduced impacts that are not already being evaluated in other alternatives, such as the Existing Zoning Alternative. The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Freestanding Alternative.

3. Office Use Alternative. An Office Use Alternative that would include only office use in both the proposed tower and Aronson Building was considered and rejected. This alternative was rejected because the proposed project already has an office flex option that includes fewer proposed residential units and office-only use in the existing Aronson Building, and because an Office Use Alternative would generate more peak hour trips than would the proposed project. Further, an Office Use Alternative would not result in any reduced impacts, due to increased trip generation related to a project containing more office space. In addition, the Office Use Alternative was rejected because it would not meet the Successor Agency's project objective of providing housing in an urban infill location. The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Office Use Alternative.

4. Elliptical Tower Plan. The Environmental Evaluation Application, as originally submitted to the Planning Department in 2008, called for partial demolition of the Aronson Building and construction of a 42-story, approximately 630-foot-tall tower to the west of, adjacent to, and partially within, the Aronson Building at its northwest corner. This scheme was disfavored by Planning Department staff both because of its impacts on the physical integrity of the historic Aronson Building, as well as due to staff concerns regarding aesthetics related to its elliptical tower plan design. The Commission finds each of these reasons provide sufficient independent grounds for rejecting the Elliptical Tower Plan.

Additional Alternatives Proposed By The Public

Various comments have proposed additional alternatives to the project. To the extent that these comments addressed the adequacy of the EIR analysis, they were described and analyzed in the RTC. As

presented in the record, the Final EIR reviewed a reasonable range of alternatives, and CEQA does not require the City or the project sponsor to consider every proposed alternative so long as the CEQA requirements for alternatives analysis have been satisfied. For the foregoing reasons, as well as economic, legal, social, technological and/or other considerations set forth herein, and elsewhere in the record, these alternatives are rejected.

VI. Statement of Overriding Considerations

Pursuant to CEQA section 21081 and CEQA Guideline 15093, the Commission hereby finds, after consideration of the Final EIR 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 of the project 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 Final EIR and in the documents found in the administrative record.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, the Commission specifically finds that there are significant benefits 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 mitigation measures proposed in the Final EIR for the proposed Project are adopted as part of this approval action. 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. In addition, the Commission finds that the rejected Project Alternatives are also rejected for the following specific economic, social, or other considerations, in addition to the specific reasons discussed in Section V, above.

- The Project will provide a new permanent home for The Mexican Museum, a longtime cultural attraction of the City. The permanent home of The Mexican Museum will contribute to the City's reputation as home to first class cultural amenities and attractions.

- The Project will provide a $5 million operating endowment for The Mexican Museum to support its ongoing operations.

- The Project will rehabilitate the historic Aronson Building, which is rated "A" (highest importance) by the Foundation for San Francisco's Architectural Heritage and is eligible for listing on the National Register of Historic Places and the California Register of Historical Resources, and which was recently designated as a Category I Significant Building in the expanded New Montgomery-Mission-Second Street Conservation District, and which is in need of repair.

- The Project will create up to 190 new housing units, which will increase the City's and region's housing supply. These new housing units will be in close proximity to transit, employment opportunities, and neighborhood serving retail uses.

- The Project will pay an affordable housing in-lieu fee in an amount equivalent to a 28% housing production requirement, which is substantially in excess of the 20% requirement under the City's Planning Code. The Project's affordable housing in-lieu fee will be used to construct much needed affordable housing in the City.

- The Project will provide additional private funding for operations, management, and security of Yerba Buena Gardens; funding which would not be available without the project.

- The Project will construct a high quality, world-class, mixed-use development, designed by an internationally recognized architecture firm in accordance with sound urban design principles. The Project will create a new mixed-use residential development on an urban infill site in close proximity to transit, the Downtown and SOMA employment centers, the Yerba Buena cultural district, and retail uses.

- The Project's residential tower will be built to at least Leadership in Energy and Environmental Design (LEED) Silver construction standards consistent with the requirements of the Building Code for the City and County of San Francisco (or such higher and additional requirements as adopted by the City and County of San Francisco). The LEED Silver standard will help reduce the City's overall contribution to greenhouse gas emissions and global warming as well as reducing the project's carbon footprint by providing for a highly energy efficient building.

- In redeveloping the project site with a high quality residential development that includes a cultural component and a ground floor retail or restaurant use, the project will further the objectives of the General Plan's Urban Design Element and complete the development of the former Yerba Buena Center Redevelopment Plan.

DECISION

Based upon the whole record, the submissions by the Project Sponsor, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, the Commission hereby adopts the foregoing CEQA Findings, and adopts the Mitigation Monitoring and Reporting Program attached hereto as Exhibit A, which are conditions of approval of this Project, and are incorporated by reference as though fully set forth herein.

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

Jonas P. Ionin
Acting Commission Secretary

AYES: Fong, Antonini, Hillis, Borden

NOES: Moore, Sugaya, Wu

ABSENT:

ADOPTED: May 23, 2013

EXHIBIT A - MITIGATION MONITORING AND REPORTING PROGRAM FOR THE 706 MISSION STREET – THE MEXICAN MUSEUM AND RESIDENTIAL TOWER PROJECT

(Includes Text for Adopted Mitigation Measures and Improvement Measures)

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Actions and Responsibility	Status/Date Completed
MITIGATION MEASURES FOR THE 706 MISSION STREET – THE MEXICAN MUSEM AND RESIDENTIAL TOWER PROJECT				
Cultural Resources (Archeological Resources) Mitigation Measures				
Mitigation Measure M-CP-1a: Archaeological Testing, Monitoring, Data Recovery and Reporting 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 archaeological consultant from the pool of qualified archaeological consultants maintained by the Planning Department archaeologist. 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 Sect. 15064.5 (a) and (c).	Project sponsor to retain qualified professional archaeologist from the pool of archeological consultants maintained by the Planning Department.	Prior to commencement of soil-disturbing activities, submittal of all plans and reports for approval by the ERO.	The archeological consultant shall undertake an archeological testing program as specified herein. (See below regarding archaeological consultant's reports)	Considered complete when Project Sponsor retains a qualified professional archaeological consultant.
<u>Consultation with Descendant Communities</u> On discovery of an archeological site associated with descendant Native Americans or the Overseas Chinese 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 consult with 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 Archaeological Resources Report shall be provided to the representative of the descendant group.	Project sponsor/archeological consultant	For the duration of soil-disturbing activities	Project Sponsor/archeological consultant shall contact the ERO and descendant group representative upon discovery of an archaeological site associated with descendant Native Americans or the Overseas Chinese. The representative of the descendant group shall be given the opportunity to monitor archaeological	Considered complete upon submittal of Final Archaeological Resources Report.

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THE 706 MISSION STREET – THE MEXICAN MUSEUM AND RESIDENTIAL TOWER PROJECT
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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Actions and Responsibility	Status/Date Completed
			field investigations on the site and consult with the ERO regarding appropriate archaeological treatment of the site, of recovered data from the site, and, if applicable, any interpretative treatment of the associated archaeological site. Archaeological Consultant shall prepare a Final Archaeological Resources Report in consultation with the ERO. (per below). A copy of this report shall be provided to the ERO and the representative of the descendant group.	
Archeological Testing Program The archeological consultant shall prepare and submit to the ERO for review and approval an archeological testing plan (ATP). The archeological testing program shall be conducted in accordance with the approved ATP. The ATP 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 an historical resource under CEQA.	Project sponsor/Archaeological consultant at the direction of the ERO.	Prior to any excavation, site preparation or construction and prior to testing, an Archaeological Testing Plan (ATP) is to be submitted to and approved by the ERO.	Archaeological consultant to undertake archaeological testing program (ATP) in consultation with ERO.	Considered complete with approval of ATP by ERO and on finding by ERO that ATP is implemented.
At the completion of the archeological testing program, the archeological consultant shall submit a written report of the findings to the ERO. If based on the archeological testing program the archeological consultant finds that significant archeological resources may be present, the ERO in consultation with the archeological consultant	Project sponsor/Archaeological consultant in consultation with the	At the completion of the archaeological testing program	Archaeological consultant to submit results of testing, and if significant archaeological resources	Considered complete on submittal to ERO of report on ATP

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Actions and Responsibility	Status/Date Completed
shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archeological testing, archeological monitoring, and/or an archeological data recovery program. If the ERO determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either: A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or B) A data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.	ERO.		may be present, in consultation with ERO, determine whether additional measures are warranted. If significant archaeological resources are present and may be adversely affected, project sponsor, at its discretion, may elect to redesign the project, or implement data recovery program, unless ERO determines the archeological resource is of greater interpretive than research significance and that interpretive use is feasible.	findings.
<u>Archeological Monitoring Program</u> If the ERO in consultation with the archeological consultant determines that an archeological monitoring program (AMP) shall be implemented the archeological monitoring program shall minimally include the following provisions: • The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils disturbing activities commencing. The ERO in consultation with the archeological consultant shall determine what project activities shall be archeologically monitored. In most cases, any soils- disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context; • The archeological consultant shall advise all project contractors to be on the	Project sponsor, and project archaeological consultant, in consultation with the ERO.	The archaeological consultant, project sponsor, and ERO shall meet prior to commencement of soils-disturbing activities. If ERO determines that archaeological monitoring is necessary, monitor throughout all soils-disturbing	If required, Archaeological Consultant to prepare Archaeological Monitoring Program (AMP) in consultation with the ERO. Project sponsor, project archaeological consultant, archaeological monitor, and project sponsor's contractors shall implement	Considered complete on approval of AMP by ERO; submittal of report regarding findings of AMP; and finding by ERO that AMP is implemented.

EXHIBIT A - MITIGATION MONITORING AND REPORTING PROGRAM FOR THE 706 MISSION STREET – THE MEXICAN MUSEUM AND RESIDENTIAL TOWER PROJECT
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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Actions and Responsibility	Status/Date Completed
alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource; • The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with project archeological consultant, determined that project construction activities could have no effects on significant archeological deposits; • 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 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.		activities.	the AMP, if required by the ERO.	
<u>Archeological Data Recovery Program</u> If the ERO, in consultation with the archaeological consultant, determines that archaeological data recovery programs shall be implemented, the archeological data recovery program shall be conducted in accord 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	Project sponsor and project archaeological consultant, in consultation with ERO.	If there is a determination by the ERO that an Archeological Data Recovery Program (ADRP) is required.	If required, Archaeological consultant to prepare an Archeological Data Recovery Plan (ADRP) in consultation with the ERO.	Considered complete on submittal of ADRP to ERO.

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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. The scope of the ADRP shall include the following elements: • *Field Methods and Procedures.* Descriptions of proposed field strategies, procedures, and operations. • *Cataloguing and Laboratory Analysis.* Description of selected cataloguing system and artifact analysis procedures. • *Discard and Deaccession Policy.* Description of and rationale for field and post-field discard and deaccession policies. • *Interpretive Program.* Consideration of an on-site/off-site public interpretive program during the course of the 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	Project sponsor and	In the event human	Archaeological consultant/	Considered complete on

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discovered during any soils disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The archeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines. Sec. 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.	project archaeological consultant, in consultation with the San Francisco Coroner, NAHC and MLD.	remains and/or funerary objects are encountered.	Archaeological monitor/project sponsor or contractor to contact San Francisco County Coroner. Implement regulatory requirements, if applicable, regarding discovery of Native American human remains and associated/unassociated funerary objects. Contact Archaeological consultant and Environmental Review Officer (ERO).	notification of the San Francisco County Coroner and NAHC, if necessary.
<u>Final Archeological Resources Report</u> The archeological consultant shall submit a Draft Final Archeological Resources Report (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 Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning division of the Planning Department shall	Project sponsor and project archaeological consultant, in consultation with ERO Archeological Consultant at the direction of the ERO	If applicable, after completion of archeological data recovery, inventorying, analysis and interpretation. If applicable, upon approval of Final Archaeological	If applicable, Archaeological consultant to submit a Draft Final Archeological Resources Report (FARR) to ERO. Archeological Consultant to distribute FARR.	Considered complete on submittal of FARR and approval by ERO. Considered complete when Archeological

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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) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.		Resources Report by ERO.		Consultant to provide written certification to ERO that required FARR distribution has been completed.
Mitigation Measure M-CP-1b: Interpretation Based on a reasonable presumption that archaeological resources may be present within the project site, and to the extent that that the potential significance of some such resources is premised on CRHR Criteria 1 (Events), 2 (Persons), and/or 3 (Design/Construction), the following measure shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall implement an approved program for interpretation of	Project sponsor and archaeological consultant, in consultation with ERO.	Prior to issuance of final certificate of occupancy	Archaeological consultant shall develop a feasible, resource-specific program for post-recovery interpretation of resources. All plans and recommendations for interpretation by the	Considered complete upon installation of approved interpretation program.

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Actions and Responsibility	Status/Date Completed
resources. The project sponsor shall retain the services of a qualified archaeological consultant having expertise in California urban historical and marine archaeology. The archaeological consultant shall develop a feasible, resource-specific program for post-recovery interpretation of resources. The particular program for interpretation of artifacts that are encountered within the project site will depend upon the results of the data recovery program and will be the subject of continued discussion between the ERO, consulting archaeologist, and the project sponsor. Such a program may include, but is not limited to, any of the following (as outlined in the ARDTP): surface commemoration of the original location of resources; display of resources and associated artifacts (which may offer an underground view to the public); display of interpretive materials such as graphics, photographs, video, models, and public art; and academic and popular publication of the results of the data recovery. The archaeological consultant's work shall be conducted at the direction of the ERO, and in consultation with the project sponsor. All plans and recommendations for interpretation by the consultant shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO.			Archaeological consultant shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until deemed final by ERO. ERO to approve final interpretation program. Project sponsor to implement an approved for interpretation program .	
Mitigation Measure M-CP-3: Paleontological Resources Monitoring and Mitigation Program The project sponsor shall retain the services of a qualified paleontological consultant having expertise in California paleontology to design and implement a Paleontological Resources Monitoring and Mitigation Program. The PRMMP shall include a description of when and where construction monitoring would be required; emergency discovery procedures; sampling and data recovery procedures; procedure for the preparation, identification, analysis, and curation of fossil specimens and data recovered; preconstruction coordination procedures; and procedures for reporting the results of the monitoring program. The PRMMP shall be consistent with the Society for Vertebrate Paleontology Standard Guidelines for the mitigation of construction-related adverse impacts to paleontological resources and the requirements of the designated repository for any fossils collected. During construction, earth-moving activities shall be monitored by a qualified paleontological consultant having expertise in California paleontology in the areas where these activities have the potential to disturb previously undisturbed native sediment or sedimentary rocks. Monitoring need not be conducted in areas where the ground has been previously disturbed, in areas of artificial fill, in areas underlain by	Project sponsor to retain appropriately qualified consultant to prepare PRMMP, carry out monitoring, and reporting, if srequired.	Prior to and during construction	ERO to approve final PRMMP	Considered complete on approval of final PRMMP.

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nonsedimentary rocks, or in areas where exposed sediment would be buried, but otherwise undisturbed. The consultant's work shall be conducted in accordance with this measure and at the direction of the City's ERO. Plans and reports prepared by the consultant 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. Paleontological monitoring and/or data recovery programs required by this measure could suspend construction of the proposed project for as short a duration as reasonably possible and in no event for more than 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 potential effects on a significant paleontological resource as previously defined to a less-than-significant level.	The project paleontological consultant to consult with the ERO as indicated.	Prior to and during construction, if required.	Consultant shall provide brief monthly reports to ERO during monitoring or as identified in the PRMMP, and notify the ERO immediately if work should stop for data recovery during monitoring The ERO to review and approve the final documentation as established in the PRMMP	Considered complete on approval of final documentation by ERO.
Mitigation Measure M-CP-4: Accidental Discovery The following mitigation measure is required to avoid any potential adverse effect from the proposed project on accidentally discovered buried or submerged historical resources as defined in *CEQA Guidelines* Section 15064.5(a)(c). The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, pile drivers, supervisory personnel, etc. The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.	Project sponsor to prepare "ALERT" sheet and provide signed affidavit from project contractor, subcontractor(s) and utilities firm(s) stating that all field personnel have received copies of the "ALERT" sheet	Prior to any soil-disturbing activities	Project sponsor to provide signed affidavit from project contractor, subcontractor(s) and utilities firm(s) to the ERO stating that all field personnel have received copies of the "ALERT" sheet.	Considered complete upon submission of affidavit regarding distribution of Alert sheet
Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.	Project sponsor and project contractor's Head Foreman	During soil-disturbing activities	Upon potential resource discovery, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in	Upon resource discovery, suspension of work and contact of ERO.

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			the vicinity of the discovery.	
If the ERO determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of an archaeological consultant from the pool of qualified archaeological consultants maintained by the Planning Department archaeologist. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor. Measures might include: preservation in situ of the archeological resource; an archaeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Environmental Planning (EP) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.	Project sponsor and archaeological consultant	When determined necessary by the ERO	ERO to determine if additional measures are necessary to implement.	Considered complete upon retention by the project sponsor of an archaeological consultant from the pool of qualified archaeological consultants maintained by the Planning Department archaeologist.
The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describing the archeological and historical research methods employed in the archeological 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.	Project sponsor and archaeological consultant	When determined necessary by the ERO	Archaeological consultant to prepare draft and final FARR, and to submit FARR to ERO for review final FARR.	Considered complete upon ERO approval of FARR.
Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning division of the Planning Department shall receive one bound copy, one unbound copy and one unlocked, searchable PDF copy on CD three copies of the FARR along with copies of any formal site recordation	Project sponsor and archaeological consultant	When determined necessary by the ERO	Once FARR approved by ERO, Project sponsor /archaeological consultant to ensure distribution of FARR as specified in M-CP-4.	Considered complete once distribution of FARR has been completed.

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forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.				
Noise Mitigation Measures				
Mitigation Measure M-NO-1a: Reduce Noise Levels During Construction The following practices shall be incorporated into the construction contract agreement documents to be implemented by the construction contractor: • Provide best available noise control techniques for equipment and trucks, such as providing acoustic enclosures and mufflers for stationary equipment, shroud or shield impact tools, and installing barriers around particularly noisy activities at the construction sites so that the line of sight between the construction activities and nearby sensitive receptor locations is blocked to the maximum feasible extent. The placement of barriers or acoustic blankets shall be reviewed and approved by the Director of Public Works prior to issuance of permits for construction activities. • Use construction equipment with lower noise emission ratings whenever possible, particularly for air compressors. • Provide sound-control devices on equipment no less effective than those provided by the manufacturer. • Locate stationary equipment, material stockpiles, and vehicle staging areas as far as practicable from sensitive receptor locations. • Prohibit unnecessary idling of internal combustion engines. • Require applicable construction-related vehicles and equipment to use designated truck routes to access the project sites. • Prior to the issuance of the building permit, along with the submission of construction documents, the project sponsor shall designate a Noise Disturbance Coordinator (on-site construction complaint and enforcement manager) and submit to the Planning Department and Department of Building Inspection (DBI) a protocol to respond to and track complaints pertaining to construction noise. This shall include (1) a procedure and phone numbers for notifying DBI, the Department of Public Health, and the Police Department (during regular construction hours and off-hours); (2) a sign conspicuously posted on-site describing noise complaint procedures and a complaint hotline	Project sponsor and project construction contractor(s)	Prior to receiving building permit, incorporate practices identified in M-NO-1a into the construction contract agreement documents. Throughout construction duration, at least 14 days prior to any extreme noise-generating activities, the project sponsor shall notify building owner and occupants within 300 feet of the project construction area of the expected dates, hours, and duration of such activities.	Project sponsor to submit to Planning Department and DBI documentation designating a Noise Disturbance Coordinator and protocol for complaints pertaining to noise. Project sponsor to provide copies of contract documents to Planning Department that show construction contractor agreement with specified practices.	Considered complete upon submittal of contract documents incorporating identified practices.

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number that shall be answered at all times during construction; (3) identification of the Noise Disturbance Coordinator for the project (name, phone number, email address); and (4) notification of property owners and occupants within 300 feet of the project construction area at least 14 days in advance of extreme noise generating activities (activities expected to generate levels of 90 dBA or greater) about the estimated duration of the activity. • Obtain a work permit from the Director of Public Works or the Director of Building Inspection for any nighttime work, pursuant to San Francisco Noise Ordinance Section 2908. • Obtain noise variances (as necessary) consistent with San Francisco Police Code Section 2910.				
Mitigation Measure M-NO-1b: Noise-Reducing Techniques and Muffling Devices for Pile Installation If piles are determined to be necessary, the project sponsor shall require its construction contractor to use noise-reducing pile installation techniques including: avoiding impact pile driving where possible, pre-drilling pile holes (if feasible, based on soils; see Mitigation Measure M-NO-2b, pp. IV.F.26-IV.F.27) to the maximum feasible depth, installing intake and exhaust mufflers on pile installation equipment, vibrating piles into place when feasible, and installing shrouds around the pile driving hammer where feasible. Should impact pile-driving be necessary for the proposed project, the project sponsor would require that the construction contractor limit pile driving activity to result in the least disturbance to neighboring uses, and establish pile-driving hours, in consultation with the Director of Public Works, to disturb the fewest people. At least 48 hours prior to pile driving activities, the project sponsor shall notify building owners and occupants within 500 feet of the project site of the dates, hours, and expected duration of pile driving.	Project sponsor and project construction contractor(s)	At least 48 hours prior to construction activities that require pile driving, the project sponsor shall notify building owners and occupants within 500 feet of the project site of the dates, hours, and expected duration of such activities.	Project sponsor to provide evidence of pile driving schedule established in consultation with DPW and copies of notices to building owners and occupants to Planning Department. If piles are necessary, the project sponsor shall require its construction contractor to use noise-reducing pile installation techniques including: avoiding impact pile driving where possible, pre-drilling pile holes (if feasible, based on soils; see Mitigation Measure M-NO-2b.	Considered complete upon submittal of schedule and copies of notices to the Planning Department and documentation of noise-reducing pile installation techniques utilized.
Mitigation Measure M-NO-2a: Minimize Vibration Levels During Construction The following practices shall be incorporated into the construction contract agreement documents to be implemented by the construction contractor:	Project sponsor and project construction contractor(s)	During project construction	Project sponsor to incorporate into the construction contract	Considered complete upon submittal of

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• Make the Noise Disturbance Coordinator (see Mitigation Measure M-NO-1a) available to respond to vibration complaints from nearby vibration-sensitive uses, and submit to the Planning Department and Department of Building Inspection (DBI) a protocol to respond to and track complaints pertaining to vibration. Recurring disturbances shall be evaluated by a qualified acoustical consultant to ensure compliance with applicable standards; • Avoid impact pile driving where possible. Utilize drilled piles or the use of a sonic pile driver where the geological conditions permit their use (see Mitigation Measure M-NO-2b); • Select demolition methods not involving impact tools, where possible; • Avoid vibratory rollers and packers, where possible; • Operate earth-moving equipment as far away from vibration-sensitive receptors as possible; and • Phase demolition and ground-impacting activity (excavation and shoring) to reduce occurrences in the same time period, when and where feasible.			agreement documents to be implemented by the construction contractor the measures to minimize vibration levels specified in M-NO-2a, including designation of a Noise Disturbance Coordinator and protocol for complaints pertaining to vibration. Project sponsor to provide copies of contract documents and protocol for complaints to Planning Department that show construction contractor agreement with specified practices.	contract documents to the Planning Department and submittal of documentation designating a Noise Disturbance Coordinator and protocol for complaints pertaining to vibration to DBI.
Mitigation Measure M-NO-2b: Pre-Construction Assessment to Protect Structures from Ground Vibration Associated with Pile Installation If impact pile driving is necessary, the project sponsor shall retain a qualified geotechnical engineer to conduct a pre-construction assessment of existing subsurface conditions and the structural integrity of nearby buildings subject to ground vibration prior to receiving a building permit. If recommended by the geotechnical engineer, for structures or facilities within 80 feet of pile installation activities (Westin Hotel and Contemporary Jewish Museum [formerly known as the Jessie Street Substation]), the project sponsor shall require groundborne vibration monitoring of nearby structures. The assessment shall be based on the specific conditions at the construction site such as, but not limited to, the following: • Pre-construction surveying of potentially affected structures; • Underpinning of foundations of potentially affected structures, as necessary; • The need for a monitoring program during vibration-causing construction activities to detect ground settlement or lateral movement of structures in the vicinity of excavation, shoring, or impact activities, should pile driving be required. If pile driving is found to be needed, results of ground vibration	Project sponsor, project construction contractor(s), and qualified geotechnical engineers	Prior to building permit issuance If a monitoring program is needed, project sponsor to provide results of monitoring to Department of Building	Project sponsor shall retain a qualified geotechnical engineer to conduct a pre-construction assessment of existing subsurface conditions and the structural integrity of nearby buildings subject to ground vibration prior to receiving a building permit. Geotechnical engineer to provide reports to Department of Building Inspection for review and approval. If recommended by the geotechnical engineer, for structures or facilities within 80 feet of pile installation activities	Considered complete upon approval of pre-construction assessment, and if necessary, results of groundborne vibration monitoring shall be submitted to DBI during vibration-causing construction activities.

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monitoring shall be submitted to the Department of Building Inspection (DBI). In the event of unacceptable ground movement, as determined by the DBI, pile installation shall cease and corrective measures, protective shoring, and alternative construction methods shall be implemented. Corrective measures to reduce ground movement from pile driving include: jetting or using a high-pressure stream of air and water to erode the soil adjacent to the pile; predrilling; using cast-in-place or auger cast piles; using pile cushioning; or using nonimpact drivers. The pile installation program and ground stabilization measures shall be reevaluated and approved by the Department of Building Inspection.		Inspection weekly during construction.	(Westin Hotel and Contemporary Jewish Museum [formerly known as the Jessie Street Substation]), the project sponsor shall require groundborne vibration monitoring of nearby structures. Results of ground vibration monitoring shall be submitted to the Department of Building Inspection (DBI).	
Mitigation Measure M-NO-2c: Vibration Monitoring and Management Plan A Pre-Construction Assessment of the Aronson Building shall be conducted by a qualified structural engineer and preservation architect who meet the Secretary of the Interior's Historic Preservation Professional Qualification Standards. The Pre-Construction Assessment prepared shall establish a baseline, and shall contain written descriptions of the existing condition, along with photographs, measured drawings, sketches, and/or CAD drawings of all cracks, spalling, or similar. Particular attention shall be paid to loose terra cotta, cracks, bulges and planes in and out of plumb, floors in and out of level, openings and roof planes, as needed.	Project sponsor to retain appropriately qualified structural engineer and preservation architect	Prior to building permit issuance	Project sponsor to retain appropriately qualified structural engineer and preservation architect to prepare Pre-Construction Assessment of the Aronson Building. Planning Department to review and approve Pre-Construction Assessment of the Aronson Building.	Considered complete upon approval of Pre-Construction Assessment of the Aronson Building.
A vibration management and continuous monitoring plan shall be developed and adopted to protect the Aronson Building against damage caused by vibration or differential settlement caused by vibration during project construction. The vibration management and monitoring plan related to the Aronson Building shall be submitted to the Planning Department Preservation Staff prior to issuance of any building permits. The vibration management and monitoring plan shall include pre-construction surveys, continuous vibration monitoring throughout the duration of the major structural project activities, and for one year following project completion if determined necessary by the preservation architect. The vibration management and monitoring plan shall be at the direction of the qualified structural engineer and shall constitute a blended approach, using both optical survey targets and crack monitors. The use of optical survey targets and crack monitors during construction shall		Continuous vibration monitoring of the Aronson Building shall occur throughout the duration of major structural project construction activities and, if determined necessary by the preservation architect, for one year following	Project sponsor to retain appropriately qualified structural engineer and preservation architect to prepare vibration management and continuous monitoring plan. Vibration management plan and monitoring plan shall be prepared prior to building	Considered complete upon development, submittal, and approval by DBI and the Planning Department of a vibration management and continuous monitoring plan

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measure whether ground displacement during construction is approaching levels at which damage to the historic resource may be possible. Construction methods shall be reevaluated if measurements and levels of vibration are found to exceed the levels established in the vibration management and monitoring plan and/or if damage to the historical resource may be possible.		project completion.	permit issuance	for the Aronson Building. Monitoring reports to be submitted to DBI.
Mitigation Measure M-NO-3: Stationary Operational Noise Sources All fixed, stationary sources of noise (e.g., building mechanical systems (HVAC equipment), standby power generator, ventilation equipment, etc.) shall be located away from noise-sensitive receptors, be enclosed within structures with adequate setback and screening, be installed adjacent to noise reducing shields, or constructed with some other adequate noise attenuating features, to achieve compliance with the noise level limits of the San Francisco Noise Ordinance. Noise from fixed, stationary sources must not exceed the performance standard of Section 2909(d) of the San Francisco Police Code for any sleeping or living room in any dwelling unit located on residential property: an interior noise level of 45 dBA between the hours of 10:00 PM to 7:00 AM or 55 dBA between the hours of 7:00 AM to 10:00 PM. Once the stationary noise sources have been installed, the project sponsor shall retain a qualified acoustical consultant to measure the noise levels of operating exterior equipment within three months after the installation. If project stationary noise sources exceed the applicable noise standards, a qualified acoustical consultant shall be retained by the project sponsor to evaluate whether additional noise attenuation measures or acoustic insulation should be installed in order to meet the applicable noise standards. Examples of such measures include acoustical enclosures, replacement of equipment, or relocation of equipment. Results of the measurements shall be provided to the City to show compliance with the standards.	Project sponsor to retain qualified acoustical consultant	Within three months after installation of stationary noise sources, project sponsor to retain acoustical consultant to measure noise levels in dwelling unit most likely to be affected by operating exterior equipment.	Project sponsor to provide results of stationary noise measurements to DPH and the Planning Department.	Considered complete upon submittal of noise measurement results to DPH and the Planning Department, and documentation of noise attenuation measures or acoustic insulation installed, if required to meet the applicable noise standards.
Air Quality Mitigation Measures				
Mitigation Measure M-AQ-3: Construction Emissions Minimization To reduce the potential health risk resulting from project construction activities, the project sponsor shall prepare a Construction Emissions Minimization Plan (included as Appendix G) designed to reduce construction-related diesel particulate matter emissions from off-road construction equipment used at the site by at least 65 percent as compared to the construction equipment list, schedule, and inventory provided by	Project sponsor and project construction contractor(s) shall prepare and implement Construction Emissions	At least 14 days prior to the commencement of construction activities	Project sponsor/contractor to submit a Construction Emissions Minimization Plan to the ERO demonstrating	Considered complete upon ERO/Planning Department review and

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the sponsor on May 27, 2011. The project sponsor shall include all requirements identified in the Construction Emissions Minimization Plan in contract specifications for the entire duration of construction activities. The Construction Emissions Minimization Plan shall include the following requirements, which would achieve the required 65 percent reduction in construction period diesel particulate matter emissions: • Limit idling times by either shutting equipment off when not in use or reducing the maximum idling time to two minutes. • Prohibit use of diesel generators for electric power because on-site distribution of electricity is available. • Require construction contractors to use electric or propane powered devices for the following types of equipment: – Tower Crane – Fork Lifts and Manlifts – Portable Welders – Concrete Placing Booms • Require construction contractors to use portable compressors that are either electric powered or powered by gasoline engines or engines compliant with Tier 4 standards. • Require use of Interim Tier 4 or Tier 4 equipment where such equipment is available and feasible for use. Use of Interim Tier 4 or Tier 4 equipment would be feasible for the following types of equipment: – Backhoes – Rubber-Tired Dozers • Require use of Tier 2/Tier 3 equipment retrofitted with ARB Level 3 Verified Diesel Emissions Control System (VDECS, which includes diesel particulate filters). The following types of equipment are identified as candidates for retrofitting with ARB-certified Level 3 VDECS (which are capable of reducing DPM emissions by 85 percent or more), due to their expected operating modes (i.e., fairly constant use at high revolutions per minute):	Minimization Plan.		construction-related diesel particulate matter emissions from off-road construction equipment used at the site is reduced by at least 65 percent as compared to the construction equipment list, schedule, and inventory provided by the sponsor on May 27, 2011. Project sponsor may elect to submit to the ERO a demonstration that alternative measures achieve the specified emissions reduction.	approval of Construction Emissions Minimization Plan or alternative measures that achieve the same emissions reduction.

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– Excavators – Concrete Boom Pumps – Concrete Trailer Pumps • Use of Tier 3 equipment for the following types of equipment: – Portable Cranes – Soil Mix Drill Rigs – Soldier Pile Drill Rigs – Shoring Drill Rigs If the foregoing requirements are implemented, no further quantification of emissions shall be required. Alternatively, the project sponsor may elect to substitute alternative measures in the Construction Emissions Minimization Plan for review and approval by the Environmental Review Officer (ERO). Such alternative measures would be subject to demonstrating that the alternative measures would achieve the required 65 percent reduction in construction period diesel particulate matter emissions, including without limitation the following: • Use of other late-model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, and add-on devices such as particulate filters; and • Other options as such become available. The project sponsor shall submit the Construction Emissions Minimization Plan to the ERO for review and approval by an Environmental Planning Air Quality Specialist prior to the commencement of construction activities.				
Hazards and Hazardous Materials Mitigation Measures				
Mitigation Measure M-HZ-2: Hazardous Materials - Testing for and Handling of Contaminated Soil During excavation, the project sponsor shall hire a consultant to collect soil samples (borings), including, but not limited to, the location of the underground storage tank on the north side of the Aronson Building. The soil samples shall be tested for petroleum hydrocarbons and lead. If petroleum hydrocarbons and/or lead are present in soil, the soil shall be removed under the supervision of the San Francisco Department of Public Health (DPH) and disposed of in a suitable landfill, or otherwise addressed consistent with applicable Federal, State, and local laws. In addition, the sponsor shall perform the	Project Sponsor to retain qualified professional consultant for Steps 1, 2 and 4. Project construction	Soil report on the soil testing and Site Mitigation Plan (SMP) shall be approved by the Department of Public Health (DPH) prior to building permit issuance,	Project sponsor and/or Project construction contractor to submit reports as specified in steps 1 to 4 to Department of Public Health (DPH) and/or the	Step 1 complete upon submittal of soils testing results to DPH for review. Step 2 complete with submittal and

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following actions with respect to contaminated soil: Step 1: Soil Testing Prior to obtaining building permits, the project sponsor shall hire a consultant to collect soil samples (borings) from selected locations in the work area in which soil would be disturbed and/or excavated. (This initial soil sampling and reporting shall be done prior to excavation, but additional soil testing from on-site soil stockpiles may also be required, if there are indications [e.g., odors, visible staining] of contamination in the excavated soil.) The soil samples shall be tested for these Compounds of Concern: total lead, petroleum hydrocarbons, and volatile organic compounds (VOCs). The consultant shall analyze the soil borings as discrete, not composite samples. The consultant shall prepare a report on the soil testing for the Compounds of Concern that includes the laboratory results of the soil testing and a map that shows the locations from which the consultant collected the soil samples. (See Step 3, below). The project sponsor shall submit the report on the soil testing for the Compounds of Concern for the Sub-Phase and the current fee in the form of a check payable to the San Francisco Department of Public Health, to the Hazardous Waste Program, Department of Public Health, 1390 Market Street, Suite 210, San Francisco, California 94102. The current fee shall cover three hours of soil testing report review and administrative handling. If additional review is necessary, DPH shall bill the project sponsor for each additional hour of review over the first three hours. These fees shall be charged pursuant to Section 31.23(c) of the San Francisco Administrative Code. DHP shall review the soil testing program to determine whether soils on the project site are contaminated with any of the Compounds of Concern at or above potentially hazardous levels. Step 2: Preparation of Site Mitigation Plans The project sponsor shall prepare a Site Mitigation Plan (SMP). The SMP shall include a discussion of the level of contamination of soils by Compounds of Concern, if any, based on the soils testing in Step 1. The SMP shall set forth mitigation measures for managing contaminated soils on the site, if any, including but not limited to: 1) the alternatives for managing contaminated soils on the site (e.g., encapsulation, partial or complete removal, treatment, recycling for reuse, or a combination); 2) the preferred alternative for managing contaminated soils on the site and a brief justification; and 3) the specific practices to be used to handle, haul, and dispose of contaminated soils on the site. The SMP shall be submitted to the DPH for review and approval. A copy of the SMP shall be submitted to the Planning Department to become part of the case file. Additionally, the DPH may require confirmatory samples for the project site.	contractor to carry out and report on activities required in Step 3.	with a copy to the Planning Department. Project construction contractor shall conduct handling, hauling and disposal of soils pursuant to measures specified in Step 3 for duration of construction activities. After excavation and foundation construction activities are completed, project sponsor to submit closure report to DPH for approval pursuant to Step 4.	Planning Department.	approval of the SMP by DPH. Steps 3 and 4 considered complete upon approval and implementation of closure / certification report by DPH. A copy of the closure report shall be provided to the Planning Department.

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Step 3: Handling, Hauling, and Disposal Contaminated Soils (a) Specific work practices: The construction contractor shall be alert for the presence of contaminated soils during excavation and other construction activities on the site (detected through soil odor, color, and texture and results of on-site soil testing), and shall be prepared to handle, profile (i.e., characterize), and dispose of such soils appropriately (i.e., as dictated by local, State, and Federal regulations, including OSHA work practices) when such soils are encountered on the site. (b) Dust suppression: Soils exposed during excavation for site preparation and project construction activities shall be kept moist throughout the time they are exposed, both during and after work hours. (c) Surface water runoff control: Where soils are stockpiled, visqueen shall be used to create an impermeable liner, both beneath and on top of the soils, with a berm to contain any potential surface water runoff from the soil stockpiles during inclement weather. (d) Soils replacement: If necessary, clean fill or other suitable material(s) shall be used to bring portions of the project site, where lead-contaminated soils have been excavated and removed, up to construction grade. (e) Hauling and disposal: If soils are contaminated such that they must be hauled off-site for treatment and/or disposal, contaminated soils shall be hauled off the project site by waste hauling trucks appropriately certified with the State of California and adequately covered to prevent dispersion of the soils during transit, and shall be disposed of at the permitted hazardous waste disposal facility registered with the State of California. Step 4: Preparation of Closure/Certification Report After excavation and foundation construction activities are completed, the project sponsor shall prepare and submit a closure/certification report to DPH for review and approval for that area. The closure/certification report shall include the mitigation measures (if any were necessary) in the SMP for handling and removing contaminated soils, if any, from the project site, and if applicable, whether the construction contractor modified any of these mitigation measures, and how and why the construction contractor modified those mitigation measures.				

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IMPROVEMENT MEASURES FOR THE 706 MISSION STREET – THE MEXICAN MUSEUM AND RESIDENTIAL TOWER PROJECT				
Improvement Measure I-TR-A: Traffic Signal Timing Modifications. As an improvement measure to enhance ability of drivers exiting Stevenson Street at Third Street to merge into and across Third Street traffic flow, the project sponsor shall request that the SFMTA consider revising the signal timing and off-sets to ensure that sufficient clearance time is provided so that vehicles do not spill back into the midblock intersection (the intersection is currently striped "KEEP CLEAR"). In addition, the project sponsor shall request that SFMTA consider relocating the pedestrian signal north of Stevenson Street closer to the intersection to reduce the propensity of pedestrians crossing Stevenson Street during a "don't walk" phase.	Project sponsor	Coordination to occur prior to building occupancy	Project sponsor to request the SFMTA consider revising the signal timing and off-sets to ensure that sufficient clearance time is provided so that vehicles do not spill back into the midblock intersection (the intersection is currently striped "KEEP CLEAR"). The project sponsor shall request that SFMTA consider relocating the pedestrian signal north of Stevenson Street closer to the intersection to reduce the propensity of pedestrians crossing Stevenson Street during a "don't walk" phase.	Considered complete after request and coordination with SFMTA for the two requests specified in I-TR-A.
Improvement Measure I-TR-B: "Garage Full" Sign on Third Street. As an improvement measure to minimize the number of vehicles accessing Stevenson Street when the Jessie Square Garage is full, the project sponsor shall strive to install, or cause to be installed, an LED (or similar) "Garage Full" sign at the intersection of Third Street at Stevenson Street.	Project sponsor and project construction contractor(s)	Prior to building occupancy prior to building occupancy.	Project sponsor to strive to install an LED (or similar) "Garage Full" sign at the intersection of Third Street at Stevenson Street.	Considered complete after installation of "Garage Full" sign and documentation of same provided to ERO.
Improvement Measure I-TR-C: Monitoring and Abatement of Queues. As an improvement measure to reduce the potential for queuing by vehicles accessing the project site, the owner/operator of the proposed project shall strive to ensure that recurring vehicle queues do not occur on Third Street or Mission Street adjacent to the proposed project site. A vehicle queue is defined as one or more vehicles (destined to	Project sponsor or building management representative	Ongoing during building occupancy	Project Sponsor to ensure that recurring vehicle queues do not occur on Mission Street adjacent to	This improvement measure is ongoing during the life of the project.

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Actions and Responsibility	Status/Date Completed
the parking facility) blocking any portion of the Third Street or Mission Street sidewalk or roadway for a consecutive period of three minutes or longer on a daily or weekly basis. If the Planning Director, or his or her designee, suspects that a recurring queue is present, the Planning Department shall notify the project sponsor in writing. Upon request, the owner/operator shall hire a qualified transportation consultant to evaluate the conditions at the site for no less than 7 days. The consultant shall prepare a monitoring report to be submitted to the Department for review. If the Planning Department determines that a recurring queue does exist, the facility owner/operator shall have 90 days from the date of the written determination to abate the queue.	and Planning Department/Project Sponsor	Ongoing during building occupancy	the proposed project site. If the Planning Director, or his or her designee, suspects that a recurring queue is present, the Planning Department shall notify the project sponsor in writing. Upon request, the owner/operator shall hire a qualified transportation consultant to evaluate the conditions at the site for no less than 7 days. If the Planning Department determines that a recurring queue does exist, the facility owner/operator shall have 90 days from the date of the written determination to abate the queue.	Considered complete upon Planning Department determination that no queuing exists. Otherwise, if monitoring shows that a recurring queue exists, considered complete when queue is abated.
Improvement Measure I-TR-D: Installation of Eyebolts. As an improvement measure to reduce pole clutter on Third Street and on Mission Street, the project sponsor could review with Planning Department and SFMTA staff whether it would be appropriate to install eyebolts in the renovated building to support Muni's overhead wire system.	Project sponsor	Prior to building permit issuance	Project sponsor to consult with Planning Department and SFMTA. If necessary, Planning Department and SFMTA shall review eyebolt installation plan.	Considered complete upon consultation with Planning Department and SFMTA. If eyebolt installation is determined appropriate by City agencies, then considered complete with approval of eyebolt installation

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Actions and Responsibility	Status/Date Completed
				plan.
Improvement Measure I-TR-E: Consolidation of Traffic Signal and Overhead Wire Poles. To eliminate pole clutter and reduce pedestrian obstructions on the Third Street sidewalk adjacent to the project site, and to improve pedestrian flow, it may be possible to consolidate the three traffic signal and overhead wire poles, and relocate the existing mailbox which extends further from the curb than the adjacent newspaper rack. (The newspaper rack and mailbox are proposed to be removed from the sidewalk during project construction.) The project sponsor could make these requests to the San Francisco Department of Public Works (DPW) (newspaper rack), the U.S. Postal Service (mail box), and SFMTA (overhead wire poles and traffic signals).	Project sponsor	Requests made prior to building permit issuance	Project sponsor to consult with and request Planning Department, SFMTA, DPW, and the U.S. Postal Service consider measures to eliminate pole clutter and pedestrian obstructions on the Third Street sidewalk as described in I-TR-E.	Considered complete upon requests made by project sponsor for traffic signal and overhead wire pole consolidation and the relocation of the existing mailbox.
Improvement Measure I-TR-F: Pedestrian Measures on Third Street. This improvement measure includes the following measures to reduce conflicts between pedestrians and vehicles on Third Street adjacent to the project site: • During peak periods of pedestrian activity on Third Street (7 AM to 7 PM), the project sponsor shall staff the driveway entry on Third Street with a traffic control attendant to facilitate vehicular ingress into the project driveway from Third Street. • The project sponsor shall provide adequate valet service to ensure that queuing space for a minimum of two vehicles within the internal drop-off area is available at all times (the internal driveway can accommodate up to six vehicles). • The project sponsor shall use alternate pavement treatment for the sidewalk at the driveway on Third Street, as determined appropriate by DPW, SFMTA, and the Planning Department. • The project sponsor shall explore the potential for providing audio and/or visual treatments to alert pedestrians that a vehicle is about to cross the sidewalk from the adjacent travel lanes (typically such treatments are for vehicles exiting, not entering, a driveway).	Project sponsor or building management representative Project sponsor or building management representative Project sponsor and project contractor Project sponsor or building management representative	Ongoing, after building occupancy Ongoing, after building occupancy Prior to completion of construction Prior to building occupancy	Project sponsor or building management representative shall staff the driveway on Third Street with a traffic control attendant. Such attendant shall facilitate vehicular ingress during peak periods of pedestrian activity. Project sponsor and project contractor use alternate pavement treatment for the sidewalk at the driveway on Third Street, as determined appropriate by DPW, SFMTA, and the Planning Department.	This improvement measure is an ongoing activity. Provide documentation of compliance to the ERO. Considered complete upon application of pavement treatment. Considered complete with documentation to the ERO regarding potential audio and/or visual treatments.
Improvement Measure I-TR-G: Reduce Pedestrian-Vehicle Conflict Areas. Pedestrian conditions on Third Street between Mission and Market Streets include an	Project sponsor in consultation with DPW,	Prior to building occupancy, provided that	Project sponsor shall work with DPW, SFMTA, and	Considered complete

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Actions and Responsibility	Status/Date Completed
existing pedestrian-vehicle conflict zone associated with the Westin Hotel passenger loading operations located on the west side of Third Street. To improve the pedestrian experience on Third Street between Mission and Market Streets, the project sponsor shall work with DPW, SFMTA, and the Planning Department to assess the feasibility of other measures or treatments to reduce pedestrian-vehicle conflicts in this area. Measures to be assessed for feasibility could include the construction of bulb outs at the intersection of Third and Mission Streets, additional signage, alternate pavement treatment for sidewalks at driveways, automated warning devices, and/or the potential reconfiguration of parking and loading strategies in the area. The project sponsor shall cooperate with the City in seeking the consent to or participation in such measures by other property owners on Third Street between Mission and Market Streets, provided that such measures shall not be required for the project where such consent or participation cannot be secured in a reasonable, timely, and economic manner.	SFMTA, and the Planning Department.	such measures shall not be required for the project where such consent or participation cannot be secured in a reasonable, timely, and economic manner.	the Planning Department to assess the feasibility of other measures or treatments to reduce pedestrian-vehicle conflicts in this area. If required, the project sponsor shall cooperate with the City in seeking the consent to, or participation in, such measures by other property owners on Third Street between Mission and Market Streets.	following consultation with DPW, SFMTA, and the Planning Department and upon determination of feasibility of measures or treatment to reduce pedestrian-vehicle conflicts.
Improvement Measure I-TR-H: Coordination of Moving Activities. To ensure that residential move-in and move-out activities do not impede traffic flow on Mission Street or Third Street, the project sponsor shall encourage that move-in and move-out operations, as well as larger deliveries, should be scheduled and coordinated through building management.	Project sponsor or building management representative	Ongoing, after building occupancy	The project sponsor shall encourage that move-in and move-out operations, as well as larger deliveries, should be scheduled and coordinated through building management.	Provide documentation to the Planning Department regarding procedures to implement this improvement measure. Ongoing for the life of the project
Improvement Measure I-TR-I: Construction - Traffic Control Plan. As an improvement measure to reduce potential conflicts between construction activities and pedestrians, transit and autos, SFMTA could require that the contractor prepare a traffic control plan for project construction. The project sponsor and construction contractor(s) shall meet with DPW, SFMTA, the Fire Department, Muni, the Planning Department and other City agencies to coordinate feasible measures to reduce traffic congestion, including temporary transit stop relocations (if determined necessary) and other measures to reduce potential traffic and transit disruption and pedestrian circulation effects during construction of the proposed project. The contractor could be required to comply with the City of San Francisco's Regulations for Working in San Francisco Streets, which establish rules and permit	Project sponsor and project construction contractor(s)	Throughout the construction duration	Project sponsor and project construction contractor(s) to coordinate with DPW, SFMTA, the Fire Department, the Planning Department and other applicable City agencies. If required, contractor to prepare a Traffic Control Plan (TCP) for project construction activities.	Considered complete once project sponsor and construction contractor(s) meet with DPW, SFMTA, the Fire Department, Muni, the Planning Department and other City

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Actions and Responsibility	Status/Date Completed
requirements so that construction activities can be done safely and with the least possible interference with pedestrians, bicyclists, transit and vehicular traffic.				agencies to coordinate feasible measures for maintenance of traffic during project construction. If required the contractor will implement the TCP as agreed upon by DPW until completion of construction activities.
Improvement Measure I-TR-J: Construction – Carpools. As an improvement measure to minimize parking demand associated with construction workers, the project sponsor could request the construction contractor to encourage carpooling and transit access to the site by construction workers.	Project sponsor and project construction contractor(s)	During project construction	Project sponsor could request the construction contractor to encourage carpooling and transit access to the site by construction workers.	Considered complete upon providing documentation of such request to the Planning Department.
Improvement Measure I-TR-K: Construction - Truck Traffic Management. As an improvement measure to minimize construction traffic impacts on Third Street and Mission Street, and on pedestrian, transit and traffic operations, the construction contractor could be required to retain San Francisco Police Department traffic control officers during peak construction periods.	Project sponsor and project construction contractor(s)	During peak periods of project construction	Project Sponsor to retain SFPD traffic control officers to minimize construction traffic impacts on Third Street and Mission Street, and on pedestrian, transit and traffic operations. DPW to monitor implementation.	Project sponsor provides documentation of retention of San Francisco Police Department traffic control officers during peak construction periods..
Improvement Measure I-TR-L: Construction - Update Adjacent Businesses and Residents. As an Improvement measure to minimize construction impacts on access for nearby institutions and businesses, DPW could require the project sponsor to provide nearby residences and adjacent businesses with regularly-updated information	Project sponsor and project construction contractor(s)	During project construction	Project sponsor to provide nearby residences and adjacent businesses with regularly-updated	Provide documentation regarding compliance with I-

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regarding project construction, including construction activities, peak construction vehicle activities (e.g., concrete pours), travel lane closures, and lane closures. The information should include contact information, including that the public can contact the SFMTA General Enforcement Division for blocked driveways and access, DPW's Street Use and Mapping for complaints regarding construction activities interfering with travel lanes, or the San Francisco Police Department for violations related to construction street space permits issued by DPW or Special Traffic Permits issues by SFMTA. A web site could be created by project sponsor that would provide current construction information of interest to neighbors.			information regarding project construction and appropriate contact information as described in I-TR-L. A web site could be created by project sponsor that would provide current construction information of interest to neighbors.	TR-L to Planning Department. Considered complete with provision of documentation and completion of construction activities.
Improvement Measure I-TR-M: Transportation Demand Management. As an improvement measure to encourage use of alternative modes and reduce the proposed project's parking demand and parking shortfall, the project sponsor could implement the following Transportation Demand Management strategies: Provide a transportation insert for the move-in packet. This packet could provide information on transit service (Muni and BART lines, schedules and fares), information on where transit passes could be purchased, and information on the 511 Regional Rideshare Program. Information on transportation options, including updates, would be posted on the Homeowners Association (HOA) website and/or by other resident communications method. The project sponsor could consider including in the price of rental or HOA fee one monthly Clipper card with transit pass for each unit. Provide function of TDM program coordinator with training for this role. Offer employee incentives to increase use of alternative modes of travel. Consider providing and maintaining bicycles and facilities for use by tenants/employees. Provide information related to access to bicycle parking and facilities in the area to tenants and employees. Examine additional ways to improve bicycle and pedestrian safety at project vehicle and building access and entries, with the goal of reducing potential conflicts between private autos, transit vehicles, and commercial loading activities and alternative	Project sponsor or building management representative	Ongoing, after building occupancy	Project sponsor to implement TDM measures specified in I-TR-M and provide documentation to the Planning Department.	This improvement measure is ongoing during the life of the project. Project sponsor to provide documentation of implementation of TDM measures to the Planning Department.

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Actions and Responsibility	Status/Date Completed
modes of travel.				
Improvement Measure I-TR-N: Monitoring and Abatement of Queues on Mission Street. To reduce the potential for queuing by vehicles accessing the project site, it shall be the responsibility of the owner/operator of the proposed project to ensure that recurring vehicle queues do not occur on Mission Street adjacent to the proposed project site. A vehicle queue is defined as one or more vehicles (destined to the parking facility) blocking any portion of the Mission Street sidewalk or roadway for a consecutive period of three minutes or longer on a daily or weekly basis. If the Planning Director, or his or her designee, suspects that a recurring queue is present, the Planning Department shall notify the project sponsor in writing. Upon request, the owner/operator shall hire a qualified transportation consultant to evaluate the conditions at the site for no less than 7 days. The consultant shall prepare a monitoring report to be submitted to the Department for review. If the Planning Department determines that a recurring queue does exist, the facility owner/operator shall have 90 days from the date of the written determination to abate the queue.	Project sponsor and Planning Department/Project Sponsor	Ongoing during building occupancy Ongoing during building occupancy	Project Sponsor to ensure that recurring vehicle queues do not occur on Mission Street adjacent to the proposed project site. If the Planning Director, or his or her designee, suspects that a recurring queue is present, the Planning Department shall notify the project sponsor in writing. Upon request, the owner/operator shall hire a qualified transportation consultant to evaluate the conditions at the site for no less than 7 days. If the Planning Department determines that a recurring queue does exist, the facility owner/operator shall have 90 days from the date of the written determination to abate the queue.	This improvement measure is ongoing during the life of the project. Considered complete upon Planning Department determination that no queuing exists. Otherwise, if monitoring shows that a recurring queue exists, considered complete when queue is abated. queue.
Improvement Measure I-NO-A: Residential Use/Cultural Component Plan Review by Qualified Acoustical Consultant. To ensure that interior noise levels at proposed noise-sensitive uses on the project site do not result in excessive awakenings or disturbances, or exceed an interior noise level standards of Title 24 of the California Code of Regulations and the San Francisco Noise Ordinance including Section 2909(d), a qualified acoustical consultant shall review plans for all new residential uses, cultural component areas (The Mexican Museum), and any other sensitive use area and provide recommendations to provide acoustical insulation or other equivalent measures to reduce interior noise levels. The project sponsor would	Project sponsor, qualified acoustical consultant, and project construction contractor(s).	Acoustical studies provided to DBI at the time the Architectural Addendum Permit is submitted for review.	Project sponsor to engage a qualified acoustical consultant to provide recommendations regarding acoustical insulation or other equivalent measures to reduce interior noise levels.	Considered complete upon submission of studies to DBI and implementation of any measures required to ensure that interior noise

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include noise insulating features to ensure that interior noise would not exceed 45 dBA (Ldn) in any habitable room. These studies shall be presented to DBI at the time that the Architectural Addendum Permit is submitted for review. Noise-insulating features for the exterior façade and envelope of the 706 Mission Street tower and rehabilitated Aronson Building may include acoustically designed systems for appropriate Outside-Inside Transmission Class ratings for curtain-wall assemblies; acoustically designed systems for appropriate Outside-Inside Transmission Class ratings for exterior punched windows and window wall assemblies; acoustically-rated exterior wall construction and assemblies; and acoustically designed exterior wall openings, such as trickle vents or Z-ducts, as required.			The project sponsor would include noise insulating features into the project to ensure that interior noise would not exceed 45 dBA (Ldn) in any habitable room. These studies shall be presented to the Department of Building Inspection (DBI).	would not exceed 45 dBA (Ldn) in any habitable room.
Improvement Measure I-WS-A. As an improvement measure to reduce ground-level wind speeds in areas used for public seating, the project sponsor shall meet with Planning Department staff to determine which locations would benefit the most from wind reduction measures and what types of wind reduction measures could be implemented at these locations. The project sponsor shall strive to install, or cause to be installed, wind reduction measures that could include hedges, planter boxes, trees, and trellises. In the event that some locations are not on property owned or otherwise controlled by the project sponsor, the project sponsor shall discuss the implementation of these wind reduction measures with the appropriate parties, which could include the Successor Agency, other City departments, or other property owners.	Project sponsor in coordination with the Planning Department and adjacent property owners.	Project sponsor to meet with Planning Department staff prior to building occupancy. Project sponsor shall strive to install, or cause to be installed, wind reduction measures prior to building occupancy, provided that occupancy shall not be delayed in the event that measure has not been implemented.	Project sponsor to coordinate with the Planning Department staff to determine which locations would benefit the most from wind reduction measures and what types of wind reduction measures could be implemented at these locations. In the event that some locations are not on property owned, or otherwise controlled by the project sponsor, the project sponsor shall discuss the implementation of these wind reduction measures with the appropriate parties, which could include the Successor Agency, other City departments, or other property owners.	Considered complete upon meeting with Planning Department, and if determined appropriate, the implementation of wind reduction measures.
Improvement Measure I-WS-B As an improvement measure, the project sponsor would address the wind conditions and usability of the proposed private roof terraces	Project sponsor and project construction	Prior to building occupancy, provided that	Project sponsor to address the wind conditions and	Considered complete upon

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on the west side of the tower and the common open space on the north side of the Aronson Building roof through the implementation of building design considerations as well as wind control measures in order to improve wind conditions in these locations. Wind control measures to be implemented may include trellises, landscaping, tall parapets and/or wind screens.	contractor(s)	occupancy shall not be delayed in the event that this measure has not been completed.	usability of the proposed private roof terraces on the west side of the tower and the common open space on the north side of the Aronson Building roof through implementation of building design considerations as well as wind control measures as described in I-WS-B. Project sponsor to provide documentation of compliance to Planning Department.	implementation and documentation to the Planning Department of wind control measures.

SAN FRANCISCO
PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Resolution 18876
Section 295
HEARING DATE: MAY 23, 2013

Date:	March 28, 2013
Case No.:	2008.1084EHKXRTZ
Project Address:	706 Mission Street
Project Site Zoning:	C-3-R (Downtown, Retail, Commercial) 400-I Height and Bulk District
Block/Lots:	3706/093, 276, 277 (706 Mission Street) 0308/001 (Union Square)
Project Sponsor:	706 Mission Street, LLC c/o Sean Jeffries of Millennium Partners 735 Market Street, 4th Floor San Francisco, CA 94107
Staff Contact:	Aaron Hollister – (415) 575-9078 aaron.hollister@sfgov.org

RESOLUTION TO AMEND THE SECTION 295 IMPLEMENTATION MEMO ADOPTED IN 1989 TO RAISE THE ABSOLUTE CUMULATIVE SHADOW LIMIT ON UNION SQUARE IN ORDER TO ALLOW THE PROPOSED PROJECT AT 706 MISSION STREET, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

The people of the City and County of San Francisco, in June 1984, adopted an initiative ordinance, commonly known as Proposition K, codified as Section 295 of the Planning Code.

Section 295 requires that the Planning Commission disapprove any building permit application to construct a structure that will cast shadow on property under the jurisdiction of the Recreation and Park Department, unless it is determined that the shadow would not be significant or adverse. The Planning Commission and the Recreation and Park Commission must adopt criteria for the implementation of that ordinance.

Section 295 is implemented by analyzing park properties that could be shadowed by new construction, including the current patterns of use of such properties, how such properties might be used in the future,

and assessing the amount of shadowing, its duration, times of day, and times of year of occurrence. The Commissions may also consider the overriding social or public benefits of a project casting shadow. Pursuant to Planning Code Section 295, the Planning Commission and the Recreation and Park Commission, on February 7, 1989, adopted standards for allowing additional shadows on the greater downtown parks (Resolution No. 11595).

Union Square ("Park"), which is 0.25 miles northwest of 706 Mission Street ("Project Site"), is a public open space that is under the jurisdiction of the Recreation and Park Commission. Union Square is an approximately 2.58-acre park that occupies the entire block bounded by Post Street on the north, Stockton Street on the east, Geary Street on the south, and Powell Street on the west. The plaza is primarily hardscaped and oriented to passive recreational uses, large civic gatherings, and ancillary retail. There are no recreational facilities and some grassy areas exist along its southern perimeter. There are pedestrian walkways and seating areas throughout the park, several retail kiosks and two cafés on the east side of the park. The park includes portable tables and chairs that can be moved to different locations. A 97-foot-tall monument commemorating the Battle of Manila Bay from the Spanish American War occupies the center of the park. Residents, shoppers, tourists, and workers use the park as an outdoor lunch destination and a mid-block pedestrian crossing. Throughout the year, the park is sunny during the middle of the day; it is shadowed by existing buildings to the east, south, and west during the early morning, late afternoon, and early evening. During the spring and autumn, Union Square is sunny from approximately 9:00 AM until 3:00 PM; it is shadowed by existing buildings during the early morning, late afternoon, and early evening. During the summer, Union Square is sunny from approximately 10:00 AM until 4:00 PM; it is shadowed by existing buildings during the early morning, late afternoon, and early evening. During the winter, Union Square is mostly sunny from approximately noon until 2:00 PM; it is shadowed by existing buildings during the rest of the day.

Union Square receives about 392,663,521 square-foot-hours ("sfh") of theoretical annual sunlight ("TAAS"). Currently, there are about 150,265,376 sfh of existing annual shadow on the park. The ACL that was established for Union Square in 1989 is additional shadow that was equal to 0.1 percent of the TAAS on Union Square, which is approximately 392,663.5 sfh. Until October of 2012, Union Square currently has a remaining shadow allocation, or shadow budget, of approximately 323,123.5 sfh. Since the quantitative standard for Union Square was established in 1989, two completed development projects have affected the shadow conditions on Union Square. In 1996, a project to expand Macy's department store altered the massing of the structure and resulted in a net reduction of 194,293 sfh of existing shadow (with a corresponding increase in the amount of sunlight on the park), and in 2003, a project at 690 Market Street added 69,540 sfh of net new shadow on Union Square. Although the Macy's expansion project reduced the amount of existing shadow and increased the amount of available sunlight on Union Square, this amount has not been added back to the shadow budget for Union Square by the Planning Commission and the Recreation and Park Commission to account for these conditions.

Additionally, on October 11, 2012, the Planning Commission and the Recreation and Park Commission held a duly noticed joint public hearing and adopted Planning Commission Resolution No. 18717 and Recreation and Park Commission Resolution No. 1201-001 amending the 1989 Memo and raising the absolute cumulative shadow limits for seven open spaces under the jurisdiction of the Recreation and Park Department that could be shadowed by likely cumulative development sites in the Transit Center District Plan ("Plan") Area, including Union Square. In revising these ACLs, the Commissions also

adopted qualitative criteria for each park related to the characteristics of shading within these ACLs by development sites within the Plan Area that would not be considered adverse, including the duration, time of day, time of year, and location of shadows on the particular parks. Under these amendments to the 1989 Memo, any consideration of allocation of "shadow" within these newly increased ACLs for projects within the Plan Area must be consistent with these characteristics. The Commissions also found that the "public benefit" of any proposed project in the Plan Area should be considered in the context of the public benefits of the Transit Center District Plan as a whole. During a joint public hearing on October 11, 2012, the Planning Commission and the Recreation and Park Commission increased the ACLs for seven downtown parks, including Union Square, to allow for shadow cast by development proposed under the Transit Center District Plan (TCDP). The ACL for Union Square was increased from the original limit of 0.1 percent of the TAAS (approximately 392,663.5 sfh) to 0.19 percent of the TAAS (approximately 746,060.7 sfh), but all of the available ACL was reserved for development sites within the Plan Area.

On October 11, 2012, following the joint hearing regarding the TCDP, the Recreation and Park Commission reviewed the shadow impacts of the proposed Transbay Tower at 101 First Street and made a formal recommendation to the Planning Commission to allocate a portion of the newly adopted ACL for Union Square to the Transbay Tower. On October 18, 2012, the Planning Commission allocated a portion of the newly adopted ACL to the Transbay Tower (Motion No. 18724, Case No. 2008.0789K).

On November 15, 2012, the Recreation and Park Commission made a formal recommendation to the Planning Commission to allocate a portion of the newly adopted ACL for Union Square to a proposed project at 181 Fremont Street. On December 6, 2012, the Planning Commission allocated a portion of the newly adopted ACL to 181 Fremont Street. As a result of these actions, the remaining ACL for Union Square is 0.1785 percent of the TAAS, which means that approximately 700,904.4 sfh of net new shadow could be cast on Union Square by other development proposed under the TCDP (Motion No. 18763, Case No. 2007.0456K).

On September 25, 2008, Margo Bradish, Esq., of Cox, Castle & Nicholson LLP on behalf of 706 Mission Street, LLC ("Project Sponsor") submitted a request for review of a development exceeding 40 feet in height, pursuant to Section 295, analyzing the potential shadow impacts of the Project to properties under the jurisdiction of the Recreation and Parks Department (Case No. 2008.1084K). Department staff prepared a shadow fan depicting the potential shadow cast by the development and concluded that the Project could have a potential impact to properties subject to Section 295.

On October 24, 2012, the Project Sponsor filed an application with the Planning Department ("Department") for a Determination of Compliance pursuant to Planning Code Section ("Section") 309 with requested Exceptions from Planning Code ("Code") requirements for "Reduction of Ground-Level Wind Currents in C-3 Districts", "Off-Street Parking Quantity", "Rear Yard, and "General Standards for Off-Street Parking and Loading" to allow curb cuts on Third and Mission Streets, for a project to rehabilitate an existing 10-story, 144-foot tall building (the Aronson Building), and construct a new, adjacent 47-story tower, reaching a roof height of 520 feet with a 30-foot tall mechanical penthouse. The two buildings would be connected and would contain up to 215 dwelling units, a "core-and-shell" museum space measuring approximately 52,000 square feet, and approximately 4,800 square feet of retail space. The project would reconfigure portions of the existing Jessie Square Garage to increase the number of parking spaces from 442 spaces to 470 spaces, add loading and service vehicle spaces, and would

allocate up to 215 parking spaces within the garage to serve the proposed residential uses. The Project Sponsor has proposed a "flex option" that would retain approximately 61,000 square feet of office uses within the existing Aronson Building, and would reduce the residential component of the project to 191 dwelling units. On May 20, 2013, the Project Sponsor reduced the height of the proposed tower from 520 feet (with a 30-foot-tall elevator/mechanical penthouse) to 480 feet (with a 30-foot-tall elevator/mechanical penthouse). As a result, the number of dwelling units in the Project was reduced from a maximum of 215 dwelling units to a maximum of 190 dwelling units, the number of residential parking spaces was reduced from a maximum of 215 spaces to a maximum of 190 spaces, and the "flex option" of retaining office space within the project was deleted. The project is located at 706 Mission Street, Lots 093, 276, and portions of Lot 277 within Assessor's Block 3706 ("Project Site"), within the C-3-R District and the 400-I Height and Bulk District (collectively, "Project", Case No. 2008.1084X).

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

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

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

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

reduction in the height of the tower results in a reduction of approximately 29% of net new shadow compared with the Project's original design.

As part of their actions on October 11, 2012 to increase the ACLs for seven downtown parks, the Planning Commission and the Recreation and Park Commission designated the ACLs exclusively for projects that meet the criteria set forth in the TCDP. Projects that do not meet the criteria set forth in the TCDP may not utilize any portion of the amended ACLs if they cast net new shadow on any of the seven downtown parks for which the ACLs were amended. Such projects would be required to seek their own amendments to the ACLs for these seven downtown parks. The Project is located outside the Plan area and is not eligible to utilize newly adopted ACL on the Park.

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

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

The EIR concludes that the Project would not result in a project-specific significant shadow impact to recreation facilities or other public areas. With respect to Union Square, the EIR indicates that the net new shadow would be of limited duration and the new shadowing would occur at times when the use of Union Square is limited. The EIR concludes that the Project would, however, make a cumulatively considerable contribution to a significant cumulative shadow impact on public open spaces when taking into account other reasonably foreseeable future projects, such as the Transit Tower and the Palace Hotel Project, that would also result in new shadowing of public areas, including Union Square.

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

On May 23, 2013, the Commission adopted Motion No. 18875, adopting CEQA findings, including a Statement of Overriding Considerations, and adopting the Mitigation Monitoring and Reporting Program ("MMRP"), which findings and adoption of the MMRP are hereby incorporated by reference as though fully set forth herein. The Commission found that the reduction in the height of the Project has resulted in

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

The Planning Department, Jonas Ionin , is the custodian of records for this action, and such records are located at 1650 Mission Street, Fourth Floor, San Francisco, California.

The Project Sponsor has requested that, as part of the requested increase in the ACL for Union Square, the Planning Commission and the Recreation and Park Commission formally add to the ACL the additional sunlight that resulted from the Macy's expansion project in 1996, which consisted of 194,293 sfh (equal to approximately 0.05% of the TAAS for Union Square). The Project at 706 Mission would cast 44,495 sfh of net new shadow (equal to approximately 0.01% of the TAAS for Union Square) beyond the additional sunlight from the Macy's expansion project, for a total of 238,788 sfh of net new shadow (equal to approximately 0.06% of the TAAS for Union Square).

The Planning Commission and the Recreation and Park Commission held a duly advertised joint public hearing on May 23, 2013 to consider whether to increase the ACL for Union Square by 0.05 percent of the TAAS for Union Square to account for the additional sunlight that resulted from the Macy's expansion project, and to increase the ACL an additional 0.01 percent, for a total increase of 0.06 percent of the TAAS for Union Square.

The Planning Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Project.

The Planning Commission has heard and considered the testimony presented at the public hearing and has further considered the written materials and oral testimony presented on behalf of the Project Sponsor, Department staff, and other interested parties.

Therefore, the Commission hereby resolves:

FINDINGS

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

1. The foregoing recitals are accurate, and also constitute findings of this Commission.

2. The staffs of both the Planning Department and the Recreation and Park Department have recommended increasing the ACL for Union Square by 0.05 percent of the TAAS for Union Square to account for the additional sunlight that resulted from the Macy's expansion project, and to increase the ACL an additional 0.01 percent, for a total increase of 0.06 percent of the TAAS for Union Square, equal to approximately 238,788 square-foot-hours of net new shadow.

3. The additional shadow cast by the Project on Union Square, while numerically significant, would not be adverse to the use of Union Square, and is not expected to interfere with the use of the Park, for the following reasons: (1) the new shadow would not occur after 9:15 a.m. any day of the year (maximum new shadow range would be 8:30 a.m. to 9:15 a.m. during daylight savings time, or 7:30 a.m. to 8:15 a.m. during standard time) and would be consistent with the 1989 Memo qualitative standards for Union Square in that the new net shadow would not occur during mid-day hours; (2) the new shadow would generally occur in the morning hours during periods of relatively low park usage; (3) the new shadow would occur for a limited amount of time from October 11th to November 8th and from February 2nd to March 2nd for less than one hour on any given day during the hours subject to Section 295; and (4) the new shadow does not affect the manner in which Union Square is used, which is mainly for passive recreational opportunities.

4. A determination by the Planning Commission and the Recreation and Park Commission to raise the absolute cumulative shadow limit for the park in an amount that would accommodate the additional shadow that would be cast by the Project does not constitute an approval of the Project.

5. The reduction in the height of the Project has resulted in no substantial changes that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR, no new information has become available that was not known and could not have been known at the time the Final EIR was certified as complete and that would result in new substantially more severe significant environmental impacts not evaluated in the Final EIR, and no mitigation measures or alternatives previously found infeasible would be feasible or mitigation measures or alternatives considerably different than those analyzed in the Final EIR would substantially reduce significant environmental impacts, but the project proponent declines to adopt them.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Planning Department, the recommendation of the General Manager of the Recreation and Park Department, in consultation with the Recreation and Park Commission, and other interested parties, the oral testimony presented to the Planning Commission and the Recreation and Park Commission at the public hearing, and all other written materials submitted by all parties, the Planning Commission hereby ADOPTS, under Shadow Analysis Application No. 2008.1084K, an amendment of the absolute cumulative limit ("ACL") for Union Square to (a) include the approximately 194,293 sfh of shadow (equal to 0.05% of the TAAS) that resulted from a 1996 project modifying the Macy's department store that reduced shadow on Union Square (the "Macy's Adjustment") that had not been previously added back to the ACL for Union Square and (b) increase the ACL by an additional 44,495 sfh of net new shadow (equal to 0.01% of the TAAS). Should the building envelope of the Project be reduced, the increase in the cumulative shadow limit authorized by this action shall be reduced to the amount of shadow that would be cast by the revised Project.

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

Jonas P. Ionin
Acting Commission Secretary

AYES: Fong, Antonini, Borden, Hillis

NAYS: Moore, Sugaya, Wu

ABSENT:

ADOPTED: May 23, 2013

SAN FRANCISCO
PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion 18877
Section 295

HEARING DATE: MAY 23, 2013

Date:	March 28, 2013
Case No.:	2008.1084EHKXRTZ
Project Address:	**706 Mission Street**
Project Site Zoning:	C-3-R (Downtown, Retail, Commercial) 400-I Height and Bulk District
Block/Lots:	3706/093, 276, portions of 277 (706 Mission Street) 0308/001 (Union Square)
Project Sponsor:	706 Mission Street, LLC c/o Sean Jeffries of Millennium Partners 735 Market Street, 4th Floor San Francisco, CA 94107
Staff Contact:	Aaron Hollister – (415) 575-9078 aaron.hollister@sfgov.org

ADOPTING FINDINGS, WITH THE RECOMMENDATION OF THE GENERAL MANAGER OF THE RECREATION AND PARK DEPARTMENT, IN CONSULTATION WITH THE RECREATION AND PARK COMMISSION THAT THE NET NEW SHADOW FROM THE PROPOSED PROJECT AT 706 MISSION STREET WILL NOT HAVE AN ADVERSE IMPACT ON UNION SQUARE, AS REQUIRED BY PLANNING CODE SECTION 295 (THE SUNLIGHT ORDINANCE), AND ALLOCATE NET NEW SHADOW ON UNION SQUARE TO THE PROPOSED PROJECT AT 706 MISSION STREET.

PREAMBLE

Under Planning Code Section 295 (also referred to as Proposition K from 1984), a building permit application for a project exceeding a height of 40 feet cannot be approved if there is any shadow impact on a property under the jurisdiction of the Recreation and Park Department, unless the Planning Commission, upon recommendation from the General Manager of the Recreation and Park Department, in consultation with the Recreation and Park Commission, makes a determination that the shadow impact will not be significant or adverse to the use of the property.

On February 7, 1989, the Recreation and Park Commission and the Planning Commission adopted criteria establishing absolute cumulative limits ("ACL") for additional shadows on 14 parks throughout San Francisco (Planning Commission Resolution No. 11595), as set forth in a February 3, 1989 memorandum (the "1989 Memo"). The ACL for each park is expressed as a percentage of the Theoretically Available Annual Sunlight ("TAAS") on the Park (with no adjacent structures present).

Union Square ("Park"), which is 0.25 miles northwest of 706 Mission Street ("Project Site"), is a public open space that is under the jurisdiction of the Recreation and Park Commission. Union Square is an approximately 2.58-acre park that occupies the entire block bounded by Post Street on the north, Stockton Street on the east, Geary Street on the south, and Powell Street on the west. The plaza is primarily hardscaped and oriented to passive recreational uses, large civic gatherings, and ancillary retail. There are no recreational facilities and some grassy areas exist along its southern perimeter. There are pedestrian walkways and seating areas throughout the park, several retail kiosks and two cafés on the east side of the park. The park includes portable tables and chairs that can be moved to different locations. A 97-foot-tall monument commemorating the Battle of Manila Bay from the Spanish American War occupies the center of the park. Residents, shoppers, tourists, and workers use the park as an outdoor lunch destination and a mid-block pedestrian crossing. Throughout the year, the park is sunny during the middle of the day; it is shadowed by existing buildings to the east, south, and west during the early morning, late afternoon, and early evening. During the spring and autumn, Union Square is sunny from approximately 9:00 AM until 3:00 PM; it is shadowed by existing buildings during the early morning, late afternoon, and early evening. During the summer, Union Square is sunny from approximately 10:00 AM until 4:00 PM; it is shadowed by existing buildings during the early morning, late afternoon, and early evening. During the winter, Union Square is mostly sunny from approximately noon until 2:00 PM; it is shadowed by existing buildings during the rest of the day.

Union Square receives about 392,663,521 square-foot-hours ("sfh") of TAAS. Currently, there are about 150,265,376 sfh of existing annual shadow on the park. The ACL that was established for Union Square in 1989 is additional shadow that was equal to 0.1 percent of the TAAS on Union Square, which is approximately 392,663.5 sfh. Until October of 2012, Union Square currently had a remaining shadow allocation, or shadow budget, of approximately 323,123.5 sfh. Since the quantitative standard for Union Square was established in 1989, two completed development projects have affected the shadow conditions on Union Square. In 1996, a project to expand Macy's department store altered the massing of the structure and resulted in a net reduction of 194,293 sfh of existing shadow (with a corresponding increase in the amount of sunlight on the park), and in 2003, a project at 690 Market Street added 69,540 sfh of net new shadow on Union Square. Although the Macy's expansion project reduced the amount of existing shadow and increased the amount of available sunlight on Union Square, this amount has not been added back to the shadow budget for Union Square by the Planning Commission and the Recreation and Park Commission to account for these conditions.

Additionally, on October 11, 2012, the Planning Commission and the Recreation and Park Commission held a duly noticed joint public hearing and adopted Planning Commission Resolution No. 18717 and Recreation and Park Commission Resolution No. 1201-001 amending the 1989 Memo and raising the absolute cumulative shadow limits for seven open spaces under the jurisdiction of the Recreation and Park Department that could be shadowed by likely cumulative development sites in the Transit Center

District Plan ("Plan") Area, including Union Square. In revising these ACLs, the Commissions also adopted qualitative criteria for each park related to the characteristics of shading within these ACLs by development sites in the Plan Area that would not be considered adverse, including the duration, time of day, time of year, and location of shadows on the particular parks. Under these amendments to the 1989 Memo, any consideration of allocation of "shadow" within these newly increased ACLs for projects within the Plan Area must be consistent with these characteristics. The Commissions also found that the "public benefit" of any proposed project in the Plan Area should be considered in the context of the public benefits of the Transit Center District Plan as a whole. During a joint public hearing on October 11, 2012, the Planning Commission and the Recreation and Park Commission increased the ACLs for seven downtown parks, including Union Square, to allow for shadow cast by development proposed under the Transit Center District Plan (TCDP). The ACL for Union Square was increased from the original limit of 0.1 percent of the TAAS (approximately 392,663.5 sfh) to 0.19 percent of the TAAS (approximately 746,060.7 sfh), but all of the available shadow budget within this ACL was reserved for development within the Plan Area.

On October 11, 2012, following the joint hearing regarding the TCDP, the Recreation and Park Commission reviewed the shadow impacts of the proposed Transbay Tower at 101 First Street and made a formal recommendation to the Planning Commission to allocate a portion of the newly adopted ACL for Union Square to the Transbay Tower. On October 18, 2012, the Planning Commission allocated a portion of the newly adopted ACL to the Transbay Tower (Motion No. 18724, Case No. 2008.0789K).

On November 15, 2012, the Recreation and Park Commission made a formal recommendation to the Planning Commission to allocate a portion of the newly adopted ACL for Union Square to a proposed project at 181 Fremont Street. On December 6, 2012, the Planning Commission allocated a portion of the newly adopted ACL to 181 Fremont Street. As a result of these actions, the remaining ACL for Union Square is 0.1785 percent of the TAAS, which means that approximately 700,904.4 sfh of net new shadow could be cast on Union Square by other development proposed under the TCDP (Motion No. 18763, Case No. 2007.0456K).

On September 25, 2008, Sean Jeffries of Millennium Partners, acting on behalf of 706 Mission Street, LLC ("Project Sponsor") submitted a request for review of a development exceeding 40 feet in height, pursuant to Section 295, analyzing the potential shadow impacts of the Project to properties under the jurisdiction of the Recreation and Parks Department (Case No. 2008.1084K). Department staff prepared a shadow fan depicting the potential shadow cast by the development and concluded that the Project could have a potential impact to properties subject to Section 295.

On October 24, 2012, the Project Sponsor filed an application with the Planning Department ("Department") for a Determination of Compliance pursuant to Planning Code Section ("Section") 309 with requested Exceptions from Planning Code ("Code") requirements for "Reduction of Ground-Level Wind Currents in C-3 Districts", "Off-Street Parking Quantity", "Rear Yard, and "General Standards for Off-Street Parking and Loading" to allow curb cuts on Third and Mission Streets, for a project to rehabilitate an existing 10-story, 144-foot tall building (the Aronson Building), and construct a new, adjacent 47-story tower, reaching a roof height of 520 feet with a 30-foot tall mechanical penthouse. The two buildings would be connected and would contain up to 215 dwelling units, a "core-and-shell" museum space measuring approximately 52,000 square feet, and approximately 4,800 square feet of retail space. The project would reconfigure portions of the existing Jessie Square Garage to increase the number

of parking spaces from 442 spaces to 470 spaces, add loading and service vehicle spaces, and would allocate up to 215 parking spaces within the garage to serve the proposed residential uses. The Project Sponsor has proposed a "flex option" that would retain approximately 61,000 square feet of office uses within the existing Aronson Building, and would reduce the residential component of the project to 191 dwelling units. On May 20, 2013, the Project Sponsor reduced the height of the proposed tower from 520 feet (with a 30-foot-tall elevator/mechanical penthouse) to 480 feet (with a 30-foot-tall elevator/mechanical penthouse). As a result, the number of dwelling units in the Project was reduced from a maximum of 215 dwelling units to a maximum of 190 dwelling units, the number of residential parking spaces was reduced from a maximum of 215 spaces to a maximum of 190 spaces, and the "flex option" of retaining office space within the project was deleted. The project is located at 706 Mission Street, Lots 093, 276, and portions of Lot 277 within Assessor's Block 3706 ("Project Site"), within the C-3-R District and the 400-I Height and Bulk District (collectively, "Project", Case No. 2008.1084X).

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

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

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

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

on a yearly basis, which would be an increase of about 0.06% of the TAAS on Union Square. The reduction in the height of the tower results in a reduction of approximately 29% of net new shadow compared with the Project's original design.

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

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

The EIR concludes that the Project would not result in a project-specific significant shadow impact to recreation facilities or other public areas. With respect to Union Square, the EIR indicates that the net new shadow would be of limited duration and the new shadowing would occur at times when the use of Union Square is limited. The EIR concludes that the Project would, however, make a cumulatively considerable contribution to a significant cumulative shadow impact on public opens spaces when taking into account other reasonably foreseeable future projects, such as the Transit Tower and the Palace Hotel Project, that would also result in new shadowing of public areas, including Union Square.

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

As part of their actions on October 11, 2012 to increase the ACLs for seven downtown parks, the Planning Commission and the Recreation and Park Commission designated the ACLs exclusively for projects that meet the criteria set forth in the TCDP. Projects that do not meet the criteria set forth in the TCDP may not utilize any portion of the amended ACLs if they cast net new shadow on any of the seven downtown parks for which the ACLs were amended. Such projects would be required to seek their own amendments to the ACLs for these seven downtown parks. The Project is located outside the Plan area and is not eligible to utilize newly adopted ACL on the Park.

On May 23, 2013, the Commission adopted Motion No. 18875, adopting CEQA findings, including a Statement of Overriding Considerations, and adopting the Mitigation Monitoring and Reporting Program ("MMRP"), which findings and adoption of the MMRP are hereby incorporated by reference as though

fully set forth herein. The Commission found that the reduction in the height of the Project has resulted in no substantial changes that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR, no new information has become available that was not known and could not have been known at the time the Final EIR was certified as complete and that would result in new substantially more severe significant environmental impacts not evaluated in the Final EIR, and no mitigation measures or alternatives previously found infeasible would be feasible or mitigation measures or alternatives considerably different than those analyzed in the Final EIR would substantially reduce significant environmental impacts, but the project proponent declines to adopt them.

The Planning Department, Jonas Ionin , is the custodian of records for this action, and such records are located at 1650 Mission Street, Fourth Floor, San Francisco, California.

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

On May 23, 2011, The Recreation and Park Commission conducted a duly notice public hearing at regularly scheduled meeting and recommended that the Planning Commission find that the shadows cast by the Project on Union Square will not be adverse to the use of Union Square.

The Planning Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Project.

The Planning Commission has heard and considered the testimony presented at the public hearing and has further considered the written materials and oral testimony presented on behalf of the Project Sponsor, Department staff, and other interested parties.

FINDINGS

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

1. The foregoing recitals are accurate, and also constitute findings of this Commission.

2. The additional shadow cast by the Project on Union Square, while numerically significant, would not be adverse to the use of Union Square, and is not expected to interfere with the use of the Park, for the following reasons: (1) the new shadow would not occur after 9:15 a.m. any day of the year (maximum new shadow range would be 8:30 a.m. to 9:15 a.m. during daylight savings time, or 7:30 a.m. to 8:15 a.m. during standard time) and would be consistent with the 1989 Memo qualitative standards for Union Square in that the new net shadow would not occur during mid-day hours; (2) the new shadow would generally occur in the morning hours during periods of relatively low park usage; (3) the new shadow would occur for a limited amount of

time from October 11th to November 8th and from February 2nd to March 2nd for less than one hour on any given day during the hours subject to Section 295; and (4) the new shadow does not affect the manner in which Union Square is used, which is mainly for passive recreational opportunities.

3. A determination by the Planning Commission and/or the Recreation and Park Commission to allocate net new shadow to the Project does not constitute an approval of the Project.

DECISION

Based upon the Record, the submissions by the Project Sponsor, the staff of the Planning Department, the recommendation of the General Manager of the Recreation and Park Department, in consultation with the Recreation and Park Commission, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, the Commission hereby **DETERMINES**, under Shadow Analysis Application No. 2008.1084K, that the net new shadow cast by the Project on Union Square would not be adverse to the use of the park, and **ALLOCATES** to the Project 238,788 square-foot-hours of additional shadow on Union Square (representing approximately 0.06% of the Theoretically Available Annual Sunlight for Union Square), including (a) the approximately 194,293 sfh of shadow (equal to 0.05% of the TAAS) that resulted from the "Macy's Adjustment", and (b) an additional 44,495 sfh of net new shadow (equal to 0.01% of the TAAS). Should the building envelope of the Project be reduced, the allocation of additional shadow to the Project that is authorized by this action shall be reduced to the amount of shadow that would be cast by the revised Project.

FURTHERMORE, the Commission adopts findings under the California Environmental Quality Act, including the Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program prepared for the Project, as set forth in Motion No. 18875, which are hereby incorporated by reference as though fully set forth herein.

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

Jonas P. Ionin
Acting Commission Secretary

AYES: Fong, Antonini, Borden, Hillis

NAYS: Moore, Sugaya, Wu

ABSENT:

ADOPTED: May 23, 2013

SAN FRANCISCO
PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- ☑ Inclusionary Housing
- ☐ Childcare Requirement
- ☐ Jobs Housing Linkage Program
- ☐ Downtown Park Fee
- ☑ Public Art
- ☐ Public Open Space
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1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Resolution 18879
Zoning Map Amendment
Planning Code Text Amendment

HEARING DATE: MAY 23, 2013

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BOARD OF SUPERVISORS
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2013 JUN -3 AM 11:57
BY

Date:	March 28, 2013
Case No.:	2008.1084EHKXRTZ
Project Address:	706 Mission Street
Project Site Zoning:	C-3-R (Downtown, Retail, Commercial) 400-I Height and Bulk District
Block/Lots:	3706/093, 275, portions of 277 (706 Mission Street) 0308/001 (Union Square)
Project Sponsor:	706 Mission Street, LLC c/o Sean Jeffries of Millennium Partners 735 Market Street, 4th Floor San Francisco, CA 94107
Staff Contact:	Kevin Guy – (415) 558-6163 Kevin.Guy@sfgov.org

RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT THE BOARD OF SUPERVISORS AMEND ZONING MAP SHEET HT01 TO RECLASSIFY THE PROPERTY AT 706 MISSION STREET, BLOCK 3706, LOT 093 AND PORTIONS OF LOT 277, FROM THE 400-I HEIGHT AND BULK DISTRICT TO THE 480-I HEIGHT AND BULK DISTRICT, AND RECOMMENDING THAT THE BOARD OF SUPERVISORS AMEND ZONING MAP SHEET SU01 AND THE TEXT OF THE PLANNING CODE TO ADOPT THE "YERBA BUENA CENTER MIXED-USE SPECIAL USE DISTRICT" AT 706 MISSION STREET, BLOCK 3706, LOT 093 AND PORTIONS OF LOT 277, AND ADOPTING FINDINGS THAT THE PROPOSED AMENDMENT TO THE PLANNING CODE AND ZONING MAPS IS CONSISTENT WITH THE OBJECTIVES AND POLICIES OF THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF SECTION 101.1(b) OF THE PLANNING CODE, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

RECITALS

1. WHEREAS, On October 24, 2012, 706 Mission Street Co LLC ("Project Sponsor") filed entitlement applications with the San Francisco Planning Department for the development of a mixed-use

development project ("Project") at the northwest corner of Third and Mission Streets, including an application for a Planning Code Text Amendment to create a new Yerba Buena Center Mixed-Use Special Use District, and an application for a Height Reclassification to reclassify the property at 706 Mission Street from the 400-I Height and Bulk District to the 520-I Height and Bulk District. On May 20, 2013, the Project Sponsor reduced the height of the proposed Project from 520 feet (with a 30-foot-tall elevator/mechanical penthouse) to 480 feet (with a 30-foot-tall elevator/mechanical penthouse). In association with the reduced height of the Project, the Project Sponsor revised the request for a Height Reclassification to reclassify the Project site from the 400-I Height and Bulk District to the 480-I Height and Bulk District.

2. **WHEREAS,** The Project is proposed to be developed on three parcels: (1) the entirety of Assessor's Block 3706, Lot 093, which is currently owned by the Applicant and which is improved with an existing 10-story, 144-foot-tall building with a 10-foot-tall mechanical penthouse ("Aronson Building"); (2) a portion of Assessor's Block 3706, Lot 277, which is currently owned by the Successor Agency to the Redevelopment Agency of the City and County of San Francisco ("Successor Agency"), and which was chosen by the former Redevelopment Agency Commission and The Mexican Museum Board of Trustees as the future permanent home of The Mexican Museum (the "Mexican Museum Parcel"); and (3) a portion of Assessor's Block 3706, Lot 277 and the entirety of Lot 275, which is currently owned by the Successor Agency, and which is improved with the below-grade, 442 parking space Jessie Square Garage (the "Garage Parcel"). The Aronson Building is designated as a Category I Significant Building within the expanded New Montgomery-Mission-Second Street Conservation District.

3. **WHEREAS,** As part of the Project, and pursuant to transaction documents to be entered into between the Successor Agency and the Applicant, the Successor Agency would convey the Garage Parcel and the Mexican Museum Parcel to the Applicant. The Applicant would then construct a new 43-story, 480-foot-tall tower (with a 30-foot-tall elevator/mechanical penthouse), with two floors below grade. The new tower would be adjacent to and physically connected to the existing Aronson Building, which would be rehabilitated in compliance with the Secretary of Interior's Standards.

4. **WHEREAS,** The new tower would contain up to 39 floors of residential space. The Mexican Museum would occupy the ground through fourth floors of the tower and the second and third floors and possibly some of the ground floor of the Aronson Building. The overall project would contain up to 190 residential units, space for The Mexican Museum, a ground-floor retail/restaurant use, and associated building services. The project would also entail certain reconfigurations of the Jessie Square Garage.

5. **WHEREAS,** Pursuant to transaction documents to be entered into between the Successor Agency and the Applicant, the Project would result in several public benefits, including the rehabilitation of the Category I Aronson Building, the construction of a core-and-shell for future occupancy by the Mexican Museum, a $5,000,000 operating endowment for the Mexican Museum, and the creation of affordable housing opportunities through the payment of an in-lieu fee equal to 20% of the residential units, pursuant to the Inclusionary Affordable Housing Program in Sections 415 through

415.9, as well as the payment of an additional affordable housing fee to the Successor Agency equal to 8% of the residential units.

6. **WHEREAS,** In order for the Project to proceed and be developed as contemplated by the Applicant, the Successor Agency, and The Mexican Museum, a height reclassification and amendments to certain provisions of the Planning Code are required, including modifications of regulations related to permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations.

7. **WHEREAS,** On June 27, 2012, the Department published a draft Environmental Impact Report (EIR) for public review. The draft EIR was available for public comment until August 13, 2012. On August 2, 2012, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to solicit comments regarding the draft EIR. On March 7, 2013, the Department published a Comments and Responses document, responding to comments made regarding the draft EIR prepared for the Project. On March 21, 2013, the Commission reviewed and considered the Final EIR and found that the contents of said report and the procedures through which the Final EIR was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA"), 14 California Code of Regulations Sections 15000 et seq. ("the CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission found the Final EIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the draft EIR, and approved the Final EIR for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31. The Planning Department, Jonas Ionin, is the custodian of records, located in the File for Case No. 2008.1084E, at 1650 Mission Street, Fourth Floor, San Francisco, California.

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

9. **WHEREAS,** The Project would affirmatively promote, be consistent with, and would not adversely affect the General Plan, including the following objectives and policies, for the reasons set forth set forth in Item #8 of Motion No. 18894, Case No. 2008.1084X, which are incorporated herein as though fully set forth.

10. **WHEREAS,** The Project complies with the eight priority policies of Planning Code Section 101.1, for the reasons set forth set forth in Item #9 of Motion No. 18894, Case No. 2008.1084X, which are incorporated herein as though fully set forth.

11. **WHEREAS,** A proposed ordinance, attached hereto as Exhibit A, has been prepared in order to make the amendment to the Sheet HT01 of the Zoning Map by changing the height and bulk district for the Project Site, from the existing 400-I Height and Bulk District to a height limit of 480 feet. The proposed ordinance would also amend Zoning Map SU01 and the text of the Planning Code to establish the "Yerba Buena Center Mixed-Use" SUD on the property.

12. **WHEREAS,** the Office of the City Attorney has approved the proposed ordinance as to form.

13. **WHEREAS,** Section 4.105 of the San Francisco Charter and Section 302 of the Planning Code require that the Commission consider any proposed amendments to the City's Zoning Maps or Planning Code, and make a recommendation for approval or rejection to the Board of Supervisors before the Board of Supervisors acts on the proposed amendments.

14. **WHEREAS,** On May 23, 2013, the Commission adopted Motion No. 18875, adopting CEQA findings, including a Statement of Overriding Considerations, and adopting the MMRP, which findings and adoption of the MMRP are hereby incorporated by reference as though fully set forth herein. The Commission found that the reduction in the height of the Project has resulted in no substantial changes that would require major revisions to the Final EIR or result in new or substantially more severe significant environmental impacts that were not evaluated in the Final EIR, no new information has become available that was not known and could not have been known at the time the Final EIR was certified as complete and that would result in new substantially more severe significant environmental impacts not evaluated in the Final EIR, and no mitigation measures or alternatives previously found infeasible would be feasible or mitigation measures or alternatives considerably different than those analyzed in the Final EIR would substantially reduce significant environmental impacts, but the project proponent declines to adopt them.

15. **WHEREAS,** On May 23, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the Proposed Zoning Map Amendment and Zoning Text Amendment.

16. **WHEREAS,** The Commission has had available to it for its review and consideration studies, case reports, letters, plans, and other materials pertaining to the Project contained in the Department's case files, and has reviewed and heard testimony and received materials from interested parties during the public hearings on the Project.

NOW, THEREFORE BE IT RESOLVED THAT, the Commission finds, based upon the entire Record, the submissions by the Applicant, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, that the public necessity, convenience and general welfare require that Sheet HT01 of the Zoning Maps be amended to reclassify the height limit for the property from the existing 400-I Height and Bulk District to a height limit of 480 feet, and to amend Zoning Map SU01 and the text of the Planning Code to establish the "Yerba Buena Center Mixed-Use" SUD on the property, as proposed in Application No. 2008.1084TZ; and,

BE IT FURTHER RESOLVED THAT, the Planning Commission recommends the Board of Supervisors approve the proposed Zoning Map Amendment and Planning Code Text Amendment.

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

Jonas P. Ionin
Acting Commission Secretary

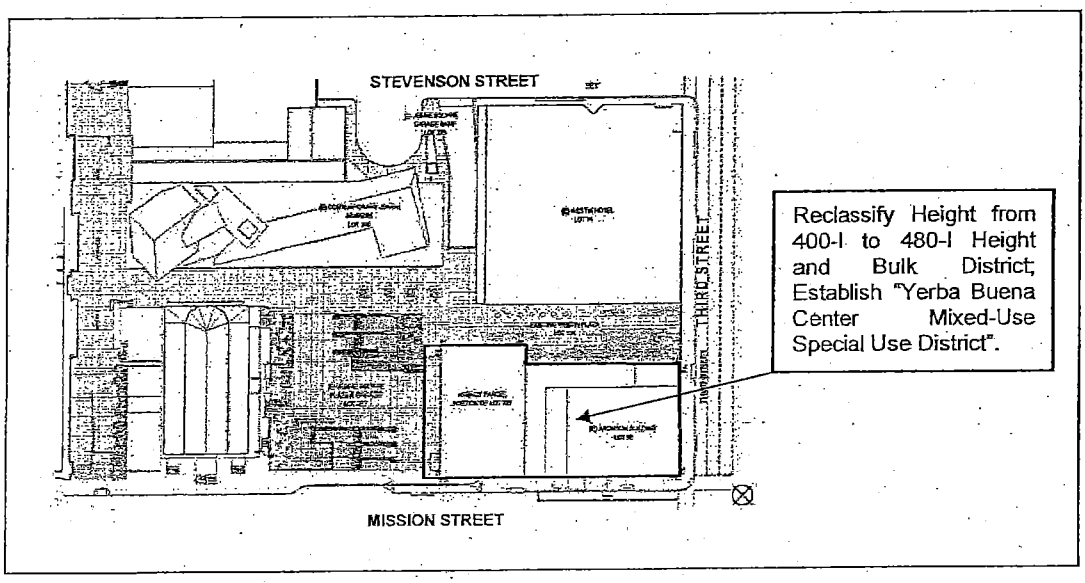
AYES: Fong, Antonini, Borden, Hillis

NOES: Moore, Sugaya, Wu

ABSENT:

ADOPTED: May 23, 2013

Proposed Zoning Map Amendments



SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

SECTION 309 DETERMINATION OF COMPLIANCE
ZONING MAP AMENDMENT
PLANNING CODE TEXT AMENDMENT
GENERAL PLAN REFERRAL
SECTION 295 SHADOW ANALYSIS

HEARING DATE: APRIL 11, 2013

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2013 JUN -3 AM 11:57

Date:	March 28, 2013
Case No.:	2008.1084EHKXRTZ
Project Address:	706 Mission Street
Project Site Zoning:	C-3-R (Downtown, Retail, Commercial) 400-I Height and Bulk District
Block/Lots:	3706/093, 275, portions of 277 (706 Mission Street) 0308/001 (Union Square)
Project Sponsor:	706 Mission Street, LLC c/o Sean Jeffries of Millennium Partners 735 Market Street, 4th Floor San Francisco, CA 94107
Staff Contact:	Kevin Guy – (415) 558-6163 Kevin.Guy@sfgov.org
Recommendations:	***Adopt CEQA Findings*** ***Approve Section 309 Determination of Compliance with Conditions*** ***Recommend Approval (Zoning Map/Planning Code Text Amendments)*** ***Adopt General Plan Referral Findings*** ***Raise Cumulative Shadow Limit for Union Square*** ***Adopt Findings Regarding Shadow Impacts***

PROJECT DESCRIPTION

The Project would rehabilitate the existing 10-story, 144-foot tall Aronson Building, and construct a new, adjacent 47-story tower, reaching a roof height of 520 feet with a 30-foot tall mechanical penthouse. The two buildings would be connected and would contain up to 215 dwelling units, a "core-and-shell" museum space measuring approximately 52,000 square feet that will house the permanent home of the Mexican Museum, and approximately 4,800 square feet of retail space. The project would reconfigure portions of the existing Jessie Square Garage to increase the number of parking spaces from 442 spaces to 470 spaces, add loading and service vehicle spaces, and would allocate up to 215 parking spaces within the garage to serve the proposed residential uses. The Project Sponsor has proposed a "flex option" that would retain approximately 61,000 square feet of office uses within the existing Aronson Building, and would reduce the residential component of the project to approximately 191 dwelling units.

The Project includes the reclassification of the subject property from the existing 400-foot height limit to a 520-foot height limit, as well as the adoption of the "Yerba Buena Center Mixed-Use Special Use District" ("SUD"). The proposed SUD would modify specific Planning Code regulations related to permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations.

Through transactional documents between the project sponsor and the Successor Agency to the Redevelopment Agency ("Successor Agency"), the Successor Agency would convey to the Project Sponsor the Jessie Square garage and the portion of property located between the Aronson Building parcel and Jessie Square that would be developed with the tower portion of the Project (portions of Lot 277, Assessor's Block 3706). The Successor Agency would also convey to the Project Sponsor the parcel containing the garage access driveway (Lot 275, Assessor's Block 3706) from Stevenson Street. In addition, the Project Sponsor would provide $5 million endowment for the operation of the Mexican Museum, and would contribute an additional affordable housing fee to the Successor Agency equal to 8% of the residential units.

SITE DESCRIPTION AND PRESENT USE

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

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

SURROUNDING PROPERTIES & NEIGHBORHOOD

The Project Site is situated within the C-3-R Downtown Commercial zoning district, and is within the former Yerba Buena Center Redevelopment Area, a context characterized by intense urban development and a diverse mix of uses. Numerous cultural institutions are clustered in the immediate vicinity, including SFMOMA, the Yerba Buena Center for the Arts, the Museum of the African Diaspora, the Contemporary Jewish Museum, the Cartoon Art Museum, the Children's Creativity Museum, the California Historical Museum, and others. Multiple hotels and high-rise residential and office buildings are also located in the vicinity, including the W Hotel, the St. Regis Hotel and Residences, the Four Seasons, the Palace Hotel, the Paramount Apartments, One Hawthorne Street, the Westin, the Marriott Marquis, and the Pacific Telephone building. Significant open spaces in the vicinity include Yerba Buena

Gardens to the south, and Jessie Square immediately to the west of the project site. The Moscone Convention Center facilities are located one block to the southwest, and the edge of the Union Square shopping district is situated two blocks northwest of the site. The Financial District is located in the blocks to the northeast and to the north. The western edge of the recently-adopted Transit Center District Plan area is located one-half block to the east at Annie Street.

ENVIRONMENTAL REVIEW

On June 27, 2012, the Department published a draft Environmental Impact Report (EIR) for public review (Case No. 2008.1084E). The draft EIR was available for public comment until August 13, 2012. On August 2, 2012, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to solicit comments regarding the draft EIR. On March 7, 2013, the Department published a Comments and Responses document, responding to comments made regarding the draft EIR prepared for the Project. On March 21, 2013, the Planning Commission held a duly noticed public hearing and certified the final EIR for the Project.

HEARING NOTIFICATION REQUIREMENTS

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	March 22, 2013	March 22, 2013	20 days
Posted Notice	20 days	March 22, 2013	March 22, 2013	20 days
Mailed Notice	20 days	March 22, 2013	March 22, 2013	20 days

PUBLIC COMMENT

To date, the Department has not received any specific communications related to the requested entitlements. However, numerous written and verbal comments were provided during the public comment period for the draft EIR prepared for the Project. These comments related to a wide variety of topic areas, and were addressed as part of the Comments and Responses document prepared during the environmental review of the Project.

ISSUES AND OTHER CONSIDERATIONS

- **Height Reclassification/Special Use District.** The Project proposes to reclassify the property from the 400-I to the 520-I Height and Bulk District, and to establish the "Yerba Buena Center Mixed-Use Special Use District" (SUD) on the property. The proposed SUD would modify specific Planning Code regulations related to permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations, as follows:

  - Permitted Uses – The SUD specifies that development within the SUD must include a cultural, museum, or similar public-serving institutional use measuring at least 35,000 sq. ft., no fewer than 162 dwelling units, and ground-floor retail or cultural uses within the Aronson Building.

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

maximum FAR that could be achieved through the purchase of TDR . The proposed SUD would exempt the Project from the FAR limitations of Section 124, and the Project would not require the purchase of TDR.

- Dwelling Unit Exposure – Dwelling units on the south side of the Project would have exposure onto Mission Street, and units within the east side of the Aronson Building would have exposure onto Third Street. However, units that solely have exposure to the Westin walkway to the north, to Jessie Square to the west, and east-facing units within the tower above the 20th floor do not meet the requirements for dwelling unit exposure onto on-site open areas. The proposed SUD would exempt the Project from the exposure requirements of Section 140. It should be noted that Jessie Square and the Westin walkway are open spaces that are unlikely to be developed with structures in the future. Therefore, units that face these areas would continue to enjoy access to light and air. Additionally, units in the Tower that face east would have exposure onto the open area above the Aronson Building, as well as the width of Third Street beyond. Therefore, these units would also continue to enjoy access to light and air.

- Rooftop Equipment Height - The Project would reach a height of 520 feet to the roof, with rooftop mechanical structures and screening reaching a maximum height of approximately 550 feet. The Project Sponsor has proposed to reclassify the Project Site from the 400-I Height and Bulk District to the 520-I Height and Bulk District. In addition, the SUD would allow for an additional 30 feet of height above the roof to accommodate mechanical equipment and screening.

- Bulk Limitations - Section 270 establishes bulk controls by district. In the "-I" Bulk District, all portions of the building above a height of 150 feet are limited to a maximum length dimension of 170 feet and a maximum diagonal dimension of 200 feet. Above a height of 150 feet, the maximum horizontal length of the Project is approximately 123 feet, and the maximum diagonal dimension is approximately 158 feet. Therefore, the Project complies with the bulk controls of the "-I" Bulk District. The proposed SUD would further limit the maximum bulk controls to the maximum horizontal and diagonal dimensions proposed for the Project.

- Curb Cuts - Section 155 regulates the design of parking and loading facilities. Section 155(r)(3) specifies that no curb cuts may be permitted on the segment of Mission Street abutting the Project, except through Conditional Use authorization. The SUD proposed for the project would modify the regulations of Section 155 to allow a curb cut on Mission Street through an exception granted through the Section 309 review process, rather than through Conditional Use authorization.

- **Planning Code Exceptions.** The project does not strictly conform to several aspects of the Planning Code. As part of the Section 309 review process, the Commission may grant exceptions from certain requirements of the Planning Code for projects that meet specified criteria. The Project requests exceptions regarding "Rear Yard" (Section 134), "Reduction of Ground-Level Wind Currents in C-3 Districts" (Section 148), "Limitations on Residential Accessory Parking" (Section 151.1), and "General Standards for Off-Street Parking and Loading" to allow curb cuts on Mission and Third Streets (Section 155). Compliance with the specific criteria for each exception is summarized below, and is described in the attached draft Section 309 motion.

  - Rear Yard. The Planning Code requires that the project provide a rear yard equal to 25 percent of the lot depth at the first level containing a dwelling unit, and at every subsequent level.

Exceptions to the rear yard requirements may be granted if the building location and configuration assure adequate light and air to the residential units and the open space provided. The property fronts on both Mission and Third Streets. Therefore, a complying rear yard would be situated toward the interior of the property, either abutting the Westin walkway or Jessie Square. It is unlikely that these open areas on the adjacent properties would be redeveloped in the foreseeable future. Therefore, adequate light and separation will be provided by the open spaces for residential units within the Project. The Project exceeds the Code requirements for common and private residential open space. In addition, residents would have convenient access to Jessie Plaza, Yerba Buena Gardens, and other large open public open spaces in the vicinity.

- **Ground Level Wind Currents.** The Code requires that new buildings in C-3 Districts must be designed so as to not cause ground-level wind currents to exceed specified comfort levels. When preexisting ambient wind speeds exceed the comfort levels, new buildings must be designed to attenuate ambient wind speeds to meet the specified comfort level. According to the wind analysis prepared for the project, 67 of the 95 test points in the vicinity currently exceed the pedestrian comfort level. Seven of the existing comfort exceedances would be eliminated, and nine new exceedances would be created, for a net increase of two exceedances. An exception under Section 148 (a) is therefore required. An exception to these requirements may be granted if the building cannot be shaped to meet the requirements without creating an ungainly building form and unduly restricting the development potential of the building site.

  The Project would result in relatively modest changes in ground-level winds. The average wind speed would increase slightly from 12.6 to 12.7 mph; the average wind speed across all test points (nine mph) would not change appreciably, nor would the amount of time (17 percent) during which winds exceed the applicable criteria. The Project would not create any new exceedances in areas used for public seating. The Project incorporates several design features intended to baffle winds and reduce ground-level wind speeds. The third floor of the museum cantilevers over the on-site open space below, shielding this open space and redirecting some wind flows away from Jessie Square. The exterior of this cantilever includes projecting fins that will capture and diffuse winds before reaching the ground. In addition, the exterior of the museum at the first and second floors is chamfered to avoid localized wind eddies that would result from a typical rectilinear exterior.

- **Residential Accessory Parking.** The Planning Code does not require that residential uses in the C-3-R District provide off-street parking, but allows up to .25 cars per dwelling unit as-of-right. Residential uses may provide up to .75 cars per dwelling unit (or up to one car for each dwelling unit with at least two bedrooms and at 1,000 square feet of floor area), if the Commission makes specific findings that the parking is provided in a space-efficient manner, that the additional parking will not adversely affect pedestrian, bicycle, and transit movement, that the parking will not degrade the quality of the streetscape, and that free carshare memberships will be provided to households in the project.

  While the parking is being provided at the maximum possible 1:1 ratio, the relatively small number of 215 off-street parking spaces is not expected to generate substantial traffic that would adversely impact pedestrian, transit, or bicycle movement. Given the proximity of the Project Site to the employment opportunities and retail services of the Downtown Core, it is expected that residents will prioritize walking, bicycle travel, or transit use over private automobile travel. In

addition, the proposed residential spaces are being reallocated from spaces within the existing garage that are currently used for general public parking. Residential uses generally generate fewer daily trips than the uses that are served by the existing public parking. Therefore, the conversion of spaces for residential use would not create new vehicular movement compared with existing conditions.

- **Curb Cuts.** Section 155 regulates the design of parking and loading facilities. Section 155(r)(4) specifies that no curb cuts may be permitted on the segment of Third Street abutting the Project. Within the C-3 Districts, the Planning Commission may grant an exception for this curb cut through the Section 309 Review process. Section 155(r)(3) specifies that no curb cuts may be permitted on the segment of Mission Street abutting the Project, except through Conditional Use authorization. The SUD proposed for the project would modify the regulations of Section 155 to allow a curb cut on Mission Street through an exception granted through the Section 309 review process, rather than through Conditional Use authorization.

  Currently, the access for the Jessie Square garage is provided by an ingress/ egress driveway from Stevenson Street, as well as an egress-only driveway that exits onto Mission Street. The Project would retain the Mission Street curb cut, but would relocate it slightly, approximately 2.5 feet to the east. This curb cut would continue its present function to provide egress from the Jessie Street garage, helping to divide vehicular travel between the Stevenson Street and Mission Street driveways.

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

- **Shadow Impacts.** Section 295 (also known as Proposition K from 1984) requires that the Planning Commission disapprove any building permit application to construct a structure that will cast shadow on property under the jurisdiction of the Recreation and Park Department, unless it is determined that the shadow would not have an adverse impact on park use. In 1989, the Planning Commission and the Recreation and Park Commission adopted criteria for the implementation of Section 295, which included the adopting of Absolute Cumulative Shadow Limits (ACLs) for certain parks in and around the Downtown core.

A technical memorandum, prepared by Turnstone Consulting, was submitted on June 9, 2011, analyzing the potential shadow impacts of the Project to properties under the jurisdiction of the Recreation and Parks Department (Case No. 2008.1084K). The memorandum concluded that the Project would cast 337,744 sfh of net new shadow on Union Square on a yearly basis, which would be an increase of about 0.09% of the theoretical annual available sunlight ("TAAS") on Union Square.

October 11, 2012, the Planning Commission and the Recreation and Park Commission held a joint public hearing and raised the absolute cumulative shadow limits for seven open spaces under the jurisdiction of the Recreation and Park Department that could be shadowed by likely cumulative development sites in the Transit Center District Plan ("TCDP") Area, including Union Square. As part of this action, the Planning Commission and the Recreation and Park Commission designated the ACLs exclusively for shadows that are anticipated from the development of projects within the TCDP. Because the proposed Project lies outside the TCDP area, the Project requires a separate amendment to the ACL for Union Square.

The impact of the shadow cast by the Project on Union Square would be limited. The new shadow would occur for a limited amount of time during the year, from October 11th to November 8th, and from February 2nd to March 2nd for no more than one hour on any given day. The new shadow would not occur after 9:30 a.m. (the maximum new shadow range would be 8:30 a.m. to 9:30 a.m.), and would be consistent with the 1989 Memo qualitative standards for Union Square in that the new net shadow would not occur during mid-day hours. Usage of Union Square is relatively low in the morning hours.

REQUIRED ACTIONS

In order for the project to proceed, the Commission must 1) Adopt findings under the California Environmental Quality Act, including findings rejecting alternatives as infeasible and adopting a Statement of Overriding Considerations and Mitigation, Monitoring, and Reporting Programs; 2) Adopt Findings of Consistency with the General Plan and Priority Policies of Planning Code Section 101.1; 3) Approved jointly with the Recreation and Park Commission an increase of the absolute cumulative shadow limit for Union Square; 4) Adopt findings that the net new shadow cast by the project on Union Square will not be adverse to the use of the park, and to allocate to the Project the absolute cumulative shadow limit for Union Square; 5) Recommend that the Board of Supervisors approve a Height Reclassification to reclassify the site from the 400-I Height and Bulk District to the 520-I Height and Bulk District; 6) Recommend that the Board of Supervisors approve a Zoning Text Amendment and Zoning Map Amendment to establish the "Yerba Buena Center Mixed-Use Special Use District"(SUD) on the site; and, 7) Approve a Determination of Compliance pursuant to Planning Code Section 309, with requests for exceptions from Planning Code requirements including "Reduction of Ground-Level Wind Currents in C-3 Districts", "Off-Street Parking Quantity", "Rear Yard, and "General Standards for Off-Street Parking and Loading" to allow curb cuts on Third and Mission Streets.

BASIS FOR RECOMMENDATION

- The Project will add housing opportunities within an intense, walkable urban context.
- The Project will provide space for a permanent home for the Mexican Museum, within a cluster of art musuems and cultural instutions, in an area served by abundant existing and planned transit service.

- The Project will contribute to an operating endowment for the Mexican Museum.
- The Project will rehabilitate the existing Aronson Building, which is a Category I (Significant) Building in Article 11 of the Planning Code located within the New Montgomery-Mission-Second Street Conservation District
- The Project would enhance the City's supply of affordable housing by participating in the Inclusionary Affordable Housing Program. The project will also contribute an additional affordable housing fee to the Successor Agency equal to 8% of the residential units.
- Residents of the Project would be able to walk or utilize transit to commute and satisfy convenience needs without reliance on the private automobile. This pedestrian traffic will activate the sidewalks and open space areas in the vicinity.
- The project meets all applicable requirements of the Planning Code, aside from the exceptions requested pursuant to Planning Code Section 309, and the Planning Code provisions that would be modified by the proposed SUD.

RECOMMENDATION:	Approval with Conditions

Attachments:

Draft CEQA Findings, including Mitigation, Monitoring, and Reporting Program (to be transmitted under separate cover)
Draft Section 309 Motion
Draft Section 295 Resolution
Draft Section 295 Motion
Draft General Plan Referral Motion
Draft Resolution for Height Reclassification and Planning Code Text Amendment
- Including Draft Ordinance

Shadow Analysis Technical Memorandum
Residential Pipeline Report
Term Sheet, excerpt from Exclusive Negotiation Agreement between Project Sponsor and Successor Agency
Block Book Map
Aerial Photograph
Zoning District Map
Graphics Package from Project Sponsor

Exhibit Checklist

- [x] Executive Summary
- [x] Draft Motion
- [ ] Environmental Determination
- [x] Zoning District Map
- [x] Height & Bulk Map
- [x] Parcel Map
- [x] Sanborn Map
- [x] Aerial Photo
- [x] Context Photos
- [x] Site Photos

- [x] Project sponsor submittal

  Drawings: Existing Conditions
  - [x] Check for legibility

  Drawings: Proposed Project
  - [x] Check for legibility
- [ ] Wireless Telecommunications Materials
  - [ ] Health Dept. review of RF levels
  - [ ] RF Report
  - [ ] Community Meeting Notice
- [x] Housing Documents
  - [x] Inclusionary Affordable Housing Program: Affidavit for Compliance
  - [x] Residential Pipeline

Exhibits above marked with an "X" are included in this packet _____

Planner's Initials

KMG: G:\Documents\Projects\706 Mission\Actions\2008.1084EHKXRTZ- 706 Mission - Exec Sum.doc

File No. 130570
7/22/13 Received
in Committee

Eric Sussman
UCLA Anderson Graduate School of Management
110 Westwood Plaza, Suite D420
Los Angeles, CA 90095-1481

July 22, 2013

Mr. Tom Lippe
Lippe Gaffney Wagner LLP
329 Bryant St., Ste. 3D
San Francisco, CA 94107

Re: 706 Mission Street Project

I. INTRODUCTION

I have been asked to review two memoranda, the "EPS Response to Expert Report of Eric Sussman" dated July 9, 2013 (the ""EPS Rebuttal"), and KMA's "Response to Expert Report of Eric Sussman" dated July 15, 2013 (the "KMA Rebuttal").

The EPS and KMA Rebuttals were written in response to my June 28, 2013 Report regarding the 706 Mission Street – Residential Tower and Mexican Museum Project (the "706 Mission Project"), in which I concluded that:

- The May 8, 2013 "Financial Feasibility of 706 Mission Street: The Museum and Residential Tower Project and Alternatives" report prepared by EPS (the "EPS Report") used a number of flawed and/or unsubstantiated assumptions in determining that a "Reduced Shadow Alternative" is financially infeasible.
- When correcting the flawed or unsupported assumptions in the EPS Report with more objective and accurate data, the Reduced Shadow Alternative becomes economically viable.

Rebuttal Letter of Eric Sussman

- The May 10, 2013 KMA peer review of the EPS Report (the "KMA Report") did not adequately or objectively evaluate the EPS Report's assumptions.

After reading both the EPS and KMA Rebuttals, the conclusions articulated in my June 28, 2013 Report do not change. In fact, as discussed in detail herein, both the EPS and KMA Rebuttals continue to use flawed or arbitrary assumptions in their analyses. In some cases, the EPS and KMA Rebuttals make statements or draw conclusions that are either unsupported or contradicted by underlying data. In other cases, the EPS and KMA Rebuttals cherry-pick data that supports their analysis, while ignoring more probative data that would result in a different conclusion. And finally, in several areas, EPS mischaracterizes the arguments I have made in my June 28, 2013 Report.

In the absence of certain data or evidence, it is impossible to support certain claims and assumptions made by EPS, and thus conclude that the Reduced Shadow Alternative is not feasible. At a very minimum EPS should have provided:

- Third-party, objective documentation supporting the EPS Report's assumptions regarding efficiency ratios of other projects, in support of an assumed 76 percent efficiency rate for the subject project.
- Why certain developer sales of high-rise condo units from 2000-2004 are more relevant to value than recent condo re-sales.
- Information from construction lenders and other capital sources (e.g., investors, joint venture partners), such as commitment letters, letters of intent, or private placement memoranda, to help determine more precisely the Project Sponsor's cost of capital and, in the eyes of lenders and investors, the perceived risk of the proposed project.

Without increased transparency and additional data, I do not see how one can conclude that the Reduced Shadow Alternative is economically infeasible, when the objective, available data I have seen to date proves the opposite conclusion.

II. DISCUSSION AND ANALYSIS OF EPS AND KMA REBUTTALS

In my June 28, 2013 Report, I argued that the Reduced Shadow Alternative is economically feasible, and that EPS Report's conclusion to the contrary was based on several flawed and/or unsubstantiated assumptions, including the following:

- The EPS Report relies on an unsupported assumption that the Reduced Shadow Alternative would be expected to sell smaller units than the Proposed Project. This unsupported assumption causes the EPS Report to overestimate construction costs and underestimate average expected sales price per square foot for the Reduced Shadow Alternative, when compared to the Project Alternative. The larger units assumed by the EPS Report's Project Alternative are cheaper to construct on a per square foot basis and command higher sales prices per square foot than the smaller units assumed by the EPS Report's Reduced Shadow Alternative.
- The expected sales prices per square foot used to evaluate the Reduced Shadow Alternative are significantly understated, not only because of incompatible assumptions about unit size, but also because the EPS Report does not consider recent, observable market appreciation.
- The EPS Report assumes - without justification - that the Reduced Shadow Alternative requires a smaller floorplate, understating the gross salable square

footage (and by extension the associated revenues and costs) of the proposed Reduced Shadow Alternative.

- The EPS Report uses a materially understated 76 percent efficiency ratio, understating the net salable square footage and associated revenue.
- The EPS Report assumes that the developer requires an 18 percent return on the project, which is too high, and which exaggerates the project revenue required to make the proposed Reduced Shadow Alternative feasible.
- The EPS Report improperly assumes that a Reduced Shadow Alternative would require the purchase of transferable development rights ("TDRs").

While the EPS and KMA Rebuttals attempt to undermine my arguments, they fail to do so, as objective data available supports my analysis and conclusions. The flawed arguments the EPS and KMA Rebuttals have made, and my responses to those arguments are set forth below.

a. The Average Unit Sizes for the Reduced Shadow Alternative are Assumed, Without Support, to be Lower than for the Proposed Project

EPS/KMA Rebuttal: *"EPS revenue estimates are not affected by unit size or number of units." Also, "EPS did not base its revenue estimates on unit size. Instead EPS based its residential revenue estimates on the net salable square footage multiplied by the weighted average price per square foot."*[1]

My Response: My June 28, 2013 Report, exactly like the EPS Report, bases residential revenue estimates on the net salable square footage multiplied by the weighted average price per square

[1] EPS Rebuttal, p. 2.

foot.[2] The key point to emphasize, missed by the EPS Rebuttal, is that the weighted average price per square foot is drastically impacted by the unit size assumption. Smaller units are less profitable – they have, on average, higher construction costs and lower sales revenue per square foot. Alternatively stated with a hypothetical example, with 2,000 salable square feet, it would be generally more profitable for a developer to sell one 2,000 square foot unit rather than two 1,000 square foot units.

Clearly, unit sizes do matter, in both the EPS Report and the real world, and are critical values for expected condominium sales prices, independent of features such as orientation and view-capture. In fact, Table 4 of the EPS Report, clearly shows the price premium on larger condominium sales. And the number of units, given a fixed building size, directly impacts the average unit size. It is also worth noting that picking arbitrary unit sizes (as the EPS Report did) or picking an arbitrary number of units (as the EPS Rebuttal claims it did in the first place) are, effectively, the same thing. With a fixed building size, the number of units and unit size will move together.

EPS/KMA Rebuttal: *"It is worth noting that at Millenium Tower, the average unit size of the units on the first 27 floors of the tower sold between the second quarter of 2012 and the first quarter of 2013 is 1,329 square feet..."*[3]

My Response: If it is important for this analysis to benchmark against the Millennium Tower, then why does the Proposed Project Alternative, as articulated in the EPS Report, have average unit sizes of 2,052 square feet? Note that my report does not claim that 2,052 square feet is the

[2] June 28, 2013 Sussman Report, Exhibit 4.
[3] EPS Rebuttal, p. 2.

"right" unit size, but I have made this assumption and adjusted the analysis so that the Project and the Reduced Shadow Alternatives are comparable across this dimension, which in the end is a fair and objective way to compare the financial feasibility of the two alternatives.

EPS/KMA Rebuttal: *"Hypothetically, reducing the units in the Reduced Shadow Alternative would decrease affordable housing fees by approximately $11 million."*[4]

My Response: I agree with this statement. The EPS Rebuttal has conceded the point I raised, that reducing the number of units in the Reduced Shadow Alternative (e.g., increasing the average unit size consistent with the Project Alternative), decreases affordable housing fees by approximately $11 million, increasing the project residual (i.e. feasibility) of the Reduced Shadow Alternative.

b. After Correcting its Unit Size Assumption and Considering Recent Market Appreciation, the EPS Report's Price per Square Foot Estimates are Too Low

EPS/KMA Rebuttal: *EPS figures are "reviewed" and "vetted."*[5]

My Response: The EPS Report and Rebuttal cherry-pick comparable transactions and ignore clear, convincing, and significant market data to derive artificially low values. I provide substantial and complete, **recent** market data to support my conclusion, in stark contrast to the EPS Report and Rebuttal, which uses data that are years out of date. See Exhibit 2 of my June 28, 2013 Report. Also see the attached "Exhibit 3 – Updated" for a more detailed breakdown of

[4] EPS Rebuttal, p. 3.
[5] EPS Rebuttal, p. 1.

how I adjust the EPS Report's expected sales prices per square foot based on two separate and distinct factors: recent condominium price appreciation and the EPS Report's artificially low unit size assumptions.

EPS/KMA Rebuttal: *"Contrary to the assertions of the Sussman Report, it would be inappropriate to estimate sales prices based on the peaks in the market and an assumption that condominium prices will continue to rise at the rate they have been rising in the past year."*[6]

My Response: I do NOT predict the future with my comparable analysis – rather I estimate what prices are as of today based on current market data. Suggesting I am predicting continued growth in the market mischaracterizes my analysis. If anything, I am conservative because I assume there will be no growth between today and when the units will be sold. It is imperative that one use current market data in evaluating project feasibility. The EPS Rebuttal's assertion that the current SF real estate market is at a "peak" is irrelevant, unfounded, and speculative. All projects are underwritten and evaluated based on current market conditions, and I provide substantial data to support my contention that the EPS Report's assumed prices per foot are too low.

EPS/KMA Rebuttal: *Luxury home buyers tend to be "recession proof" and luxury home prices did not fall to the same degree...during the collapse of the housing market." Resale prices are "typically higher than developer sales."*[7]

[6] EPS Rebuttal, p. 3.

My Response: The EPS Rebuttal provides no data to support its contentions regarding luxury home prices or developer re-sales, and any comments regarding the level of supposed "substantial tenant improvements" made by owners are unsupported and speculative. Furthermore, removing the 14 Millennium Tower re-sales detailed in Table 5 of the EPS Report from my Exhibit 2 does not change the results in a meaningful way. The average market adjusted price per square foot is $1,820 for units greater than 2,000 square feet without these properties included. The median is $1,814.[8]

EPS/KMA Rebuttal: *"The price per square foot by floor segment used in the EPS Report is provided by the Project Sponsor based on past and current experience in the market with developer sales (rather than re-sales) at the Four Seasons and Millenium Tower..."*[9]

My Response: The developer sales for the Four Seasons occurred 2000 and 2004. See EPS Report Table 4. By this logic, EPS believes sales at the Four Seasons in 2000 are better comparable transactions that sales at the Four Seasons last week. This is clearly wrong.

EPS/KMA Rebuttal: *Sussman's pricing methodology is flawed based on the 301 Mission Millenium Tower experience." Also "The [Sussman] methodology appears to ignore the pricing history of 301 Mission."*[10]

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[7] EPS Rebuttal, p. 4.
[8] June 28, 2013 Sussman Report, fn 16.
[9] EPS Rebuttal, p. 4.
[10] KMA Response, p. 3.

My Response: The EPS Report and my June 28, 2013 Report both use four buildings for comparable transactions: the Four Seasons, the St. Regis, the Ritz-Carlton, and the Millennium Tower. For the EPS and KMA reports to now only use the Millennium Tower as the only comparable "experience", mischaracterizes all of the work done to date, and is improper when trying to gauge appropriate pricing and valuations likely to be experienced with the subject project. For the analysis in my June 28, 2013 Report, I use four buildings for comparable transactions, and 301 Mission (aka the Millennium Tower) is one such building, accounting for a majority of the observations.[11]

EPS/KMA Rebuttal: "Sussman does not recognize the limited number of units with premium water views in a 27 floor tower."[12]

My Response: This line of thinking mischaracterizes my analysis. I simply adjusted the base floors (3-10) from the EPS Report's Appendix D Table 5 from $1,150 to $1,650. However, I maintain the exact floor by floor price premiums that the EPS Report used. For example, in the EPS Report, the 11th floor's price per square foot is 4.35% higher than the 10th floor.[13] In Exhibit 3 of my June 28th Report, the 11th floor is 4.36% higher than my 10th floor estimates. Again, I keep the relationships between floors constant, which keeps any premium related to improved views constant.

[11] June 28, 2013 Sussman Report, Exhibit 2.
[12] KMA Response, p. 3
[13] EPS Report, Appendix D, Table 5.

EPS/KMA Rebuttal: *"Sussman's projected sales fails to account for the limited views on the lower floors with pricing commencing at over $3M on the 3rd floor."*[14]

My Response: As with the Project Alternative, I estimated 2,052 square feet for the average unit size for the Reduced Shadow Alternative. In its Table 4, the EPS Report confirms that sales in the proposed project area have been sold for over $3M ($3.8 million for units over 2,000 square feet to be precise),[15] making my over $3 million per unit estimate reasonable and consistent with actual market data, as well as the EPS Report itself. Also, as articulated above, I keep the floor-to- floor pricing premium the same as in the EPS Report.

EPS/KMA Rebuttal: *"The Sussman Report also overlooks the added value of parking, which is not included in the residential price per square foot used in the EPS Report."*[16]

My Response: Stated differently, the EPS Report is saying that I overlooked exactly what they overlooked, namely, the value added by parking to residential price per square foot. I did exactly what the EPS Report did: neither report includes the value of parking when evaluating the estimated sales price per square foot. Additionally, my resale prices are conservative – see paragraphs 17 and 18 of my June 28, 2013 Report. Whether or not I include parking in my comparable transaction analysis would not impact my conclusion, just as it did not impact the EPS Report's conclusions.

[14] KMA Response, p. 4.
[15] EPS Report, Table 4.
[16] EPS Rebuttal, p. 5.

EPS/KMA Rebuttal: *"Penthouse units will be sold in unfinished state."*[17]

My Response: The impact of individual penthouse units being sold in an unfinished condition is both insignificant and a red herring. Penthouse units in all considered alternatives considered would be unfinished and what I have done in my analysis is exactly the same as the EPS Report.

c. The EPS Report Uses a Smaller Floorplate Without Justification

EPS/KMA Rebuttal: *"When the Reduced Shadow Alternative was conceived for environmental review purposes, it was intended to be based on the Existing Zoning Alternative, which sought to maximize development potential with the current zoning code."*[18]

My Response: The EPS Report and Rebuttal provide no valid reason to restrict the floorplate size by reference to existing zoning, because I understand the proposed project requires extensive changes in zoning in any case. The effect of this arbitrary choice is to artificially suppress the profitability of the Reduced Shadow Alternative project residual.[19] I understand there is no reason that the zoning - which is going to be revised in any case - should not be exactly the same under all considered scenarios.

EPS/KMA Rebuttal: *"Even if the similar floorplates were to be considered, the impact would be $52 million, not enough to make the Reduced Shadow Alternative feasible."*[20]

[17] EPS Rebuttal, p. 5.
[18] EPS Rebuttal, p. 5.
[19] For a detailed explanation, see Exhibit 4 – Updated.
[20] EPS Rebuttal, p. 5.

My Response: The EPS Rebuttal ultimately concedes the point I raised, and then estimates that the revenue impact of "nearly $52 million...is significant but not enough to render the Reduced Shadow Alternative feasible."[21] However, an increase in the Reduced Shadow Alternative's revenue of $52 million, coupled with the impact of the other EPS Report shortcomings, allows the proposed Reduced Shadow Alternative to maintain its feasibility. Moreover, the $52 million in additional revenue estimate is likely too low because, in making this calculation, the EPS Rebuttal uses the same understated per square foot values described above in its calculations.

d. The Efficiency Ratio of 76% Used in the EPS Report is Materially Understated

EPS/KMA Rebuttal: The 76 percent efficiency ratio used is "based on the architect's specific project design."[22]

My Response: As articulated in my June 28, 2013 Report, modern high-rise condominium projects employ efficiency ratios of at least 80%, to maximize value and use of available space. I would expect the Project Sponsor's own projects to have efficiency ratios well in excess of 76%. Despite acknowledging that 76% is on the "low end" of the range, the EPS Report or Rebuttal provides no evidence to back up its claims, and has certainly not provided specific figures from its project design, including any declaration or testimony from the architect or the subject project or other high-rise condominium projects. This evidence is required to support a 76% efficiency ratio which, because it is on the low-end of the range, reduces projected project revenue across all alternatives.[23] It is my contention that it is missing because the efficiency

[21] EPS Rebuttal, p. 5.
[22] EPS Rebuttal, p. 5.
[23] For a detailed explanation, see Exhibit 4 – Updated.

ratio of modern high-rise condominiums is at least 80% because the impact of lower ratios on the project value and the developer profit is significant.

EPS/KMA Rebuttal: *The 76% estimate is "consistent with other projects with which EPS is familiar."*[24]

My Response: Again, the EPS Report or Rebuttal does not provide any data identifying the projects with which it is "familiar" and the related efficiency ratios. In the absence of this information, it is not possible to justify or support a 76% efficiency ratio.

e. The 18% Developer Return is Too High

EPS/KMA Rebuttal: *"The 18% return is appropriate because the return must exceed the developer's cost of capital."*[25]

My Response: While I absolutely agree that the developer return must exceed the developer's cost of capital, the EPS Rebuttal does not provide a single piece of data regarding the Project Sponsor's cost of capital. Interest rates are at or near record lows, including rates on construction financing. Without copies of letters of interest/intent and/or commitment letters from potential construction lenders, along with additional information surrounding its cost of capital (e.g., private placement memoranda, joint venture agreements), one cannot know with certainty the Project Sponsor's cost of capital.

[24] EPS Rebuttal, p. 5.
[25] EPS Rebuttal, p. 6.

Rebuttal Letter of Eric Sussman

EPS/KMA Rebuttal: The 706 Mission Street Project is "an inherently high risk undertaking" for several reasons.[26]

My Response: The reasons the EPS Rebuttal lays out for this particular project being "inherently high risk" are similar to nearly every other major real estate development (certainly all modern urban infill condominium projects) and are hardly unique. Nearly every infill project has significant pre-development costs, entitlement risk, and is susceptible to market cycles. This project is an infill project in San Francisco, a significantly undersupplied housing market with tremendous demand. In fact, the project at 301 Mission sold out in the midst of a recession. While no ground-up development is without risk, the risks associated with the subject project are low, relatively speaking, making a lower spread between the cost of capital and developer return justified.

EPS/KMA Rebuttal: "The cost of capital is not the same thing as the hurdle rate."[27]

My Response: This is incorrect. The cost of capital and hurdle rate are the same thing in this instance as the cost of capital is based upon an assumed combination of construction financing and developer equity in the project, and the related "cost" of each. In turn, the "cost" of capital includes the necessary return required by all parties (e.g., lenders, investors, developer) on invested capital. This "cost of capital" concept is sometimes referred to as the "hurdle rate" for projects like this because if the expected return for a project is lower than the cost of capital, the project should not be pursued – aka it does not meet the "hurdle" for investment returns. Meanwhile, as stated above, the Project Sponsor provides no documentation or data as to the

[26] EPS Rebuttal, p. 6.
[27] EPS Rebuttal, p. 6.

sources of capital for the project (e.g., bank loan, sponsor capital, investor funding), nor the precise terms and costs of each.

EPS/KMA Rebuttal: *"Comparing the Project Sponsor to a publicly-traded REIT likely understates the cost of capital...as REITs have relatively low costs of capital and do not develop or hold condominiums. The cost of private equity is likely to be considerably higher for the Project sponsor."*[28]

My Response: Many, if not all, publicly traded REITs engage in ground-up development projects, including those developing far more risky projects than San Francisco urban infill residential projects. Moreover, the information from the public REIT markets is not only reliable and objective, but based on significant number of data points, unlike the general and unsubstantiated assertions made by the Project Sponsor.

f. The EPS Report Includes a Calculation of the Cost of the Purchase of Transferable Development Rights (TDRs) for the Reduced Shadow Alternative

EPS/KMA Rebuttal: *While "the Sussman Report correctly states that the EPS Report includes a calculation of the cost of the purchase of Transferable Development Rights...", EPS nevertheless concludes that the Reduced Shadow Alternative is infeasible regardless. EPS Rebuttal, p. 6*

My Response: While the impact of the TDR purchase may not render the Reduced Shadow Alternative feasible in of itself, this is misleading, as all of the improper assumptions described

[28] EPS Rebuttal, p. 6.

above must be considered together in evaluating the proposed Reduced Shadow Alternative's feasibility. As clearly laid out in my June 28, 2013 Report, these flawed assumptions, taken together, substantially change the EPS Report's overall conclusions regarding the feasibility of the Reduced Shadow Alternative.

III. CONCLUSION

After a careful evaluation of the EPS and KMA Rebuttals, I stand by my initial conclusions that the EPS Report is flawed in numerous respects, using improper or unsubstantiated assumptions to conclude that the Reduced Shadow Alternative is economically infeasible.

The EPS Rebuttal should have provided more detailed, transparent, and specific data to support assertions that certain assumptions I made in my June 28, 2013 Report are flawed. For example, it could have provided copies of any financing arrangements (debt or equity) the Project Sponsor has made with respect to the proposed project to support their contention that their cost of capital is so high that an 18% return is justified. The Project Sponsor could have provided a list of the efficiency ratios for all modern, urban infill high-rise residential projects in order to support their aggressive 76 percent assumption. In both cases, it has neglected to do so.

In other instances, both the EPS and KMA Rebuttals cherry-pick data to support positions they have taken. For example, when developing assumptions regarding unit sizes and valuation, the EPS Report and Rebuttal conveniently ignore numerous recent transactions from all four comparable properties identified in the EPS Report and instead select comparable transactions from just one property, the Millennium Tower, which provides data most favorable to its analysis. The EPS and KMA Rebuttal Reports argue that developer sales from a bygone era

(e.g., 2000-2004 Four Seasons sales) are somehow more probative than more recent re-sales in that same property.

In my June 28, 2013 Report, I opine that the KMA Report is not an adequate peer review, as it "accepted each and every key assumption in the EPS report, with seemingly no independent verification or research."[29] The KMA Rebuttal continues to neglect its role as peer reviewer by failing to test the veracity of all key assumptions in the EPS Report in reaching the conclusions that it does.

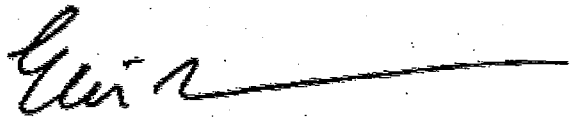
Instead, the KMA Rebuttal instead focuses on trying to rebut one element of my June 28, 2013 Report: estimated sales prices per square foot, and ignores virtually everything else. In articulating its opinion, the KMA Rebuttal perpetuates the same errors as the EPS Report and Rebuttal by cherry-picking data (using only sales from the Millennium Tower), ignoring sales data from the other three comparable buildings that both the EPS Report and my June 28, 2013 Report use as reference points. It also fails to recognize that my pricing assumptions are completely consistent with the data the EPS Report presents in Table 4.

I encourage the Board of Supervisors to closely review my June 28, 2013 Report and the significant data I provide both within the report and in the attached exhibits, and require that EPS provide this same sort of analysis, level of detail, data, and evidence to support its assumptions and conclusions. When it does so, I believe it will come to the same conclusion that I have: the Reduced Shadow Alternative is economically feasible.

[29] June 28, 2013 Sussman Report, p. 13.

Rebuttal Letter of Eric Sussman

Executed this 22th of July, 2013



Eric Sussman

Exhibit 3 - Updated
Corrected Price per Square Foot

Category	EPS Report, Table 3 Average $/Sq.Ft.	Corrected Average $/Sq. Ft. Due to Increased Unit Size	Corrected Average $/Sq. Ft. Due to Increased Unit Size AND Market Appreciation
Tower			
Floors 3 - 10	$1,150	$1,450	$1,650
Floors 11 - 25 [1]	$1,200	$1,513	$1,722
Floor 26 [2]	$1,275	$1,608	$1,829
Floor 27 [3]	$1,400	$1,765	$2,009
Aronson Building [4]	$1,100	$1,387	$1,578
Weighted Average $/Sq.Ft.	**$1,179**	**$1,487**	**$1,692**

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Exhibit 4 - Updated
EPS Report's Appendix A, Table 5
With Corrected Assumptions

Item	Assumption	Residential Flex Option
DEVELOPMENT PROGRAM		
Gross Building Square Feet		477,060 [1]
Residential		
Gross Square Feet		376,810 [2]
Net Saleable Area	80% Efficiency Ratio	301,448 [3]
Units		147 [4]
Parking Spaces		470
DEVELOPMENT REVENUE		
Residential Sales Revenue		$511,120,930 [5]
(less) Commission Expenses	3% of purchase price	($15,333,628)
Residential Parking Sales Revenue	$100,000 per space	$14,700,000
Lease Revenue		
Parking	$322 / space / mo.	$1,244,208
Subtotal, Lease Revenue		$1,244,208
(less) Capital Reserve	1.0% of Lease Revenue	($12,442)
Annual Net Operating Income		$1,231,766
Capitalized Value	6.0% cap rate	$20,118,843
Total Revenues		**$530,606,146**
DEVELOPMENT COSTS		
2006 Acquisition of Aronson Building		$23,500,000
Agency Site Purchase/Conveyance		$39,393,904
Aronson Building Property Costs		-
Direct Construction Costs		
Predevelopment Entitlement Costs		$9,388,235
Direct Construction	$517 / gross sq.ft.	$227,437,625 [6]
Exterior/ Curtain Wall	$100 / sq.ft of façade	$1,328,000
Tenant Improvements (Office)	$100 / sq. ft.	$0
Subtotal, Direct Construction Costs		$238,153,860
Indirect Costs		
Architecture and Engineering	3.9% of Direct Costs	$9,288,001
Fees and Permits	2.9% of Direct Costs	$6,906,462
Legal	0.6% of Direct Costs	$1,428,923
Sales and Marketing	1.4% of Direct Costs	$3,334,154
Other Indirect Costs	9.8% of Direct Costs	$23,339,078
Subtotal, Indirect Costs	18.5% to 18.6% of Direct Costs	$44,296,618

Exhibit 4 - Updated
EPS Report's Appendix A, Table 5
With Corrected Assumptions

Item	Assumption	Residential Flex Option
Other Project Costs		
Museum Operating Endowment		$5,000,000
Aronson Building Rehab/Renovation		–
Required Affordable Housing In-Lieu Fees		$10,275,917 [7]
Additional Affordable Housing In-Lieu Fees		$4,110,367 [7]
Purchase of TDRs (if applicable)	$24 / gross sq.ft.	$0 [8]
Absorption Period HOA Dues		$241,825
Open Space Maintenance (GMOS)		$471,013
EIR-Related Measures		$975,000
Other Project Costs		$7,565,000
Subtotal, Other Project Costs		$28,639,122
Total Costs		**$373,983,503**
Developer Return	15% of Total Costs	**$56,097,525** [9]
Project Residual		**$100,525,117**

Note:
[1] The EPS Report underestimated the Gross Building Square Feet of the Reduced Shadow Alternative by, as discussed in paragraph 19 of my June 28, 2013 Report, assuming, without justification, that each floor in the Reduced Shadow Alternative would have a much smaller floorplate than the Proposed Project Alternative. My correction for this error increases the Gross Building Square Feet from 418,441 in the EPS Report Appendix A, Table 5 to 477,060, as reported here.
[2] The EPS Report underestimated the Gross Residential Square Feet of the Reduced Shadow Alternative by, as discussed in paragraph 19 of my June 28, 2013 Report, assuming, without justification, that each floor in the Reduced Shadow Alternative would have a much smaller floorplate than the Proposed Project Alternative. My correction for this error increases the Gross Residential Square Feet from 318,191 in the EPS Reports Appendix A, Table 5 to 376,810, as reported here.
[3] As discussed in paragraphs 19 and 21of my June 28, 2013 Report, the EPS Report makes two mistakes which impact the estimated Net Salable Area. The first, discussed above, is that the EPS Report assumes, without justification, that each floor of the Reduced Shadow Alternative would have a much smaller floorplate than the Proposed Project Alternative. The second is that the EPS Report assumed, without justification, that the building's efficiency ratio would be 76%. My correction, based my own research and conversations with other real estate experts, increased the efficiency ratio to 80%. Correcting the floorplate error increases Net Saleable Area from 241,825 in the EPS Report to 286,376. Correcting the efficiency ratio error increases Net Saleable Area from 286,376 to 301,448, as reported here.
[4] The updated number of units is based on the corrected unit size of 2,052 sq.ft and the Net Saleable Area of 376,810 sq.ft.
[5] The updated Residential Sales Revenue is calculated by multiplying Net Saleable Area by the expected sales price per sq.ft.
[6] Direct construction costs are calculated based on a corrected gross square foot cost of $477/sq.ft, which has been corrected based on the larger average units.
[7] Affordable Housing In-Lieu Fees are calculated based on the updated number of units .
[8] No TDR purchases are included.
[9] Corrected from 18% in the EPS Report.

File No. 130570
7/15/13 Received
in Committee

KEYSER MARSTON ASSOCIATES
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

MEMORANDUM

ADVISORS IN:
REAL ESTATE
REDEVELOPMENT
AFFORDABLE HOUSING
ECONOMIC DEVELOPMENT

SAN FRANCISCO
A. JERRY KEYSER
TIMOTHY C. KELLY
KATE EARLE FUNK
DEBBIE M. KERN
REED T. KAWAHARA
DAVID DOEZEMA

LOS ANGELES
KATHLEEN H. HEAD
JAMES A. RABE
GREGORY D. SOO-HOO
KEVIN E. ENGSTROM
JULIE L. ROMEY

SAN DIEGO
GERALD M. TRIMBLE
PAUL C. MARRA

To: Christine Maher
Office of Community Investment and Infrastructure as Successor Agency to the Redevelopment Agency of the City and County of San Francisco

From: Jerry Keyser and Tim Kelly

Date: July 15, 2013

Subject: Response to "Expert Report of Eric Sussman" Prepared June 28, 2013

This memorandum has been prepared by Keyser Marston Associates, Inc. (KMA) to respond to the "Expert Report of Eric Sussman" ("Sussman Report") which was prepared at the request of the Appellants and submitted on June 28, 2013. The Sussman Report evaluated the May 8, 2013 "Financial Feasibility of 706 Mission Street: The Mexican Museum and Residential Tower and Project Alternatives" prepared by EPS ("EPS Report") and peer reviewed by KMA.

Keyser Marston Associates, Inc. (KMA)

KMA qualifications and experience are briefly summarized below:

- KMA has one of the largest real estate advisory practices on the West Coast. Founded in San Francisco in the early 1970's, KMA serves a diverse client base including nearly every major municipality in California, universities and colleges, ports, transit authorities as well as the private sector. The firm has offices in San Francisco, Los Angeles and San Diego.

- KMA has distinguished itself by a 30-year plus record of success in public private partnerships.

- KMA has been active in evaluating real estate projects in San Francisco for over 30 years.

- KMA has been the real estate and financial advisor to the Office of Community Investment and Infrastructure as Successor Agency to the Redevelopment Agency of the City and County of San Francisco for the residential sites next to Transbay Terminal, which has received nine proposals for high rise residential towers on three sites between 2009 and 2012.

KMA's Assignment

KMA's assignment was to prepare a peer review the Feasibility Analysis prepared by EPS analysis for reasonableness. The Project Alternatives were established in the EIR and KMA was not asked to evaluate feasibility of additional alternatives.

Millennium Partners

- Millennium Partners is recognized as a pre-eminent national developer of high rise luxury residential towers and their architect is nationally recognized.

- The 301 Mission Millennium Tower is recognized as being a state-of-the-art luxury tower in San Francisco and original developer sales prices were reviewed by KMA as a basis for assessing the reasonableness of the pricing at 706 Mission with adjustments.

Response to Sussman's Comments:

- Pricing is the most important of all the variables.

- Pricing is dramatically affected by views. A perfect example is the highly comparable Millennium Tower. As stated in the Feasibility Analysis prepared by EPS, due to existing development surrounding the 706 Mission project site and the geographic location within the city, views (and therefore view premiums) will likely vary by floor level and unit orientation, often significantly. Site lines in units above the 25th floor would begin to clear the Westin Hotel to the northwest, opening partial site lines to the Bay towards Marin. Between the 11th and 25th floors, south and east facing units would have water views to the east and southeast. Below the 11th floor, there are no water views but the south facing units would have a view of Yerba Buena Gardens.

- As a crosscheck to the reasonableness of the Feasibility Report prepared by EPS, the original developer sales price at 301 Mission Millennium Tower were provided to KMA by Millennium.

Price Per Sq. Ft. Comparison: Alternative E Reduced Shadow (27 Floors)

Floor	Sussman Projection (Excludes Parking)	301 Mission (last year of sales) (original sales) (Includes Parking)	EPS Projection (Excludes Parking)
3-10	$1,650	$818	$1,150
11-25	$1,722	$939	$1,200
26	$1,829	$1,085	$1,275
27	$2,009	$1,084	$1,400

The EPS projection for Alternative E: Reduced Shadow factored in significant increases over the 301 Mission Millennium Tower (where the pricing also includes parking). As a point of reference, the Case Shiller Condominium pricing index has increased to April 2013 between approximately 20% (from Jan. 2009 to April 2013) to 40% (from Feb. 2012 to April 2013) depending on the timeframe used. The range reflects the effect of the recession and the recovery on pricing.

- Sussman's pricing methodology is flawed based on the 301 Mission Millennium Tower experience.

1. The "comparable condominium sale prices" includes re-sales instead of being limited to original developer sales, the methodology appears to ignore the pricing history of 301 Mission, and Sussman does not recognize the limited number of units with premium water views in a 27 floor tower. As a result, Sussman's methodology projects an unachievable average sales price of $3.47 million and an overall residential sales projection for 27 floors that is higher than the projection for the 43 Floor Modified Proposal, despite having 16 fewer floors with premium water oriented views.

Sales	Sussman 27 Floors Reduced Shadow	EPS 43 Floors Modified Proposal	EPS 27 Floors Reduced Shadow
Residential	$511,120,930	$510,982,960	$285,193,602
Per Unit	$3,477,013	$2,689,384	$1,533,299
Per Sq. Ft.	$1,695	$1,250	$1,179

2. In summary, Sussman's pricing projection is not supported by 301 Mission Millennium Tower experience even after appropriate adjustments for time.

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a. The first 27 floors in the 301 Mission average original developer sales price was $1.23 million from Spring 2012 through Winter 2013 and Sussman's average sales price for a 27 floor tower is $3.47 million per unit, or over 2.5 times higher.
b. Sussman's projected sales fails to account for the limited views on the lower floors with pricing commencing at over $3 M on the third floor. At 301 Mission, original developer sales did not reach $3 million until well above the 27th floor.

Feasibility of 27 Floor Alternative

- The 27 Floor Alternative maintains the Community Benefits Package as does all the alternatives:
  1. Millennium's obligation to construct the core and shell of the Mexican Museum and contribute funds to an operating endowment would remain unchanged.
  2. All of the other public benefits remain.
  3. These costs have less of an impact on the development economics with more floors and more of an impact with fewer floors.

- In conclusion, starting with the 301 Mission-Millennium Tower original developer sales prices and after factoring an adjustment for the Case Shiller Condominium Index increase, the Reduced Shadow Alternative for 706 Mission with 27 floors is not feasible.

File No. 130570
7/15/13 Received
in Committee

MEMORANDUM

To: Margo Bradish, Cox Castle Nicholson
Sean Jeffries and Kristin Gonsar, Millennium Partners

From: James Musbach and Ashleigh Kanat

Subject: EPS Response to "Expert Report of Eric Sussman"
Prepared June 28, 2013; EPS #121084

Date: July 9, 2013

The Economics of Land Use

This memorandum has been prepared by Economic & Planning Systems, Inc. (EPS) to respond to the "Expert Report of Eric Sussman" ("Sussman Report") which was prepared at the request of the Appellants and submitted on June 28, 2013. The Sussman Report evaluated the May 8, 2013 "Financial Feasibility of 706 Mission Street: The Mexican Museum and Residential Tower and Project Alternatives" prepared by EPS ("EPS Report") and peer reviewed by Keyser Marston Associates.

Summary of Response

This response follows the organization of the Sussman Report and proceeds topic by topic to refute the arguments presented. A summary is provided below with more detailed explanations following.

- **Average Unit Size:** EPS did not base its revenue estimates on unit size; rather, residential revenue estimates are based on the net saleable square footage multiplied by the weighted average price per square foot and are not affected by unit size or number of units.
- **Prices per Square Foot:** All pricing assumptions were reviewed and vetted by EPS in the context of the Project and the market for luxury condominium units in the Yerba Buena submarket, taking Project-specific factors such as developer sales versus resales, unbundled parking, branded hotel affiliation, and unfinished penthouse units into consideration. It would be inappropriate to estimate sales prices based on peaks in the market and an assumption that condominium prices will continue to rise at the rate they have been rising in the past year; such assumptions likely would not be underwritten by a third-party lender.
- **Floorplate Size:** The Reduced Shadow Alternative is based on the Existing Zoning Alternative, and for both alternatives, there is a required 20-foot rear yard setback that reduces the allowable tower foot print.

Economic & Planning Systems, Inc.
2501 Ninth Street, Suite 200
Berkeley, CA 94710-2257
510 841 9190 tel
510 841 9208 fax

Berkeley
Denver
Los Angeles
Sacramento

www.epsys.com

- **Efficiency Ratio:** At 76 percent, the assumed residential efficiency ratio used in the EPS Report is within the range of 75 percent to 85 percent quoted by the Sussman Report. The 76 percent estimate is based on the architect's specific project design; it is at the low-end of the typical efficiency ratio range due to the relatively fixed code requirements (i.e., circulation, fire safety and structural core requirements) and the smaller project floorplate attributable to site dimensions and zoning code restrictions.
- **18 Percent Developer Return:** A developer return of 18 percent on costs is appropriate as the developer return must exceed the developer's cost of capital by a sufficient margin to account for project risk. The 706 Mission Street Project, with its required upfront capital outlay and niche market demand, is an inherently high-risk undertaking due to significant pre-development costs, market cycle risk, length of construction and risk of construction cost increases, and uncertain absorption period.
- **Purchase of TDRs:** The EPS Report estimates the Project Residual with and without the purchase of TDRs for the Reduced project Alternative, thus allowing an "apples-to-apples" comparison across the Proposed Project and alternatives.

IV.A: Average Unit Size for the Reduced Shadow Alternative

The Sussman Report asserts that the EPS Report uses an average unit size for the Reduced Project Alternative that is too low, which the Sussman Report claims has implications for revenue, construction costs and Affordable Housing In-Lieu Fees. In fact, EPS did not base its revenue estimates on unit size. Instead, EPS based its residential revenue estimates on the net saleable square footage multiplied by the weighted average price per square foot. Therefore, EPS's revenue estimates are not affected by unit size or number of units.

The price assumptions are based on per square foot prices by floor segment which are affected primarily by unit orientation (north versus south-facing) and potential view-capture rather than unit size. The pricing by floor segment is consistent across the alternatives, varying only for those floors that offer penthouse layouts; pricing by floor segment is not reduced in the Reduced Shadow Alternative.

For informational purposes, average unit sizes are provided, and were derived based on the net saleable residential square feet of the Reduced Shadow Alternative divided by the number of units (186 units under the Residential Flex Option of the Reduced Shadow Alternative). It is also important to recognize that a 27-story residential tower that never captures the premium views that the Proposed Project is able to capture above the 33rd floor represents an entirely different residential project than what is contemplated by the Project Sponsor and would not be able to command the prices that a taller tower would be able to command.

Units in the lower height Reduced Shadow Alternative would be expected to be smaller as they would not be marketed to that segment of condominium buyer who typically demands larger units with premium views. It is worth noting that at Millennium Tower, the average unit size of the units on the first 27 floors of the tower sold between the second quarter of 2012 and the first quarter of 2013 is 1,329 square feet, which is consistent with the average unit size associated with the Reduced Shadow Alternative (1,300 square feet).

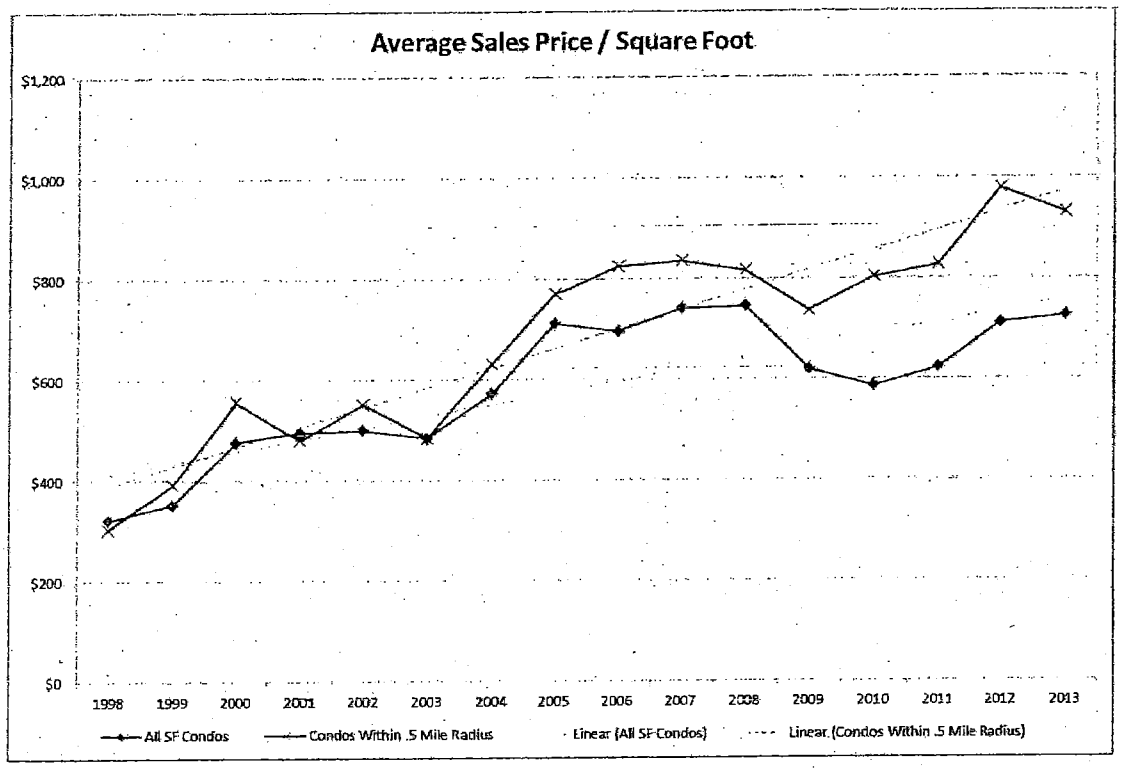
As Sussman points out and as indicated in Appendix E of the EPS Report, the density of units within the Reduced Shadow Alternative does result in higher per square foot construction costs, as there are additional walls, additional plumbing and utility fixtures, etc. to be constructed and fewer square feet across which the costs can be spread. However, the number of units associated with the Reduced Shadow Alternative is not arbitrary; rather, it is based on the economic realities of marketing a 27-story residential tower that does not offer premium views versus a taller tower that captures premium views.

The number of units also affects the Affordable Housing In-Lieu Fee calculation. However, as described above, the number of units associated with the Reduced Shadow Alternative is appropriate, given the height of the tower. Hypothetically, reducing the number of units in the Reduced Shadow Alternative to be consistent with the number of units in the Existing Zoning Alternative would decrease affordable housing fees by approximately $11 million and would not affect the feasibility of the Reduced Shadow Alternative.

IV.B: Prices per Square for the Reduced Shadow Alternative

The Sussman Report asserts that the EPS Report uses prices per square foot for the Reduced Shadow Alternative that are too low. EPS maintains that the prices per square foot are appropriately conservative (i.e., high). It is important that the analysis be based on assumptions that are realistic and consistent with underwriting criteria of financial institutions to avoid entitling a project that cannot be financed and will not be built. The price per square foot by floor segment used in the EPS Report is provided by the Project Sponsor based on past and current experience in the market with developer sales (rather than resales) at The Four Seasons and Millennium Tower and actual sales price differentials to support the price increases by floor segment. All pricing assumptions were reviewed and vetted by EPS in the context of the Project and the market for luxury condominium units in the Yerba Buena submarket. Contrary to the assertions of the Sussman Report, it would be inappropriate to estimate sales prices based on peaks in the market and an assumption that condominium prices will continue to rise at the rate they have been rising in the past year; such assumptions likely would not be underwritten by a third-party lender. A review of condominium prices in the market area over the last several years illustrates the variability of prices with market cycles as shown in **Figure 1** below.

Figure 1 Average San Francisco Condominium Sales Prices (1998 – 2013)



Sources: Redfin.com; Economic & Planning Systems, Inc.

It should also be noted that the Case-Shiller Condominium Index may overstate the price increases that have occurred in the luxury condominium market in San Francisco in the past year. Luxury home buyers tend to be relatively "recession-proof" and luxury home prices did not fall to the same degree home prices in the rest of the market fell during the collapse of the housing market. As such, inflating sales prices at the same rate that prices in the general market (which fell more sharply during the economic downturn) have increased is likely to overstate recent price increases in the luxury condominium market. For example, a recent article in the San Francisco Business Times noted that San Francisco luxury homes are selling for the highest prices seen since 2008, and the value of luxury homes is up 8.7 percent compared with one year ago.[1] This is in contrast to the year-over-year increase of 27 percent for San Francisco condominium units generally, as quoted by the Sussman Report.

Furthermore, the Sussman Report overlooks the important distinction between developer sales and resales and skews the analysis toward the higher-valued resales by selecting a time period of analysis that excludes developer sales on three of the four comparable projects. Only Millennium Tower was still selling developer units past January 2011 and most occurred in 2009 and 2010. Resale prices in luxury condominiums are typically higher than developer sales prices due to the substantial tenant improvements installed by owners, and the fact that the quality

[1] Calvey, Mark, "Bay Area Luxury Homes Hit Highest Price Since 2008," The San Francisco Business Times, updated June 11, 2013.

and amenities of the building are well established. Resale prices are also affected by supply, which is more limited after the initial sell out of the building and which puts upward pressure on prices.

The Sussman Report also overlooks the added value of parking, which is not included in the residential price per square foot used in the EPS Report (rather parking is separately accounted for in the revenue assumptions of the EPS Report), but is included in the resale prices relied upon in the Sussman Report. Additionally, the Sussman Report does not acknowledge that the penthouse units will be sold in an unfinished state to allow for taste-specific resident finishes, further reducing potential prices per square foot as compared to resales, nor does he note that the residential units at 706 Mission will not be affiliated with a branded hotel and the associated amenities that come with such an affiliation, as is the case with the Four Seasons, the Ritz Carlton, and the St. Regis.

IV.C: Smaller Floorplate for the Reduced Project Alternative

The Sussman Report claims that the EPS Report uses a smaller floorplate in the Reduced Shadow Alternative without justification. The term "floorplate" refers to the physical space that the footprint of the building occupies. When the Reduced Shadow Alternative was conceived for environmental review purposes, it was intended to be based on the Existing Zoning Alternative, which sought to maximize development potential within the current zoning code restrictions for the site. As such, and for both the Existing Zoning Alternative and the Reduced Shadow Alternative, there is a required 20-foot rear yard setback that reduces the allowable tower foot print.

To demonstrate the implications of the setback requirement, we can hypothetically assume the same sized floorplate for the Reduced Shadow Alternative as is assumed in the Proposed Project. This would increase the gross residential square footage by approximately 58,000 square feet (2,320 square feet floorplate differential per floor x 25 floors of residential space in the Reduced Shadow Alternative). Multiplying 58,000 square feet by the average price per square foot increases the potential sales revenues for the Reduced Shadow Alternative by nearly $52 million, which is significant but not enough to render the Reduced Shadow Alternative feasible.

In addition, the gross residential square footage by floor varies by alternative based on the configuration of residential units and common areas such as corridors, elevator shafts, stairways, mechanical equipment, and amenity areas. The gross residential square footage by floor is based on the architect's project design, which was considered specifically by the project architect for the Proposed Project and each alternative based on available site area and physical program constraints.

IV.D: Residential Efficiency Ratio for the Reduced Project Alternative

The Sussman Report claims that the EPS Report uses an unsupported residential efficiency ratio for the Reduced Project Alternative, although at 76 percent, it is within the range of 75 percent to 85 percent quoted by the Sussman Report and consistent across the Project and all alternatives evaluated. The 76 percent estimate used in the EPS Report is based on the architect's specific project design and is consistent with other projects with which EPS is familiar. It is at the low-end of the typical efficiency ratio range due to the relatively fixed code

requirements (i.e., circulation, fire safety and structural core requirements) and the small project floorplate due to site dimensions and zoning code restrictions. The larger the floorplate, the more efficient the overall project can be. Furthermore, a residential tower project should be expected to be less efficient than a three- to five-story, market-rate project, for example, due to the different high-rise requirements for elevators, stairways, mechanical equipment, more spacious corridors associated with luxury buildings, and other factors.

IV.E: 18% Developer Return

The Sussman Report asserts that the developer return used in the EPS analysis is arbitrarily high. EPS maintains a developer return of 18 percent on costs is appropriate as the developer return must exceed the developer's cost of capital by a sufficient margin to account for project risk.

EPS disagrees with the assertion of the Sussman Report that the 706 Mission Street Project is a "relatively low risk development project". The 706 Mission Street Project, with its required upfront capital outlay and niche market demand, is an inherently high-risk undertaking for the following specific reasons:

- Significant pre-development costs (more than $9 million in predevelopment entitlement costs alone as of the end of 2012)
- Entitlement risk (this memorandum is being prepared before the project receiving all required entitlements and in response to an appeal challenging entitlements granted to date)
- Market cycle risk
- Significant upfront capital (project must be built all at once regardless of pre-sales or pace of absorption)
- Length of construction and risk of construction cost increases
- Extended and uncertain absorption period after all capital investment is in place and accruing interest

EPS also disagrees with the assertion of the Sussman Report that the developer's cost of capital represents the "hurdle rate". A developer's hurdle rate, the expected return at which a developer and its investors will undertake a project, will reflect a risk adjusted rate of return in addition to the cost of capital. Comparing the Project Sponsor to a publicly-traded REIT likely understates the cost of capital for this project, as REITs have relatively low costs of capital and do not develop or hold condominiums. The cost of private equity is likely to be considerably higher for the Project Sponsor.

IV.F: Purchase of TDRs for Reduced Project Alternative

The Sussman Report correctly states that the EPS Report includes a calculation of the cost of the purchase of Transferable Development Rights (TDRs) for the Reduced Project Alternative. The EPS Report clearly also estimates the Project Residual without the purchase of TDRs for the Reduced project Alternative, thus allowing an "apples-to-apples" comparison across the Proposed Project and alternatives. The Reduced Project Alternative is infeasible with or without TDR purchase.

EPS Response to Other Points Raised in the Appeal

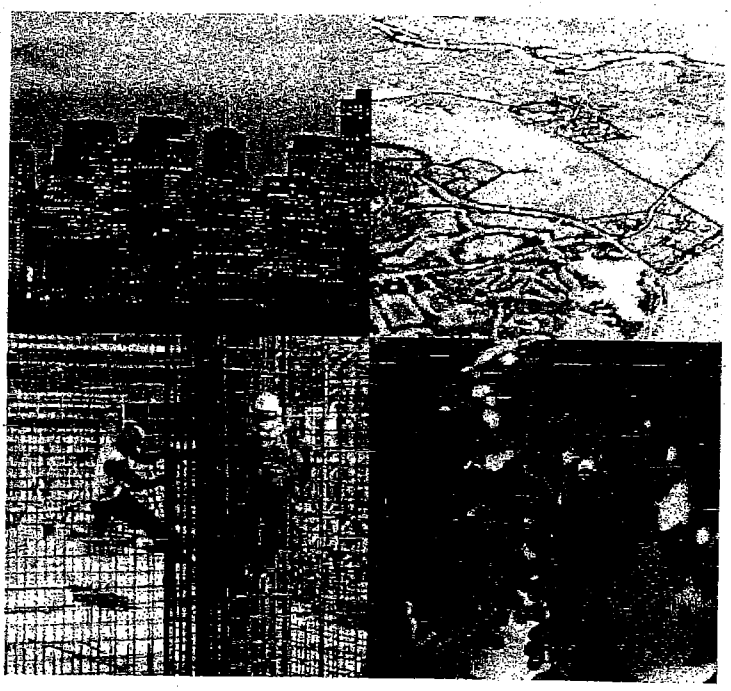
In the July 1, 2013, addendum to the appeal prepared by Thomas Lippe of Lippe Gaffney Wagner LLP, attorney for the Appellants, to which the Sussman Report was attached, the seventh point suggests fault with the EPS Report for not identifying feasible Project alternatives with a tower height lower than 520 feet (the height of the Proposed Project) but higher than 351 feet (the height of the Reduced Shadow Alternative). Using a static pro forma as was used in the EPS analysis to identify the threshold point at which the project has a Project Residual of $0 would be an exercise in false precision, as there are multiple dynamic factors (pre-entitlement period, post entitlement challenge risk, length of construction, sales absorption, market fluctuation, etc.) that the model is not designed to accommodate. EPS does not believe it is good policy to push a project to such a threshold "break" point, as there are bound to be variables that the Project Sponsor will face that the model does not and cannot anticipate.

APPENDIX A:

EPS Qualifications



Statement of Qualifications



The Economics of Land Use

Economic & Planning Systems, Inc.
2501 Ninth Street, Suite 200
Berkeley, CA 94710-2257
510 841 9190 tel
510 841 9208 fax

Berkeley
Denver
Los Angeles
Sacramento

www.epsys.com

2013

About Economic & Planning Systems, Inc.

The Firm	Economic & Planning Systems, Inc. (EPS) is a land economics consulting firm experienced in the full spectrum of services related to real estate development, the financing of public infrastructure and government services, land use and conservation planning, and government organization.
Guiding Principle	EPS was founded on the principle that real estate development and land use-related public policy should be built on realistic assessment of market forces and economic trends, feasible implementation measures, and recognition of public policy objectives, including provisions for required public facilities and services.
Areas of Expertise	• Real Estate Market and Feasibility Analysis • Public Finance • Fiscal and Economic Impact Analysis • Reuse, Revitalization, and Redevelopment • Real Estate Transactions and Negotiations • Regional Economics and Industry Analysis • Land Use Planning and Growth Management • Open Space and Resource Conservation • Government Organization • Transportation Planning and Analysis • Asset Valuation and Repositioning
Clients Served	Since 1983 EPS has provided consulting services to hundreds of public- and private-sector clients in California and throughout the United States. Clients include cities, counties, special districts, multi-jurisdictional authorities, property owners, developers, financial institutions, and land use attorneys.
Staff Capabilities	The professional staff includes specialists in public finance, real estate development, land use and transportation planning, government organization, and computer applications. The firm excels in preparing concise analyses that disclose risks and impacts, support decision making, and provide solutions to real estate development and land use-related problems.
EPS Locations	Berkeley, Los Angeles, and Sacramento, California Denver, Colorado
EPS Web Site	www.epsys.com

REAL ESTATE MARKET AND FEASIBILITY ANALYSIS

Services Provided

EPS prepares real estate market and feasibility analyses for many real estate development projects and land use-planning programs. EPS's services provide a realistic assessment of real estate-market trends to determine the potential market support for a given project or land use plan. EPS's feasibility analyses evaluate the potential financial returns and feasibility of a real estate project, drawing on EPS's own market research of product types, absorption, and pricing.

This market and feasibility information is used in a wide variety of applications, such as individual project feasibility assessment, development project design and programming, property disposition strategies, downtown revitalization and redevelopment efforts, specific and comprehensive land use planning, and economic analysis of impact fees and other public finance programs. EPS's market analysis efforts range from evaluations of existing market information to detailed project-specific market forecasts using consumer surveys and other primary research. Pro forma cash flow models test feasibility under a range of project alternatives, financing and partnership options, disposition strategies, and measures of financial return.

Representative Projects

- Seattle Commons Plan Market and Economic Analysis, *Seattle, Washington*
- Nut Tree Retail Office and Residential Market Study, *Vacaville, California*
- Town Center Market Analysis, *Fountain Hills, Arizona*
- Pinole Vista Shopping Center Expansion Development Agreement Negotiations, *Pinole, California*
- Crossroads Commerce Center Industrial Park Market Analysis, *Lathrop, California*
- Metropolitan Apartment Market Analysis, *Portland, Oregon*
- El Toro Community Reuse Plan Market and Financing Analysis, *Orange County, California*
- Financial Analysis of McCarthy Ranch General Plan Amendment, *Milpitas, California*
- Market Feasibility Study and Implementation Strategy for Pier Bowl Specific Plan, *San Clemente, California*
- Richards Boulevard Housing Feasibility Analysis, *Sacramento, California*
- Stockton Airport Special Purpose Plan: Market Analysis and Financial Overview, *Stockton, California*
- Marina Market and Financial Feasibility Study, *Rio Vista, California*
- Southwest Area Plan Retail Market Demand Study, *Santa Rosa, California*

Project Profiles

Market Analysis of Seattle Commons Plan
Seattle, Washington

The Seattle Commons Project is located in the South Lake Union Area adjacent to the Seattle Central Business District. The intent of the Seattle Commons Plan was to develop a 74-acre urban park, as well as to undertake a variety of infrastructure improvements to leverage investment and to transform this underdeveloped area into a vital, mixed-use community.

Working for the City of Seattle, EPS prepared a market study forecasting development of residential, retail, office, and bio-tech uses under alternative development scenarios. The results were used to evaluate the fiscal and financial implications of the proposed plan.

Nut Tree Retail, Office, and Residential Market Study
Vacaville, California

The City of Vacaville sought to redevelop the historic Nut Tree site, a popular Northern California retail landmark that, for more than 60 years before it closed, provided a unique mix of food, local products, and entertainment to residents and visitors. The 76-acre site, located along the heavily traveled Interstate 80 midway between San Francisco and Sacramento, offered several desirable attributes, including positive name recognition, adjacency to the local baseball stadium, a well-used private airport, and a popular factory outlet center. The city sought to promote a unique, high-density project that would include land uses not yet established in this growing suburban environment.

Working with Eden Development Group, the developer selected by the city, EPS evaluated the market potential and financial feasibility of a variety of mixed-use development concepts for the Nut Tree site. The analysis focused on specialty retail, including a specialty food–oriented theme with California wines, fruits, and other local agricultural products, combined with several destination restaurants and a farmers' market. EPS also evaluated the potential success of high-density office and residential uses, including a conference center hotel, golf, parks, and a museum, to be integrated with the project. Based on the market financial feasibility analysis, EPS helped design a preferred land-use concept and provided strategic input for developing a comprehensive public-private financing plan with the city.

Fountain Hills Town Center Market Analysis
Fountain Hills, Arizona

EPS evaluated the market for retail, recreational, cultural, visitor-serving, and residential uses in the Fountain Hills Town Center, that was used to guide the size, scale, and mix of uses included in the Town Center Master Plan. EPS also provided recommendations to strengthen local retailers' performance.

Services Provided

EPS provides a range of services necessary to fund and build community facilities and capital improvements, including needs assessment, arranging for funding, and the development and administration of comprehensive financing programs. EPS's goal is to ensure successful development of projects and land use plans by preparing feasible financing plans that respond to public and private objectives and make creative use of available financing mechanisms. EPS also provides a range of services necessary to fund ongoing operations of services and facilities for public entities.

Specific services provided by EPS include forecasting demand to assist in infrastructure design, sizing, and timing; identifying and forecasting potential funding sources; allocating capital costs among participating entities; and assessing the impacts of capital financing alternatives on project feasibility and public finance negotiations, including drafting development agreements. Additional EPS services include formulating assessment rates, special tax formulas, and fee ordinances and developing funding strategies for the ongoing costs of operations and maintenance for public services and facilities.

Representative Projects

- North Natomas Community Plan Financing and Nexus Study, *Sacramento, California*
- Fort Ord Financial Leverage/ Credit Enhancement Study, *Monterey, California*
- Rocklin Unified School District Facilities Financing, *Rocklin, California*
- Stapleton Airport Reuse Financing Plan, *Denver, Colorado*
- Railyards/Richards Boulevard Redevelopment Areas Infrastructure Financing Plan and Nexus Study, *Sacramento, California*
- Entrance to Aspen Financing Program, *Aspen, Colorado*
- Joint Unified School District Long-Range Facilities Master Plan, *Davis, California*
- Regional Transportation Impact Fee Program, *San Joaquin County, California*
- Southeast Woodland Specific Plan Infrastructure and School Financing Plan, Woodland, California
- Community Partnership Financing Plan, *Snowmass, Colorado*
- Mountain House Community Financing Plan, *San Joaquin County, California*
- Regional Sports Facility Financing Plan, *Stanislaus County, California*
- Santa Monica Civic Center Financing Plan, *Santa Monica, California*
- Sacramento Public Library Authority Financing Plan, *Sacramento, California*
- Stanford Ranch Mello-Roos Financing Plan, *Rocklin, California*
- Sewer Rate Analysis, *Modesto, California*

Project Profiles

North Natomas Financing Plan and Nexus Study
Sacramento, California

The North Natomas Community Plan encompassed a project covering 10 square miles and potentially housing 60,000 people. After more than a year of discussions on transportation, air quality, open space, and other land use issues, developers, environmentalists, and neighborhood interests reached consensus on the project. EPS assisted the North Natomas Landowners Association and the City of Sacramento with developing the financing plan, nexus study, and numerous related analyses required for bond issuance. The financing plan, containing $730 million in infrastructure improvements, incorporated an area-wide Community Facilities District, regional cost sharing, and pay-as-you-go fee programs.

Fort Ord Financial Leverage/Credit Enhancement Study
Monterey County, California

The Fort Ord Reuse Authority (FORA) plans to develop the former Fort Ord, granted to FORA and the surrounding municipal jurisdictions under an Economic Development Conveyance from the U.S. Army. In September 1993, the Secretary of Defense declared Fort Ord a model for the national base reuse effort, and as part of creating a model reuse strategy, sought a consultant to provide expert advice on how to best leverage available public and private financing resources. FORA hired EPS to conduct a Financial Leveraging and Credit Enhancement study, supplementing the work in the financing plan with an examination of FORA's financing needs and an exploration of creative tools to meet those needs, such as revolving loan fund, loan security, and letters of credit, to bootstrap beneficial projects that cannot rely on their own fundamentals for financing. EPS's strategy is being pursued by the Department of Commerce.

McClellan AFB Reuse Public Facilities Financing
Sacramento, California

Located in Sacramento County, McClellan Air Force Base is approximately 7 miles northeast of the downtown area. The Defense Base Realignment and Closure Commission closed McClellan in July 2001. A joint venture agreement between Sacramento County and McClellan Park, LLC envisions reusing approximately 10 million square feet of existing facilities and adding roughly 7 million square feet of new development.

McClellan Park LLC retained EPS to prepare a financing strategy to pay for backbone infrastructure and other needed improvements. The goal of the financing strategy is to match the timing of the infrastructure improvement needs and the availability of revenues to pay for the improvements. This goal is challenged by the unique nature of redeveloping a former military base into a privately occupied business park. EPS developed a $169.4 million financing-implementation plan that uses infrastructure charges, tax increment revenue financing, and grant and other funding, as well as potential funding from the developer/equity partner and Sacramento County. Additional funds will be secured by a loan from the California Infrastructure and Economic Development Bank.

FISCAL IMPACT ANALYSIS

Services Provided

EPS evaluates impact of a wide range of land use projects and resource management programs on the annual budgets of cities, counties, and other public agencies. As a basis for practical mitigation measures, our services quantify and disclose the potential local and regional fiscal implications of specific projects, cumulative development of an area, or government actions in general. EPS evaluates net fiscal impacts by forecasting local government operating costs and revenues caused by increased public-service requirements or changes in tax and fee collection.

Fiscal impact studies often are completed within the context of land use–plan evaluation, development project review, environmental impact reports, resource management plans, and financial negotiations between public and private entities. EPS uses specially prepared computer models, based on input from affected agencies as well as case studies from similar projects, to emulate and forecast agency budgets. Our analysis employs a wide variety of tools, including market analysis, consumer surveys, case studies, and industry sales data.

Representative Projects

- Disneyland Resort Area Expansion Fiscal Analysis and Financial Negotiations, *Anaheim, California*
- Redmond Fiscal Study and Cost of Growth Model, *Redmond, Washington*
- Fiscal Equity Study, *Reno, Sparks, and Washoe County, Nevada*
- Durango Mountain Resort Fiscal Impact Analysis, *La Plata County, Colorado*
- South Napa Marketplace Fiscal and Economic Analysis, *Napa, California*
- Southwest Area Plan Fiscal and Financial Impact Analysis, *Santa Rosa, California*
- General Plan Update Fiscal Impact Analysis, *San Jose, California*
- Mt. Washington Cellars Fiscal and Financial Analysis, *Calistoga, California*
- Fiscal and Economic Effects of the Paradise Ranch Inn Project, *Josephine County, Oregon*
- Base Village Fiscal Impact Analysis, *Snowmass Village, Colorado*
- Pleasanton Ridge Fiscal and Financial Impact Analysis, *Pleasanton, California*
- Porter Trust Annexation Fiscal Impact Analysis, *Jackson, Wyoming*
- North Natomas Fiscal Impact Study, *Sacramento, California*
- Spring Lake Planning Analysis Fiscal Update, *Woodland, California*
- Serrano El Dorado Fiscal Impact and Tax Revenue Analysis, *El Dorado Hills, California*
- Ceres Citywide Fiscal Impact Analysis, *Ceres, California*

Project Profiles

Disneyland Resort Area Expansion, Fiscal Analysis and Financial Negotiations
Anaheim, California

Beginning in the early 1990s, the City of Anaheim developed plans to improve the Anaheim Resort Area that includes 14,000 hotel rooms, the Anaheim Convention Center, and Disneyland. The area suffered from infrastructure deficiencies, and the Convention Center required improvements to maintain its market share. At the same time, Disney proposed constructing a second Southern California theme park. Disney requested financial participation from the City of Anaheim to help fund the needed infrastructure.

EPS assisted the city's negotiation team by creating a cash flow model of the city's budget to forecast fiscal impacts with and without the project. EPS evaluated the market economics of potential room-night demand, a primary tax generator. The analysis assured the city that it could achieve its objectives of creating no risk to the General Fund. Ultimately, the City Council approved a Finance Agreement providing for the issuance of debt to be repaid by a share of new incremental tax revenues.

Redmond Fiscal Impact of Growth Model
Redmond, Washington

The City of Redmond, home of Microsoft, is a rapidly growing metropolitan area located in the State of Washington. The city's key objectives are to maintain levels of service, promote economic development, ensure an adequate supply of affordable housing, and balance the municipal budget. EPS developed a fiscal impact growth model that provided the city with the ability to forecast municipal costs and revenues associated with planned levels of growth and development. Information regarding the costs of growth, either for individual products or cumulatively, helped inform policy decisions regarding the city's goals and objectives. The cost-of-growth model incorporated several factors and recognized the changing nature of each factor over time, including (1) land demand and supply, (2) physical capacity, (3) infrastructure and public facilities, (4) development and fiscal policy, and (5) fiscal cash-flow forecasting. In addition to the resulting reports, EPS agreed—under a separate license agreement—to provide the city with model documentation, training, and systems support.

Fiscal Equity Study
Reno, Sparks, and Washoe County, Nevada

While the Truckee Meadows region, which includes Washoe County and the Cities of Reno and Sparks, has experienced substantial growth over the last decade, revenue has not kept up with service demands of the new population. Local agencies have made some progress in sorting out service functions and combining efforts to achieve cost savings; many regional conflicts remain, however, that are related to fiscal imbalances or inequities and new development and annexation issues. Truckee Meadows Regional Planning Agency retained EPS to provide a better understanding of the service-to-revenue relations among agencies in the region and to quantify fiscal imbalances and inequities. Ultimately, EPS developed recommendations and alternative solutions for the provision of services that is designed to sustain the long-term fiscal health of the region while accommodating anticipated regional growth.

ECONOMIC IMPACT ANALYSIS

Services Provided

EPS evaluates the economic impact of a wide range of public and private sector activities, including land use projects, industry sector output, and government programs and policies. The firm's economic impact analysis generally focuses on quantifiable variables such as regional employment, output, property values, regional dollar flow, and industry sales. Our analysis estimates the direct, indirect, and induced effect of a project or policy on these variables.

Economic impact studies are often completed within the context of land use plan review, environmental impact reports, regulatory evaluation and compliance, resource management plans, and general economic assessments. Our economic analysis employs a wide variety of tools, from market analysis and consumer surveys to input-output analysis and economic modeling.

Representative Projects

- Economic Impact of Federal Endangered Species Critical Habitat Designation, *California*
- East Bay Regional Parks District Economic Impact Analysis, *Alameda County, California*
- Mather Airport Economic Impact Analysis, *Sacramento, California*
- Economic Impact of Napa Center for Wine, Food, and the Arts, *Napa, California*
- Wal-Mart Site Economic Impact Analysis, *Woodland, California*
- Economic Impact of California Clean Air, Jobs, and Transportation Act (CALTEA), *California*
- Economic Impact of Tracy Growth Control Measure, *Tracy, California*
- Economic Impact of Sears Point Raceway Expansion, *Marin County, California*
- Economic Impact of Gulch Redevelopment, *Nashville, Tennessee*
- Socioeconomic Impact of University of California Merced Campus, *Merced County, California*
- Economic Impact of Sonoma County Construction Industry, *Sonoma County, California*
- Economic Impact of Public Utility Commission Energy Conservation Program, *San Francisco, California*
- Colorado Housing Trust Fund Economic Impact Analysis, *Colorado*
- Tracy Gateway Economic Benefit Study, *Tracy, California*
- Davis Technology Center Fiscal and Economic Review, *Davis, California*
- Lincoln Agricultural Land Value Analysis, *Lincoln, California*
- Yolo County Economic and Revenue Analysis, *Yolo County, California*

Project Profiles

Economic Impact of Federal Endangered Species Critical Habitat Designation
California and Oregon

The U.S. Fish & Wildlife Service designates critical habitat for threatened and endangered species so that other federal agencies will avoid sponsoring activities jeopardizing the chances for species survival and recovery. EPS was retained to conduct an economic impact analysis of the habitat designation for seven groups of species found throughout California. The analyses examined how private landowners and other affected parties might modify their economic activities in light of the habitat designation, as well as the additional costs associated with federal-agency consultations. EPS's analysis was published in the *Federal Register* and used by the Service in its rule-making process.

East Bay Regional Parks District Regional Economic Analysis
Alameda County, California

The East Bay Regional Park District (EBRPD), founded in 1934, currently owns and manages more than 90,000 acres of parks, open space, and trails in Alameda and Contra Costa Counties. EBRPD commissioned EPS, in conjunction with Strategy Research Institute, to study EBRPD's economic benefits by (1) conducting a literature review of economic benefits of parks and (2) analyzing recreation and conservation uses and visitation to EBRPD parks. EPS identified, described, and quantified the broad array of economic and quality-of-life benefits associated with the regional park system. Benefits were divided into "users and district residents" benefits, "public investment and cost saving" benefits, and "user and district expenditures in the local economy" benefits. EPS identified benefits in terms of their impact on quality of life, economic vitality, and social equity.

Mather Airport Economic Analysis
Sacramento, California

Mather Air Force Base officially closed in September 1993, and the Sacramento County Board of Supervisors adopted the Mather Field Specific Plan in May 1997. Since then, Mather airport slowly has expanded and solidified its role as the primary air-cargo airport serving the Sacramento region. Sacramento County is considering whether to expand airport operations by upgrading and expanding Mather's runway capacity. In association with Leigh Fisher, EPS prepared a series of economic impact analyses considering the direct, indirect, and induced effects of expanded cargo facilities and airport operations on the local economy. EPS quantified the impacts of altering land use entitlements to allow for development more compatible with expanded airport operations. This analysis allowed Sacramento County to consider both the economic benefits of increased airport operations and any potential adverse impacts on planned development in areas surrounding the airport that would be caused by expanded noise contours and other factors.

REUSE, REVITALIZATION, AND REDEVELOPMENT

Services Provided

EPS prepares research and analyses that support facility and site reuse, revitalization, and redevelopment efforts. Our services help to strategically combine marketing and business development with the elimination of physical, environmental, and market constraints to create a vital mix of business, civic, and pedestrian activity. Our geographic focus in this practice ranges from specific sites within a redevelopment project area to entire neighborhoods or submarkets within a region.

EPS takes a key role in working with other professionals, including urban designers, redevelopment specialists, transportation planners, civil engineers, and developers, to assist local agencies in formulating effective revitalization efforts as part of planning projects or formal redevelopment programs. A wide range of skills are applied in these projects, including real estate market research, real estate feasibility analysis, fiscal and economic impact analysis, tax increment projections, and the creation of public financing strategies.

Representative Projects

- Los Angeles Harbor Redevelopment, *Los Angeles, California*
- Sacramento Downtown Property Portfolio Evaluation, *Sacramento, California*
- Treasure Island Reuse Plan and Feasibility Analysis, *San Francisco, California*
- Midtown Specific Plan Financing Feasibility Analysis, *San Jose, California*
- McClellan Reuse Public Facilities Financing, *Sacramento, California*
- Downtown Economic Development Study, *Sacramento, California*
- Port of San Francisco Financial and Economic Impact Analysis, *San Francisco, California*
- Union Station Redevelopment Feasibility Analysis, *Cheyenne, Wyoming*
- Redevelopment Tax Increment Audit and Forecast, *Madera, California*
- Commercial Revitalization and Residential Rehabilitation Strategies, *West Pittsburg, California*
- Business and Waterfront Improvement Project Redevelopment Study, *Sacramento, California*
- Richards Boulevard Redevelopment and Housing Study, *Sacramento, California*
- Redevelopment Feasibility Analysis, *Roseville, California*
- Downtown Revitalization Study, *Walnut Creek, California*
- Redevelopment Plan Feasibility Analysis, *South Lake Tahoe, California*
- Redevelopment Plan Blight Findings and Feasibility Analysis, *Newark, California*

Project Profiles

Los Angeles Harbor Redevelopment
Los Angeles, California

The City of Los Angeles Community Redevelopment Agency (CRA) retained EPS to develop an economic strategy for the Los Angeles Harbor Industrial Center Redevelopment Project at the Wilmington Industrial Park. The 232-acre project is the third Brownfields Demonstration Site in Los Angeles, which like many large cities has a shortage of viable, master-planned property to accommodate economic development. Land that is available often has complex environmental issues and subsurface conditions, such as oil wells and associated pipelines.

Wilmington Industrial Park is strategically located adjacent to the Los Angeles Harbor, the Alameda Corridor, and other transportation improvements under construction. In its economic strategy, EPS identifies ways to redevelop the project area and attract new development, labor-intensive industry, and new jobs for the local community. EPS and its subcontractors (EPS Team) evaluated the property's position relative to the area's extraordinary transportation infrastructure, regional economic trends, and CRA job and tax-base goals. The EPS Team developed economic, land planning, civil engineering, geotechnical, and redevelopment studies, contributing to a strategic plan for attracting public and private investment to the area. The strategy included developing a geographic information system and a related Web site intended to expedite developer due diligence associated with specific development proposals.

Sacramento Downtown Property Portfolio Evaluation
Sacramento, California

The Capitol Area Development Authority (CADA) retained EPS to evaluate CADA's downtown real estate portfolio and to make recommendations about the disposition of land assets and the use of development proceeds. CADA was created to manage key State-owned real estate assets in the Capitol Area and is active in several major mixed-use projects that are transforming this portion of downtown Sacramento.

Based on an analysis of market supply and demand conditions, as well as a detailed review of specific properties and related financial information, EPS is advising CADA on the overall value of its portfolio, including residential, office, and retail properties. Ultimately, the information will be used to advise CADA on how revenue may best be reinvested in downtown redevelopment projects to enhance the economic performance and quality of life of downtown Sacramento's Capitol Area.

Real Estate Transactions and Negotiations

Services Provided

EPS assists public and private sector clients negotiate the lease, transfer, and sale of real estate assets to developers and other end users. EPS's services provide timely, objective, and well-documented advice to support successful real estate transaction. EPS develops business plans and marketing strategies; writes Requests for Qualifications/Requests for Proposals, developer-selection criteria, and Development Agreements; assists with contract negotiations; and formulates business terms and conditions for land disposition.

EPS premises its negotiation strategy on a thorough understanding of project economics, public policy and political considerations, and regulatory parameters to structure business terms definitive and flexible enough to serve over the long term. EPS's services are engaged for a variety of major public/private ventures, such as renovating regional commercial facilities—military bases, rail, and air transportation facilities—and other regionally significant areas undergoing transfer or reuse.

Representative Projects

- Redevelopment Negotiations for the Fleet Industrial Supply Center, *Alameda, California*
- Port of San Francisco Pier 30/32 Developer Selection and Negotiations, *San Francisco, California*
- Orlando Naval Training Center Purchase Offer, *Orlando, Florida*
- Alameda Naval Air Station Business Plan and Disposition Analysis, *Alameda, California*
- Marine Corps Air Station Tustin Business Plan and Disposition Analysis, *Tustin, California*
- Hunters Point Naval Shipyard Negotiations, *San Francisco, California*
- Buenaventura Mall Renovation/ Expansion Development Agreement Negotiations, *San Buenaventura, California*
- Pinole Vista Shopping Center Development Agreement Negotiations, *Pinole, California*
- The Canyons Development Agreement, *Summit County, Utah*
- Bay Area Rapid Transit (BART) Joint Development, *Castro Valley, California*
- Oakland Coliseum Advertising Agreement Negotiations, *Oakland, California*
- Railyards Specific Plan/ Richards Boulevard Area Plan Development Agreement Negotiations, *Sacramento, California*

Project Profiles

Redevelopment of the Fleet Industrial Supply Center
Alameda, California

The City of Alameda selected EPS to assist in selecting a developer and negotiating a Development and Disposition Agreement (DDA) for the disposition of the 200-acre Fleet Industrial Supply Center and East Housing property located along the Oakland Estuary across from Jack London Square. EPS evaluated and summarized developer proposals, including pro-forma project economics, and proposed transaction terms. The selected developer, Catellus Development Corporation, proposed to develop 475 units and 1.3 million square feet of research and development/office space. EPS conducted market research, prepared pro forma and fiscal analyses, and evaluated financing issues to support the City's DDA negotiation.

Stockton Airport Special Purpose Plan: Market Analysis and Financial Overview
Stockton, California

San Joaquin County formulated a Special Purpose Plan for future use of the Stockton Metropolitan Airport Property, a 1,500-acre site owned by the county that has an operational airport capable of handling wide-body aircraft. EPS worked with San Joaquin County to identify actions to move the project forward in a manner consistent with the county's policy and financial objectives. As part of this effort, EPS helped solicit and evaluate developer proposals and developed a financial model to assess a set of phasing, financial, and disposition measures. EPS specified a development strategy for the property that was based on a comprehensive market analysis of existing development in the area, projected demand, and potential emerging industries or users groups.

Port of San Francisco Pier 30/32 Negotiation Support
San Francisco, California

The Port of San Francisco sought to develop a major mixed-use project, anchored by an international passenger cruise-ship terminal, on a scenic waterfront site near downtown San Francisco. The site is located along the waterfront midway between the San Francisco Bay Bridge and the new Giants baseball stadium. Although the site offered significant market potential, negotiation and agreement with LCOR, the selected master-developer site, would require resolving several issues regarding public financing, infrastructure cost allocation, land use intensities, and risk distribution.

Working for the Port of San Francisco in support of its developer negotiations, EPS evaluated the market and financial feasibility of proposed development concepts for the port property, reviewed the developer's financial proposals, evaluated methods for using public financing for a portion of the project, recommended negotiating principles and business terms, and managed the efforts of several subconsultants in various technical specialties. A key objective of the analysis was to determine if commercial and residential uses could generate enough economic value to cover the costs associated with developing the cruise terminal, parking facilities, open space amenities, and other public-oriented uses.

REGIONAL ECONOMICS AND INDUSTRY ANALYSIS

Services Provided

EPS evaluates regional economic conditions and industrial trends as a basis for comprehensive planning, facility programming, and economic development efforts. Our services integrate an understanding of market forces on local, regional, and national levels to ensure that our findings have broad, long-term relevance. Our analysis takes into account emerging industry, demographic, and/or technological trends that affect the economic relationships within and between the various sectors under consideration.

EPS's services in this practice are often designed to provide information on the future growth and performance of particular industries and/or regions. The firm provides expertise on such industries as biotechnology, telecommunications, environmental technology, agriculture, tourism, trade, and entertainment. EPS also evaluates the competitiveness and specialization of regions and submarkets, including the geographic distribution of various economic "clusters." Specific technical methods employed include the analysis of industry-specific research and surveys, regional growth and commute patterns, and interviews with local officials and industry experts.

Representative Projects

- Rocky Flats Base Reuse Target Industry Study, *Golden, Colorado*
- Analysis of Wine and Timber Industry, *Sonoma and Mendocino Counties, California*
- Civic Auditorium Market Assessment, *Santa Monica, California*
- Stapleton Airport Market Creation Strategies, *Denver, Colorado*
- Stockton Airport Industry Analysis/Special Purpose Plan, *Stockton, California*
- Oakland Produce District Feasibility Study, *Oakland, California*
- Home Improvement Market Study, *Santa Rosa, California*
- Mission Valley Rock Aggregate Production Market Analysis, *Alameda, California*
- Del Norte Plaza Multiplex Cinema Market Analysis, *El Cerrito, California*
- Los Positas Community College Workforce Training and Conference Center Feasibility Study, *Livermore, California*
- Regional Economic Growth and Linkages Analysis, *Alameda County, California*
- Sierra Region Demographic and Economic Profile, *Sierra Nevada*
- Route 24/Caldecott Tunnel Corridor Study, *Alameda and Contra Costa Counties, California*
- Clovis Research and Technology Park Feasibility Analysis, *Clovis, California*
- Biotech Industry Study for Fitzsimons Army Medical Center, *Aurora, Colorado*
- Alameda Science and Technology Center Market Analysis, *Alameda, California*

Project Profiles

Rocky Flats Reuse Target Industry Study
Jefferson County, Colorado

Following closure of the Rocky Flats Weapons Plant, an effort was undertaken to re-employ 7,500 scientists and technicians and to redevelop the site for future uses. EPS was hired to develop a business strategy for the site with focus on the environmental technology and renewable energy industries. EPS, in association with Murray Lamont & Associates, conducted a survey of Colorado environmental firms to identify their location criteria and operational requirements, and to assess the degree of industry identity and shared goals. EPS synthesized the employment data, environmental firm survey, and other research on the environmental industry and developed principles to devise a statewide environmental business strategy.

Analysis of Wine and Timber Industry Trends
Sonoma and Mendocino Counties, California

The California North Coast has become the leading high-end grape-growing and wine-producing region in the United States. The wine industry's increasing success, fueled in part by its tourist appeal, has created problems for other local industries especially those competing for scarce land and labor, such as the timber industry. Because significant areas in the North Coast are suitable for producing both wine grapes and timber, local policy makers sought to gain a better understanding of long-term trends and market prospects for the sectors.

EPS prepared wine- and timber-industry trend reports on Sonoma and Mendocino Counties for a private-sector real-estate interest. The reports provided detailed historical data on production and employment in both counties and evaluated future market trends, based on expected demand, competitive supply, and availability and cost of production inputs. The analysis was designed to guide county policy makers on issues related to land use, job training, and other long-term planning decisions.

Santa Monica Civic Auditorium Market Assessment
Santa Monica, California

As a part of the Civic Center Specific Plan process, the City of Santa Monica evaluated the reuse potential of the Santa Monica Civic Auditorium (Civic). The Civic Center Specific Plan process was designed to help the city to carefully determine the future role of the Civic in the community and in the region as a whole.

The city hired EPS to conduct a market and financial assessment of the Civic's reuse potential. The analysis explored the Civic's existing conditions and future potential for three distinct uses: a performing arts theater, a conference center, and a concert venue. For each reuse alternative, EPS analyzed demand for facility use in the market area, assessed competitive supply, and estimated unmet demand. In addition, EPS evaluated the facility improvements needed to capture this excess demand and the financial implications to the City of Santa Monica.

LAND USE PLANNING AND GROWTH MANAGEMENT

Services Provided

EPS combines a thorough working knowledge of land use planning and regulation practices with its real estate and economic expertise to contribute to land use planning and growth management strategies. The firm's roles in land use planning programs typically include economic and demographic forecasts; land use information and market inputs to plan formulation; fiscal and financial evaluation of plan alternatives; and land use policy implementation. EPS's integrated approach to land use, transportation, market, fiscal, and financial issues results in plans and programs that effectively guide future development.

EPS provides a range of services related to land use planning and growth management. We evaluate the physical and economic linkage between jobs and housing and the economic impacts of land use and growth control measures. We analyze the effect of employment growth on the provision of City services and amenities as well as the opportunities and constraints presented by regional growth patterns. Our services are also frequently applied to the preparation of Comprehensive Plans, Subarea Plans, Housing Elements, growth projection studies, and jobs/housing linkage or in-lieu of fee programs.

Representative Projects

- Snyderville Basin Growth Management Report, *Summit County, Utah*
- Sonoma Workforce Housing Analysis, *Sonoma County, California*
- El Dorado County Growth Forecast, *El Dorado County, California*
- Conaway Ranch Specific Plan Regional Growth Forecast and Market Analysis, *Woodland, California*
- Interstate 5 Corridor Population and Employment Forecasts, *San Joaquin County, California*
- Comprehensive General Plan Update, *El Cerrito, California*
- Land Use/Transportation Corridor Plan, *San Mateo County, California*
- Sonoma/Marin Land Use and Transportation Study, *Sonoma County, California*
- Denver Regional Council of Governments Urban Centers Pilot Project, *Denver, Colorado*
- Bay Area Partnership Regional Land Use Data Analysis, *San Francisco Bay Area, California*
- McCarthy Ranch General Plan Amendment Fiscal and Financial Impact Analysis, *Milpitas, California*
- Longmont Area Comprehensive Plan Update, *Longmont, Colorado*
- Nashville Gulch Comprehensive Plan Economic Impact Analysis, *Nashville, Tennessee*

Project Profiles

Snyderville Basin Growth Management Report
Summit County, Utah

The unincorporated Snyderville Basin and Park City have experienced strong growth pressures because of their dual functions as a rapidly expanding destination resort and an affluent residential suburb to the Greater Salt Lake Area. In response to these growth pressures, Summit County adopted a new General Plan to establish a new vision for the Snyderville Basin in terms of general planning objectives, policies, and design standards. As a next step, the county required a more detailed analysis of geographic and financial growth impacts and the policy tools available to manage this growth consistent with its new vision.

EPS prepared a growth management report that considered these items: (1) real estate market development pressures; (2) the likelihood that the existing policy regime would produce outcomes consistent with the new vision; (3) an additional set of policy options that could more closely guide growth toward the community's vision; and (4) an analysis of the costs of growth and the measures available to ensure levels of service are maintained or enhanced as the Basin grows. The information, analysis, and recommendations included in the report provided the county with a quantitative and graphic basis for interpreting and implementing its new General Plan.

Sonoma Workforce Housing Analysis
Sonoma County, California

The Bay Area housing market has become increasingly expensive in recent years, with median home prices rising nearly 100 percent over 5 years in some areas because of rapid employment growth coupled with limited land supply. In Sonoma County, home prices have increased significantly, and for new workers in the County's expanding employment base, finding affordable housing has become increasingly difficult.

A coalition of the county government and the nine cities in the county commissioned EPS to conduct a nexus study between employment and housing and to propose a countywide approach to the affordable housing shortage. This study involves evaluating employment and commuting-pattern trends in Sonoma County, distributing income among future jobs in the county, costs of building and acquiring market rate and affordable housing, and various programs currently in place to address housing affordability issues. EPS will establish the relation between employment growth and housing prices and will recommend an impact fee that assigns some of the financial costs of developing affordable housing back to the employers whose expansion contributes to housing demand.

OPEN SPACE AND RESOURCE CONSERVATION

Services Provided

EPS prepares financing and implementation strategies that support active and passive open space and conservation projects. EPS provides financial analysis for Open Space Elements, Park and Recreation Master Plans, Agriculture Preservation Strategies, and Habitat Conservation Plans. The firm's broad knowledge of public facility and open space financing techniques and land use planning and regulatory practices, combined with our experience in resolving land use conflicts, allows EPS to develop feasible conservation programs that achieve conservation goals in a financially sound manner.

EPS believes that habitat and recreational open space offer broad economic and quality of life benefits and therefore should be funded by broad-based and equitable financing techniques similar to those used for other community facilities. Our studies identify the economic benefits to landowners participating in comprehensive conservation plans as opposed to completing time-consuming individual mitigation projects. EPS believes that it is important to provide funding mechanisms that best suit the conservation, acquisition, and management goals, while accounting for the development and landownership patterns and the sources and types of supplemental funding.

Representative Projects

- Yolo County Habitat Conservation Plan, *Yolo County, California*
- Economic Analysis of the Natomas Basin Habitat Conservation Plan, *Sacramento, California*
- South Sacramento Habitat Conservation Plan, *Sacramento County, California*
- Economic Feasibility Study for the El Dorado County Ecological Preserves, *El Dorado County, California*
- Contra Costa Biodiversity Study, *Contra Costa County, California*
- Santa Rosa/Rohnert Park Community Separator Preservation Strategies, *Sonoma County, California*
- Longmont Residential Open Space Study, *Longmont, Colorado*
- South Livermore Valley Vineyard Area Plan, *Livermore, California*
- Recreation and Parks Master Plan Update, *Santa Monica, California*
- City of Brentwood's Parks Master Plan Financial Review, *Brentwood, California*
- San Jose Parks and Recreation Master Plan, *San Jose, California*
- Davis Open Space Element Revision Financing Plan, *Davis, California*
- Agricultural Buffer and Farmland Mitigation Ordinance, *Davis, California*
- County Farmland Preservation Program, *San Joaquin County, California*
- Natomas Basin Habitat Conservation Plan, *Sacramento, California*
- Green Valley Area Transfer of Development Program, *Solano County, California*

Project Profiles

Yolo County Habitat Conservation Plan (HCP)
Yolo County, California

In Yolo County over 10,000 acres of land were designated for future development. The County, four cities, and State and federal agencies implemented an interim development fee to fund the study and implementation of a long-term regional Habitat Conservation Plan (HCP). The HCP was intended to mitigate development impacts and protect threatened and endangered species throughout the County, including the Swainson's Hawk. As part of the team headed by an environmental engineering firm, EPS prepared an implementation plan and nexus study for the Yolo County HCP. EPS's role was to define the major economic issues, prepare acquisition strategies and financing options, prepare a revenue forecast for the proposed fee, and estimate land acquisition costs and potential revenues from non-fee sources.

Nature Conservancy North Coast Resources Analysis
San Luis Obispo County, California

The Nature Conservancy (TNC) was considering entering into negotiations to purchase conservation easements on an expanse of land on California's central coast. TNC was interested in evaluating environmental resources present relative to the likely cost of purchasing development rights. Such an analysis would allow TNC to prioritize this land area relative to other potential acquisitions. EPS was hired to evaluate various issues in the study area including available data on environmental resources, existing land use policy, and development potential and market values of land. EPS conducted a survey of land values of similar types of land, both locally and throughout California, considered the financial feasibility of development in selected areas, and evaluated the cost of conservation easements relative to fee title purchase. EPS provided planning-level estimates of the cost of purchasing conservation easements over the area as well as input on the types of development that might be feasible if the area were not conserved. Subsequent to this initial effort, EPS developed a flexible residual land value model to estimate land values under different regulatory and market scenarios.

Economic Analysis of Natomas Basin HCP
West Sacramento, California

The Natomas Basin Habitat Conservation Plan (NBHCP) addresses the potential for development of 17,500 acres in the 53,000+ acre interior of the Natomas Basin and the impacts it will have on wildlife habitat. EPS has conducted annual economic analysis since 1998 to determine the NBHCP mitigation fee level to fund land acquisition, operations and maintenance, and restoration and enhancement costs for the preservation and proliferation of habitat for the giant garter snake, Swainson's Hawk, and other species. The analysis breaks down the acquisition, restoration/enhancement and operating costs, and revenue activities of the NBHCP to determine the necessary fee level for the NBHCP to be financially viable. An endowment fund was established to provide additional funding for operations and maintenance expenses once all lands have been acquired. Additionally, a supplemental endowment fund was later added to provide additional funds that may be needed for future land acquisition.

GOVERNMENT ORGANIZATION

Services Provided

EPS evaluates the costs, benefits, and feasibility of local government reorganization. Completion of government organization studies draws upon EPS's expertise in fiscal analysis, public finance, and land use planning, along with a thorough knowledge of local government forms and options.

EPS's services generally are required as a part of state annexation law or negotiations between existing entities involved in reorganizations or common purpose efforts. These proceedings and efforts include the formation of new government entities including annexations, municipal incorporations, special district formations, and joint exercise of powers organizations. As part of its work, EPS typically prepares detailed pro forma budget forecasts for the new jurisdiction, documentation or alternative organizational options, and estimates of impacts on existing entities.

Representative Projects

- Los Angeles Reorganization, *San Fernando Valley, California*
- Goleta Valley Incorporation Feasibility Analysis and Tax Sharing Agreement, *Goleta, California*
- Sacramento County Interim Open Space Commission, *Sacramento, California*
- County Reorganization Analysis, *Santa Barbara County, California*
- Windsor Incorporation Feasibility Study, *Sonoma County, California*
- Governance Study, *Pitkin County, Colorado*
- Annexation Study, *Rancho Murieta, California*
- Tassajara Area Annexation, *Alameda County, California*
- Pleasant Grove Incorporation Comprehensive Fiscal Analysis, *Yolo County, California*
- Tahoe Incorporation Feasibility Study, *Douglas County, Nevada*
- Templeton Incorporation Feasibility Study, *San Luis Obispo County, California*
- Orange County Fire District Detachment Feasibility Study, *Orange County, California*
- Northstar Annexation Study, *Nevada County, California*
- City Parks Master Plan and Organizational Options, *Brentwood, California*
- Evaluation of Truckee Incorporation Feasibility Studies, *Nevada County, California*
- El Dorado Hills Incorporation Comprehensive Fiscal Analysis, *El Dorado Hills, California*
- Feasibility Analysis/Comprehensive Fiscal Analysis for Incorporation, *Rancho Cordova, California*
- Incorporation Fiscal and Feasibility Review and Comprehensive Fiscal Analysis, *Elk Grove, California*

Project Profiles

Los Angeles Reorganization
San Fernando Valley, California

Residents and business leaders in the San Fernando Valley submitted an application to the Los Angeles Local Agency Formation Commission (LAFCO) to detach from the City of Los Angeles and incorporate as a new, smaller city. The proponents desired an increased level of local control over municipal services and planning issues; concerns existed that the City of Los Angeles was not responsive to the needs of Valley residents. EPS was part of a team of consultants engaged by the proponents to help structure the new city and the terms under which it would split from the City of Los Angeles and reorganize.

EPS was instrumental in reviewing and responding to the Comprehensive Fiscal Analysis prepared by LAFCO, developing a proposed city budget, preparing Terms and Conditions for the reorganization, and a proposed agreement for mitigating impacts on the City of Los Angeles. Key issues addressed included the disposition of infrastructure, assets and liabilities, employee transfers to the new city, and payments for contract services and mitigation.

Goleta Incorporation Comprehensive Fiscal Analysis
Santa Barbara County, California

The Goleta area, which lies to the west of the City of Santa Barbara, had been the subject of several incorporation efforts over the past several years. The proponents of the most recent effort sought to gain several benefits from incorporation, including local control over land use policies. The area was a major source of net revenue to the County of Santa Barbara and, with nearly 80,000 residents, represented almost half the county's unincorporated population and the majority of its revenue-generating development. As a result, incorporation raised significant issues about its potential impacts on the county and on services in the balance of the unincorporated areas. EPS prepared a Comprehensive Fiscal Analysis, including a public services plan and budget analysis, to evaluate the feasibility of a new city and to estimate potential county impacts. EPS's Fiscal Analysis and revenue-neutrality recommendations paved the way for the incorporation of Goleta, approved by voters in 2001.

Sacramento County Open Space Funding and Organizational Options
Sacramento, California

To address the need to preserve open space in the face of expanding development, the Sacramento County Board of Supervisors established an Interim Open Space Commission. The commission was charged with creating recommendations for an appropriate organizational approach to acquiring and maintaining open space and funding open space in Sacramento County. EPS served as staff to the commission. EPS's efforts included organization of informational seminars, a public opinion survey, and the development of organizational and funding policy options.

TRANSPORTATION PLANNING AND ANALYSIS

Services Provided

EPS provides a broad spectrum of services related to transportation planning and analysis and has participated in numerous transportation studies, extending from project-specific analysis to regional transportation planning efforts. These projects often call upon the firm's experience in land use planning, economic and fiscal impacts, infrastructure financing, and governance.

Specific services provided by EPS include determining the impact of transportation investments on land use and development opportunities; evaluating transit-oriented development and joint development associated with transit improvements; and preparing socioeconomic data in support of transportation modeling efforts. Other specific services encompass establishing financing programs for transportation projects; establishing intergovernmental agreements as part of regional transportation planning; and assisting with congestion management programs, including impact analysis models, travel demand management policies, and land use controls.

Representative Projects

- Phoenix/Tempe/Mesa Transit Oriented Development, *Arizona*
- NY-5 Corridor Land Use and Transportation Study, *Albany, New York*
- RTD I-170 Denver to Golden Major Investment Study, *Denver, Colorado*
- Sonoma/Marin Land Use and Transportation Study, *Sonoma County, California*
- Capital Improvement Management System, *Port of Oakland, California*
- Regional Land Use Data Analysis, *San Francisco Bay Area, California*
- Transportation Land Use Information System, *San Mateo County, California*
- Transit Performance Monitoring System, *Sacramento, California*
- Regional Transportation District IGA, *Aspen, Colorado*
- Amador Transportation Plan Financing Study, *Amador County, California*
- San Mateo Congestion Management Program, *San Mateo County, California*
- Denver Union Station Master Plan, *Denver, Colorado*
- Bay Area Rapid Transit Joint Development, *Castro Valley, California*
- Light Rail Station Redevelopment Potentials, *Greenwood Village, Colorado*
- Regional Transportation District Systems Plan, *Denver, Colorado*
- Northwestern Pacific Railway Authority Site Analysis, *San Rafael, California*
- San Francisco Transit-Oriented Development, *San Francisco, California*

Project Profiles

Phoenix/Tempe/Mesa Transit-Oriented Development
Phoenix, Arizona

The Phoenix Area's regional public transportation authority is planning the development of a Light Rail Transit (LRT) system running roughly 20 miles through Phoenix, Tempe, and Mesa. To capitalize on this new transit service, the three jurisdictions are promoting transit-oriented development throughout the LRT Corridor, with particular emphasis around planned station areas.

EPS was hired as part of a multidisciplinary planning team led by DeLeuw, Cather & Company and S.R. Beard & Associates. EPS's responsibilities included market research and conceptual development programming for segments of the LRT Corridor and specific station areas. EPS conducted a review of regional and jurisdictional market conditions and an evaluation of property performances and development opportunities and constraints in the LRT corridor. EPS also assessed the future market influence attributable to LRT service and identified implementation measures required to achieve the desired transit-oriented development.

NYS Corridor Land Use and Transportation Study
Albany/Schenectady, New York

As part of a consultant team, EPS collaborated on a corridor land use/transportation study. The study was commissioned by the Capital District Transportation Authority to define and implement transit and road improvements along the historical highway connecting Albany to Schenectady that has evolved into a "strip commercial" area and the site of other major retail shopping centers. It is hoped that a new approach to land use controls and change along with other efforts can reduce congestion and improve feasibility of transit facilities along the highly congested corridor. EPS analyzed demographic trend patterns for the Capital District, constructed a land-use database for along the Corridor, and evaluated opportunity sites for market potential. The consultant team formulated alternative land use and transportation scenarios to illustrate the transportation and economic linkages of land use with transportation systems. Finally, a set of revised land use controls and land use incentives was formulated to induce desired changes.

Regional Transportation District I-70 Denver to Golden Major Investment Study
Denver, Colorado

EPS, in conjunction with CH2MHill, was responsible for land use, economic development, and station development evaluations, as well as the public involvement component, on the Denver to Golden Major Investment Study for the Regional Transportation District in Denver. The detailed evaluation addressed a full range of transportation options including light rail transit (LRT), commuter rail, bus/HOV and highway expansion options. The draft locally-preferred alternative is LRT on the BNSF Gold Line right-of-way with a first phase of development from Denver Union Terminal to the Ward Road park-n-Ride, a distance of 11 miles, with a second phase extending to downtown Golden.

ASSET VALUATION AND REPOSITIONING

Services Provided

EPS provides asset valuation and repositioning services for real estate owners, investors, and developers of distressed real estate properties. Market and financial analysis of properties under a range of development options is essential to understanding the current and potential value of a property and determining the best course of action regarding repositioning, restructuring, and/or disposition. Long a leader in providing real estate and public financing services to private and public development entities, EPS also assists banks, REITS, other real estate equity firms, and land-secured financing districts with assessing market and development conditions and potentials in a dynamic credit and financing environment.

Representative Projects

- Repositioning of Alameda Naval Air Station Redevelopment, *Alameda, California*
- Redevelopment and Repositioning of Historic Nut Tree Site, *Vacaville, California*
- Winrock Mall Redevelopment and Financing, *Albuquerque, New Mexico*
- Grandview Development Plan Repositioning, *Loveland, Colorado*
- Redevelopment Analysis, *Adams County, Colorado*
- Wilson Ranch Real Estate Assessment, *Mead, Colorado*
- Lagoon Valley Competitive Analysis, *Solano County, California*
- San Lorenzo Village Square Redevelopment, *San Lorenzo, California*
- Wildwood Estates CFD Workout Plan and Valuation Analysis, *Nevada County, California*
- Town and Four Apartments Market and Financial Analysis, *Creve Coeur, Missouri*

Project Profiles

Repositioning of Alameda Naval Air Station Redevelopment
Alameda, California

The City of Alameda had selected a private developer to create a Master Plan and serve as Master Developer of the former Naval Station Alameda (NAS) property. Following several years of planning and negotiations with the Navy, which still owned the property, the selected Master Developer elected not to proceed with the development due to a significant downturn in the real estate market. The City retained EPS to assist in soliciting and selecting a new Master Developer to take over the project. After proposals were received from several developers, EPS conducted due diligence on the developers' experience and financial positions as well as their development concepts. Following the City's selection of a preferred developer, EPS has provided continuing support to the City in negotiations with the developer and the Navy. EPS has been responsible for developing and updating the project pro forma and providing technical and strategic support to the City regarding key economic issues including market values, absorption rates, phasing, intensification and modification of land uses, fiscal mitigation, alternative financing mechanisms, public improvements, and infrastructure requirements and costs.

Redevelopment and Repositioning of the Historic Nut Tree Site
Vacaville, California

The historic Nut Tree property, a popular Northern California retail landmark, quickly fell into physical and financial disarray after the death of its long-time proprietor. The City of Vacaville took possession of the 76-acre site, located along the heavily traveled Interstate 80 midway between San Francisco and Sacramento. The City entered into exclusive negotiations with a developer intent on creating a unique, high-density project that would include land uses not yet established in this growing suburban environment.

Working with the developer selected by the City, EPS evaluated the market potential and financial feasibility of a variety of mixed-use development concepts for the Nut Tree site. The analysis focused on a retail mixed-use project that would leverage the site's desirable attributes, including positive name recognition as well as adjacency to a local baseball stadium, well-utilized private airport, and popular factory outlet center. EPS also evaluated the potential success of high-density office and residential uses to be integrated with other project components, which included a conference center hotel, golf course, parks, a museum, and other public amenities. Based on its market financial feasibility analysis, EPS helped to design a preferred land use concept and provided strategic input for the development of a comprehensive public/private financing plan and a Development Agreement with the City. The work was conducted as part of a multidisciplinary team that included designers, engineers, and a golf/hotel consultant.

REPRESENTATIVE CLIENTS

Cities
Anaheim, California
Aspen, Colorado
Auburn, California
Austin, Texas
Berkeley, California
Boulder, Colorado
Chico, California
Citrus Heights
Concord, California
Davis, California
Denver, Colorado
Folsom, California
Fremont, California
Los Angeles, California
Merced, California
Modesto, California
Napa, California
Oakland, California
Orlando, Florida
Phoenix, Arizona
Pleasanton, California
Redding, California
Redmond, Washington
Redwood City, California
Richmond, California
Rocklin, California
Roseville, California
Sacramento, California
San Clemente, California
San Francisco, California
San Jose, California
San Luis Obispo, California
San Mateo, California
Santa Barbara, California
Santa Monica, California
Santa Rosa, California
Seaside, California
Seattle, Washington
Stockton, California
Truckee, California
Turlock, California
Vacaville, California
Vallejo, California
Ventura, California
Walnut Creek, California
Watsonville, California
Winters, California

Counties
Alameda, California
Contra Costa, California
El Dorado, California
King, Washington
Marin, California
Mendocino, California
Merced, California
Monterey, California
Orange, California
Placer, California
Pitkin, Colorado
Sacramento, California
San Joaquin, California
San Luis Obispo, California
San Mateo, California
Santa Cruz, California
Sonoma, California
Summit, Utah
Sutter, California
Yamhill, Oregon
Yolo, California
Yuba, California

Public Agencies and Special Districts
Alameda County Congestion Management Agency
Alameda Reuse and Redevelopment Authority
Bay Area Rapid Transit District
Capital Area Development Authority
Capital District Transportation Authority, New York
Contra Costa LAFCO
Denver Regional Transportation District
East Bay Regional Park District
El Dorado Hills CSD
El Toro Redevelopment Authority
Fitzsimmons Reuse Authority, Colorado
Fort Ord Reuse Authority
Incline Village G.I.D.
Los Angeles Community Redevelopment Agency
Mobile (Alabama) Airport Authority
Northwest Pacific Railroad Authority
Olivehurst Public Utility District
Port of Los Angeles
Port of Oakland
Port of San Diego
Port of San Francisco
Roaring Fork Transit Authority
Sacramento Area Council of Governments
Sacramento City-County Office of Metropolitan Water Planning
Sacramento Open Space Commission
Sacramento Regional Transportation District
San Joaquin Council of Governments
Sonoma County Agricultural Preservation and Open Space District
Stapleton Redevelopment Corporation, Colorado
Transmission Agency of Northern California
Tri-Valley Wastewater Authority
Treasure Island Development Authority
Inter-American Development Bank

Nonprofit/Advocacy Organizations
American Center for Wine, Food, and Arts
Building Industry Association
Downtown Spokane Partnership
East Bay Conversion and Reinvestment Commission
Marin Agricultural Land Trust
Mountains Restoration Trust
North Coast Builders Exchange
San Francisco Jewish Museum
Santa Cruz County Business Council
The Nature Conservancy
The Trust for Public Land
The Wilderness Society
Yosemite Restoration Trust

State and Federal Agencies
Alaska Division of Tourism
California Attorney General
California Coastal Conservancy
California State Department of Fish and Game
Caltrans
National Park Service
U.S. Fish and Wildlife Service
U.S. Forest Service

Private Sector
AEW Capital Management
Aspen Skiing Company
A. Teichert & Son
Beazer Homes
Buzz Oates Enterprises
Callahan Property Company
Camray Development and Construction Co.
Catellus Development Corporation
Centex
Continuum Partners LLC
Corrie Development Corporation
DKM Investments, Inc.
El Dorado Hills Development Co.
FHK/Ward Company
First Commercial Bank
Forest City Development
General Growth Partners
Graham Development Company
Granite Power and Development Co.
Hyatt Rickeys
The Hofmann Company
Jones Lang LaSalle
JPI-West Coast Construction
KB Home
Kaiser Permanente
L & P Land Development
Lennar Communities
Lewis Homes
McClellan Business Park
McCuen Properties
Morrison Homes
Pacific Construction Company
Pacific-Teal Development
Pacific Telesis
Pacific Gas & Electric Properties
Powell Development
Prometheus Development Company
Prudential Development Group
Pulte Homes, Inc.
Resort Development Company
Reynen & Bardis Communities
Sears, Roebuck and Co.
Shaffer Management Group
Southern Pacific Transportation Co.
Sterling Pacific Assets
The DeSilva Group
The Hodgson Company
The MacDiarmid Company
The Pivotal Group
The RREEF Funds
Wadsworth Golf Construction
Waterworld Resorts, Inc.
WCI Communities, Inc.

Educational Institutions
Chabot-Las Positas Community College District
River Delta Unified School District
Rocklin Unified School District
Roseville City Elementary School District
Sacramento State University
Stockton Unified School District
University of California, Berkeley
University of California, Davis
University of California, Merced
University of California, Office of the President
University of California, San Francisco
University of California, Santa Cruz

EPS STAFF

Berkeley

Managing Principal
Jason Moody
James Musbach
Teifion Rice-Evans
Darin Smith

Senior Principal
Walter Kieser

Principal
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Ben Sigman

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Ed Sullivan

Senior Associate
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Michael Nimon

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Administrative Staff
Victoria Allensworth
Delia Cruz
Michelle Mayer
Lily Sto. Domingo
Anya Tamagni

File 130570
Land Use Members & Clerk

Lippe Gaffney Wagner LLP

www.lgwlawyers.com

SAN FRANCISCO • 329 Bryant St., Ste. 3D, San Francisco, CA 94107 • T 415.777.5600 • F 415.777.9809
SACRAMENTO • 9333 Sparks Way, Sacramento, CA 95827 • T 916.361.3887 • F 916.361.3897

Thomas N. Lippe
Brian Gaffney
Keith G. Wagner
Kelly A. Franger
Henry A. Steinberg

July 12, 2013 (1 of 3)

Via Personal Delivery and E-Mail (joy.lamug@sfgov.org)

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

Re: July 15, 2013, Land Use and Economic Development Committee Hearing Re 706 Mission Street - Residential Tower and Mexican Museum Project (Case No. 2008-1084H)

Dear Members of the Board of Supervisors:

This office represents the 765 Market Street Residential Owner's Association ("ROA"), Friends of Yerba Buena ("FYB"), Paul Sedway, Ron Wornick, Matthew Schoenberg, Joe Fang, and Margaret Collins, regarding the 706 Mission Street - Residential Tower and Mexican Museum Project ("the Project").

I am writing on my clients' behalf to object to the Board's approval of the proposed Special Use District, zoning height reclassification and zoning map amendment for this Project. The grounds for my clients' objections to the City's approval of this Project have been raised in a number of proceedings and written submissions to various agencies of the City, including (1) my clients' objections to and appeal to the Board of Supervisors of the Planning Commission's March 21, 2013 certification of the Project EIR; (2) my clients' objections to and appeal to the Board of Supervisors of the Historic Preservation Commission's May 15, 2013 approval of a major permit to alter under Article 11 of the Planning Code; and (3) my clients' objections to and appeal to the Board of Appeals of the Planning Commission's May 23, 2013 Planning Code § 309 design review approval and Planning Code § 295 determinations and decisions regarding shadow impacts on Union Square. I hereby incorporate by reference and restate all of these objections and grounds.

In addition, this letter states additional objections to the approval of this project, on the following grounds.

1. The Board cannot make the CEQA finding that mitigation measures reducing the height of the tower that would substantially lessen the Project's significant cumulative shadow impact on Union Square is infeasible.

Because the Project EIR finds that the Project's cumulative shadow impacts on Union Square are "significant," CEQA requires that this Board adopt all feasible mitigation measures that will "substantially lessen" that impact or find that there is no feasible mitigation available. (Pub. Res. Code §§ 21002, 21002.1, 21081(a).) The Board cannot make this finding on the current record for several reasons.

The applicant's analysis of the financial feasibility of Project alternatives (i.e., the May 8, 2013 report by Economic and Planning Systems (attached as Exhibit 2)) finds the Reduced Shadow Alternative (i.e. a tower height of 351 feet with 27 stories, as discussed in the Project EIR) is not financially feasible, meaning it has a negative Project Residual. "Project Residual" is defined in the EPS Report as any amount of net profit above a "Developer Return" equal to a predetermined percentage of costs (i.e., 18% in EPS's analysis). (Exhibit 2.) The EPS report shows no developer profit on the Reduced Shadow Alternative because the Project Residual is negative (i.e., -$137,623,238). (*Id.*, Appendix A, Table 5.) But neither the Project EIR nor the EPS Report analyze any mitigation measure or alternative that calls for a tower lower than 520 feet but higher than 351 feet that would "substantially lessen" the impact, even if it would not entirely avoid the impact. Therefore, based on the record as it now stands, no agency of the can make the finding required by CEQA that there are no feasible mitigation measures that would "substantially lessen" this impact.

Also, the EPS report shows that there are feasible alternative tower heights lower than 520 feet, because it shows the developer's profit on the proposed Project is $123,607,636, which consists of a required Developer Return of $83,315,695 (equal to 18% of costs) plus a positive Project Residual of $40,291,941 over and above the required Developer Return. (Exhibit 2, Appendix A, Table 1.) Therefore, once again, the Board cannot make the finding required by CEQA that there are no feasible mitigation measures that would "substantially lessen" this impact.

The applicant recently changed the Project by lowering the tower to 480/510 feet. But this does not solve the problem, because there are still tower heights below 480/510 feet that are financially feasible that would lessen the shadow impact on Union Square. At a minimum, the EIR needs to be revised and recirculated to explain these matters in more detail, and in a manner that allows the public to meaningfully participate in the discussion. To date, the public has been systematically excluded from participating in the discussion of feasible mitigation measures that would substantially lessen this impact.

Finally, I retained CPA Eric Sussman, of the Anderson Graduate School of Management at UCLA to provide an independent critique of the applicant's (i.e., EPS') analysis of the financial feasibility of reducing the tower height to avoid casting shadow on Union Square. (See Exhibit 1.) Mr. Sussman found that the EPS report is based on unjustified assumptions that systematically bias its analysis of the feasibility of the Reduced Shadow Alternative. With respect to each of six key

variables (i.e., construction cost per unit size, size of floor plate, sale price per unit size, sale price per current market conditions, efficiency ratio, developer return ratio, and necessity for TDR purchases), the EPS reports assumes a value that artificially depresses the financial feasibility of the Reduced Shadow Alternative. After correcting the values of the six key variables listed above, Mr. Sussman found the Reduced Shadow Alternative to be financially feasible because it results in net profits to the developer of $156,622,642, which consists of a required Developer Return of $56,097,525 (equal to 15% of costs) plus a positive Project Residual of $100,525,117 over and above the required Developer Return. (Exhibit 1, Exhibits 4 and 5 thereto.) Thus, the Board cannot make the finding required by CEQA that there are no feasible mitigation measures that would "substantially lessen" this impact.

No one would argue that the effectiveness of mitigation measures to substantially lessen a significant impact can be omitted from an EIR. Yet the EIR for this Project does exactly that. Also, the City and the Project Sponsor have proceeded on the assumption that it is legal to defer the presentation of any evidence relating to the feasibility of such mitigation measures until after the EIR is certified. This assumption is wrong under the law.[1] Indeed, this case powerfully shows the fallacy of this assumption because here, after the Board certified the EIR, the EPS report - for the first time - shows that there are feasible mitigation measures that would lessen this impact - but does so outside the comment and public participation procedures that CEQA guarantees to the public. The City did not provide the EPS report to Objectors until May 15, 2013, the day of the Historic Preservation Commission hearing on this matter and only one week before the Commission hearing. This is a far cry from the 45 days that the public would have to review and comment on the EPS report had it been included in the Draft EIR.

2. Approval of the Special Use District and Amendments to the Zoning Map Violates the "Uniformity" Requirement of State Law.

State law provides that the zoning regulations must be uniform within each zoning district. (Government Code § 65852.) This statute is the source of the so-called "uniformity" requirement of the state Planning and Zoning Law. (*Neighbors in Support of Appropriate Land Use v. County of Tuolumne* (2007) 157 Cal.App.4th 997, 1008 (*"Neighbors"*).) San Francisco has adopted the

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[1] *Laurel Heights Improvement Association v. Regents of University of California* recognizes that evidence supporting the lead agency's determinations as to feasibility of alternatives must be contained in the EIR to ensure that CEQA's public review and comment purposes are scrupulously honored. ((1988) 47 Cal.3d 376, 405 [""[W]hatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.' [Citation.]"].) Two years later, California Supreme Court recognized that specific facts may warrant an exception allowing an agency's findings of feasibility to rely on evidence that is located in the administrative record but not in the EIR. (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 569-570 (*Goleta Valley II*).) However, the facts justifying application of this exception in *Goleta Valley II* were extreme, and no similar facts are present in this case.

uniformity and general plan consistency requirements of the state Planning and Zoning Law in Planning Code 101.1.

The City apparently views the proposal to adopt a "Special Use District" exempting this Project from numerous zoning rules and increasing the allowable height for this Project as within its legislative power to rezone the area of this one project. This is, however, a variance masquerading as a rezone. Variances, obviously, must comply with the procedures and substantive requirements of state and City law, which this proposal fails to do. (See Government Code § 65906; S.F. Planning Code § 305.) (See *Trancas Prop. Owners Assn. v. City of Malibu* (2006) 138 Cal. App. 4th 172, 182 (*Trancas*). In *Trancas*, the court held that an exemption from a city's zoning requirements accomplished by contract functionally resembled a variance, and held that "such departures from standard zoning by law require administrative proceedings, including public hearings [citations], followed by findings for which the instant [density] exemption might not qualify. [citations] Both the substantive qualifications and the procedural means for a variance discharge public interests. Circumvention of them by contract is impermissible." (*Id.*)

The zoning map of this area of the City shows a hodgepodge of zoning, height and bulk districts that the City has adopted to accommodate various projects.[2] Thus, San Francisco has been, and is now proposing to once again, abuse the power to rezone to accomplish what is, in essence, a variance. As the Court of Appeal stated in *Neighbors, supra*, there are limits on the power to rezone:

> Local zoning power is broad since it issues directly from the broad police power detailed in the California Constitution and not from the narrower provisions of the planning and zoning law. The foundations of zoning would be undermined, however, if local governments could grant favored treatment to some owners on a purely ad hoc basis. Cities and counties unquestionably have the power to rezone and their decisions to do so are entitled to great deference; but rezoning, even of the smallest parcels, still necessarily respects the principle of uniformity. This is because a rezoning places a parcel within a general category of parcels (those in the new zone), all of which are subject to the same zoning regulations. The county's action in this case, by contrast, placed the Petersons' land in a class by itself.

(157 Cal.App.4th at pp. 1009-10.) As in *Neighbors*, so here, the City is placing Millennium's property in class by itself and undermining the foundations of its own power to zone.

> If the judiciary were to review grants of variances superficially, administrative boards . . . could "[amend] ... the zoning code in the guise of a variance" [citation], and render meaningless, applicable state and local legislation prescribing variance requirements. [¶] Moreover, courts must meaningfully review grants of variances in order to protect the interests of those who hold rights in property nearby the parcel

[2]Exhibit 3.

> for which a variance is sought. A zoning scheme, after all, is similar in some respects to a contract; each party forgoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare. [Citations.] If the interest of these parties in preventing unjustified variance awards for neighboring land is not sufficiently protected, the consequence will be subversion of the critical reciprocity upon which zoning regulation rests.

(*Orinda Assn v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, 1161-62, quoting *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 517-518.)

Just as a city may amend a "zoning code in the guise of a variance," a city may adopt a "variance in the guise of a rezone." This is what the City is proposing to do here.

Thank you for your attention to this matter.

Very Truly Yours,

Tom Lippe

Thomas N. Lippe

List of Exhibits

1. Expert Report of Eric Sussman, June 28, 2013
2. May 8, 2013 report by Economic and Planning Systems, Inc.
3. Zoning Map, Height and Bulk Districts, for Downtown Area.

EXHIBIT 1

Financial Feasibility of 706 Mission Street: The Mexican Museum and Residential Tower Project and Alternatives

Expert Report of Eric Sussman

Anderson Graduate School of Management, UCLA

June 28, 2013

Expert Report of Eric Sussman

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Expert Report of Eric Sussman

I. Executive Summary

1. The May 8, 2013 "Financial Feasibility of 706 Mission Street: The Museum and Residential Tower Project and Alternatives" report prepared by Economics and Planning Systems, Inc. (the "EPS Report"), which concludes that the Reduced Shadow Alternative, Residential Flex Option is not financially feasible, rests on a number of flawed and/or unsupported assumptions. These assumptions significantly and improperly decrease the computed "Project Residual," the measure the EPS Report uses to determine the economic feasibility of the project. However, when employing more appropriate assumptions, the conclusion changes, and the Reduced Shadow Alternative becomes financially viable.

II. Assignment

2. I have been retained by Lippe Gaffney Wagner LLP, counsel for 765 Market Street Residential Owner's Association, Friends of Yerba Buena, Paul Sedway, Ron Wornick, Matthew Schoenberg, Joe Fang, and Margaret Collins, to evaluate a number of issues pertaining to the 706 Mission Street – Residential Tower and Mexican Museum Project (the "706 Mission Project"). Specifically, I have been asked to evaluate the economics and assumptions contained within the Reduced Shadow Alternative, Residential Flex Option of the EPS Report. I have also been asked to review the May 10, 2013 Keyser Marston Associates peer review of the EPS Report (the "Keyser Report"). In forming my opinion, I have reviewed the EPS Report, the May 14, 2013 addendum to the EPS Report, and the Keyser Report. I have also reviewed a variety of publically available materials relevant to understanding the 706 Mission Project and the current

state of the relevant real estate market. My compensation is not dependent on my opinions or the outcome in this matter.

III. Qualifications

3. I have an extensive background in all aspects of real estate investment, management, and finance, am a licensed CPA in the State of California, and am a full-time faculty member at the Anderson Graduate School of Management at UCLA, where I have instructed courses in Real Estate Investment and Finance, Finance, Financial Reporting, Financial Statement Analysis, and Managerial Accounting since 1995. I have instructed more UCLA MBAs in the past ten years than any other member of the faculty, and have received numerous teaching awards, and recognition by Business Week as one of the Anderson School's "Outstanding Faculty" since 1996.

4. Outside of my academic appointment, I am President of Amber Capital, Inc., and Manager of Fountain Management, LLC and Sequoia Real Estate Investment Partners, LLC, which collectively employ approximately 20 individuals, and which have acquired, rehabilitated, developed, and managed over 2.5 million square feet of residential (2,000 multi-family units) and commercial (industrial, retail, and office) real estate in the past fifteen years.

5. In addition, I serve as Chairman of Causeway Capital's group of mutual funds, which collectively has over $2.2 billion in assets, and am also on the boards of Pacific Charter School Development, Inc., a non-profit developer of charter schools, and Bentley-Forbes, LLC, a privately-held real estate investment firm. I received my MBA from Stanford with honors, in 1993, after graduating Summa cum Laude from UCLA in 1987, with a

Bachelor's Degree in Economics-Business. A copy of my curriculum vitae, which includes a list of my prior testimony, is attached hereto as Appendix A.

IV. The EPS Report's Reduced Shadow Alternative Conclusion Rests on a Number of Flawed and/or Unsupported Assumptions

6. The EPS Report concludes that the Reduced Shadow Alternative, Residential Flex Option has a project residual of -$139,541,222, thus rendering it financially infeasible.[1] However, like most financial analyses for proposed real estate projects, the EPS Report's conclusions rest on a number of key assumptions. As discussed above, I have been retained to identify and provide an opinion on those key assumptions. Upon identification and a closer inspection, I find that a number of these variables are flawed and/or unsupported. Correcting these errors has the effect of making the Reduced Shadow Alternative far more attractive financially, and in fact, economically viable.

A. The EPS Report Uses an Average Unit Size That Is Too Low

7. For no apparent reason, the EPS Report assumes the Reduced Shadow Alternative would produce much smaller residential units (average of 1,300 square feet) than the Project Alternative (average of 2,052 square feet) it ultimately recommends.[2] I see no reason that the Reduced Shadow and Project Alternatives should not have the same-sized average units.

8. Choosing to assume smaller units artificially decreases the value of the Reduced Shadow Alternative in a couple of different ways. First, and most importantly, building smaller units depresses the sales price per square foot a project can be expected to command. The EPS Report

[1] EPS Report, Appendix A, Table 5. Figure is for the option with the assumed purchase of Transferable Development Rights ("TDR"s).

[2] EPS Report, Table 6.

and I agree that, for luxury condominiums in San Francisco, larger units can be sold for substantially more per square foot, all else equal.[3] Because larger-sized condominium units in San Francisco experience far greater sales prices per square foot than smaller-sized units, this assumption significantly and improperly reduces the project residual of the Reduced Shadow Alternative.

9. Second, building a larger number of small units instead of a smaller number of larger units increases per square foot construction costs. The EPS Report's construction cost analysis says "[n]ote: [t]he higher the (number of/density of) interior residential units per sf the higher the GSF unit cost for this work and inversely the lower the (number of/density of) units per sf the lower the GSF unit cost for this work."[4] Thus, by arbitrarily allocating smaller units to the Reduced Shadow Alternative without any support whatsoever, the EPS Report artificially drives up construction costs.

10. Third, costs associated with the project include "Required and Additional Affordable Housing In-Lieu Fees."[5] These fees are calculated based on of the number of units in the project. With an average unit size that is comparatively too small, the Reduced Shadow Alternative has more units and thus would pay comparably higher affordable housing fees. These higher fees in turn deflate the Reduced Shadow Alternative's project residual.

B. The EPS Report Uses Prices per Square Foot That Are Too Low

11. 91% of the Reduced Shadow Alternative's projected revenue comes from expected residential sales revenue, the product of net saleable area and sales prices per square foot. Thus, the assumptions used for the sales price per square foot drive a large part of the financial

[3] EPS Report, Table 4.

[4] EPS Report, Appendix E, p. 7.

[5] EPS Report, Table 8.

conclusions contained in the EPS Report and require an independent review. However, the sales per square foot assumption – arguably the most important one in the entire EPS Report - was sourced from the "Project Sponsor", 706 Mission Co., LLC.[6] The EPS Report attempts to justify this assumption by looking at project specific, market specific, and new vs. re-sale factors.[7]

12. In rubber-stamping the Project Sponsor's assumption, the EPS Report makes a number of mistakes. For example, the EPS Report relies only on developer sales for each of the four comparable buildings.[8] For example, it uses Four Season's initial sales prices from 2000 – 2004 to make a comparison, rather than recent sales. It justifies this decision by comparing 14 Millennium Tower developer sales, made primarily in 2009 and 2010, a difficult market environment, with re-sales, made in 2012 and 2013, a much stronger real estate market.[9] It does this without even mentioning, much less accounting for, market-wide price increases, and instead attributes any resale gain to "value-adding renovation" rather than a healthier real estate market.[10]

13. To properly project the sales price per square foot, I have downloaded all recent sales (since January 2011) for the four most comparable projects: the Four Seasons Condominiums, the St. Regis, the Ritz-Carlton, and the Millennium Towers from Redfin.com. However, before choosing the most likely price per square foot for the 706 Mission Project, I adjust comparable sales for recent, significant increases in the local real estate market.

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[6] EPS Report, p. 10.

[7] EPS Report, pp. 11-18.

[8] The EPS Report and I agree there are 4 recently developed projects which are most comparable to the 706 Mission Project: the Four Seasons Residences, the Ritz-Carlton Residences, the St. Regis Residences, and the Millennium Tower

[9] For example, the seasonally adjusted San Francisco Case-Shiller Condominium Index, described below, was up 20.1% between 3/31/2010 and 3/31/2013.

[10] EPS Report, p. 18.

14. These increases have been well documented, with the release of April 2013 Case-Shiller data on June 25, 2013.[11] For example, between April 2012 and April 2013 the San Francisco metro area saw a 28.0% jump in condominium prices year-over-year.[12] A broader history of the seasonally adjusted San Francisco Case-Shiller Condominium Index can be seen in Exhibit 1.

15. To account for the fact that a condominium sale today in the Four Seasons would be different than, for example, a January 2012 transaction, I have adjusted sales prices for comparable buildings by the relevant change in the San Francisco Metro Area Case-Shiller Condominium Index between the sales month and the end of April 2013.[13] This adjustment, if anything, understates the recent price increases, as the San Francisco Case-Shiller Condominium Index includes a far more diverse set of properties than just luxury condominiums in downtown San Francisco.[14] Exhibit 2 shows that, when this market adjustment is made, the median adjusted sales price per square foot for units 2,000 square feet or above is $1,814 (the average is $1,839).[15,16]

16. To correct for the EPS Report's flawed assumptions with actual comparable sales data, I update the expected sales price per square foot for the lowest floors of the Reduced Shadow

[11] The seasonally adjusted Case-Shiller data is widely used among academics and market practitioners – it is the "industry standard". Seasonally adjusted indices control for seasonal fluctuations in sales prices.

[12] http://www.socketsite.com/archives/2013/06/san_francisco_house_and_condo_values_continue_to_gain.html, accessed on 6/25/13.

[13] For each comparable transaction, I adjust the sale price by the increase in the San Francisco Case-Shiller Condominium Index between the month of sale and April 2013, the most recent available data. After the sale price is adjusted to reflect more recent market conditions, I calculate a market adjusted price per square foot. For example, suppose a 1,000 sq ft condominium sold for $1,500,000 in January 2012. Since January 2012, the Case-Shiller Condominium Index is up 35.19%, which makes the market adjusted price $2,027,779 ($1,500,000 * 1.3205). Thus, while the condominium sold for $1,500 per sq ft in January 2012, the increase in real estate prices since then suggest the same condominium would have sold for $2,028 per sq ft in April 2013.

[14] The San Francisco MSA includes Alameda, Contra Costa, Marin, San Francisco and San Mateo Counties.

[15] The EPS Report finds condominium sales of over 2,000 square feet in the project area have an average sale price of $1,397 per sq ft. The EPS Report's project area used to calculate this average includes 10 residential buildings, rather than the most relevant 4 used in my analysis. The EPS Report's comparable transactions go back to 2005 and do not include any market adjustments for real estate price changes. See EPS Report, Table 4.

[16] Removing the EPS Report Table 5's 14 Millennium re-sales from the analysis does not change the results in a meaningful way. The average market adjusted price per square foot is $1,820 for units greater than 2,000 square feet without these properties included. The median is $1,814.

Alternative to $1,650, up from $1,150.[17] I have no reason to alter the assumed price gradations between floors – I maintain the EPS Report's steady increases between floors (as seen in Table 3) as a percentage of the lowest floors. For example, the difference between Floors 11-25 and Floors 4-10 in the EPS Report's Table 3 is 4.35% ($1,200 vs. $1,150). I maintain that relationship in my analysis.

17. Exhibit 3 shows corrected price per square foot assumptions to be used in this analysis, based on actual recent market data. It shows that my corrected expected weighted average price square foot is $1,692, quite conservative considering the comparable median market adjusted price of recent condominium sales in comparable buildings greater than 2000 square feet is $1,814 per square foot.

18. This expectation for a $1,692 average sales price per square foot is conservative for other reasons as well. The Case-Shiller adjustment I have made is conservative in its own right because the index includes many slower growing Metropolitan Statistical Areas and is a lagging indicator, with the recently released data reflecting changes in housing prices only through April 2013. Condominium prices have continued to rise since then. For example, a recent Bloomberg News article says "San Francisco condo prices set a record in each of the last three months [March, April and May 2013], soaring 27 percent in May from a year earlier to a median $881,020, according to the state Realtors. The peak in the previous cycle was $811,170 in March 2008."[18] Once data comes in confirming rising prices in the area through the end of June 2013, market adjusted comparable condominium prices (and thus the expected sales price per square foot of the 706 Mission Project) are sure to keep rising as well.

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[17] EPS Report, Table 3.

[18] http://www.bloomberg.com/news/2013-06-26/san-francisco-s-million-dollar-homes-spur-condo-surge.html, accessed 6/27/13.

C. The EPS Report Uses a Smaller Floorplate Without Justification

19. The EPS Report uses an assumed floorplate of 12,970 gross square feet for the Proposed Project, but a floorplate of only 10,650 gross square feet for the Reduced Shadow Alternative.[19] I see no reason that the Project and Reduced Shadow Alternatives should not have the same size floorplate.

20. Arbitrarily assuming a smaller floorplate artificially decreases the value of the Reduced Shadow Alternative in that there would be far fewer units and less net salable square feet to sell. This unjustified assumption makes a 2,320 gross square foot per floor difference, and even using the unsupported efficiency ratio (addressed below), that means an extra roughly 44,080 net salable square feet for the Reduced Shadow Alternative . This is a major difference between the two alternatives, and the EPS Report does not attempt to address it.

D. The EPS Report Uses an Unsupported Residential Efficiency Ratio

21. As introduced above, 91% of the Reduced Shadow Alternative's projected revenue is from sales of residential units, of which net saleable area is a vital driver. To determine the net salable area of the proposed tower, the EPS Report multiplies the gross square feet available for residential sales and multiplies it by an "efficiency ratio" to account for hallways, elevators, and similar common areas. The EPS Report chooses a 76% efficiency ratio for its residential calculations, with no support.[20] My own research suggests an appropriate range between 75% and 85%.[21] Discussions with local real estate professionals have supported this research and indicated that 80% is a standard efficiency ratio for modern urban infill residential projects,

[19] EPS Report, Appendix D, Tables 1 and 5.

[20] EPS Report, p. 11.

[21] For an example of an article suggesting 85% is reasonable, see http://www.highriseconcrete.com/multifamily_article.pdf, accessed on 5/31/2013.

which is in the middle of my range, and thus is the number I use to correct the EPS Report. The EPS Report arbitrarily used a ratio on the low end of a normal range, making all of the alternatives, including the Reduced Shadow Alternative, appear less profitable.

22. The unsupported efficiency ratio assumption is very important for the EPS Report's conclusions – each 1% allows for an (approximately) additional 3,768 square feet of net salable area, after correcting it floorplate assumption. Using my corrected expected weighted average price per square foot, an extra 1% of efficiency leads to an extra $6.0 million of expected project residual. Thus by using an 80% efficiency ratio, the Reduced Shadow project residual, using corrected assumptions, increases by $24.2 million.

E. The EPS Report Chooses an 18% Developer Return, Which is Arbitrarily High

23. Developer return, or the required profit the developer needs to accept the project, is significant for a proposed project of this nature. The EPS Report chooses an 18% (of total costs) required return for the developer, at the highest end of its acceptable range, to account for the "market risk of rolling out all of the units at the same time, high front-end costs, as well as construction and financing risks."[22] By choosing a developer return at the high end of its range, the EPS Report makes the Reduced Shadow Alternative appear less profitable.

24. I do not find the EPS Report's rationale for using an 18% rate of return to be compelling or justified. First, while the EPS Report cites "prior EPS experience" when selecting its range, it does not cite any previous reports or third-party data to make its case. Second, almost every large development project in San Francisco or elsewhere requires significant "high front-end costs" – the EPS Report provides no color as to why this market or this project requires more

[22] EPS Report, p. 28.

significant up-front costs than usual. Third, the developer will most certainly not roll out all the units at once – there will likely be a large number of pre-sales made well in advance of the project's completion. In a strong market like San Francisco, where all parties can see either model units or comparable projects built by the same developer, the sales risk will be significantly mitigated. Finally, the EPS Report's assertion of relatively high "construction and financing risks," are made without providing any specifics. To make an assessment of the financing risks, I would need to see financing terms or term sheets for the proposed project, and those were not included with the report. Also, the justification does not mention the experienced general contractor who would likely include completion guarantees in their contract, mitigating completion risk.

25. One way to properly evaluate the appropriate developer return is to start with the developer's cost of capital. Cost of capital is a widely used metric, used to determine the minimum return that an investor requires in order to move forward with an investment opportunity, in this case a real estate development. It is often referred to as a "hurdle rate".[23] While I do not know the hurdle rate for the Project Sponsor, the developer, a privately held entity, the average cost of capital for publically traded Real Estate Investment Trusts ("REITs"), was 10.04% as of January 2013.[24] Using this benchmark, one can assume that any return over 10.04% is economic profit over an equivalent investment alternative for the developer.

26. To estimate how much economic profit is appropriate for the developer, one must evaluate the specific circumstances surrounding the proposed 706 Mission Project. The relative risk associated with the project plays a large role in how much compensation above the cost of capital the developer should receive for assuming such risk. Given the strength of the San

[23] See, for example,"Principles of Corporate Finance", Franklin Allen, Stewart C. Myers, and Richard A. Brealy, 8th edition, p. 16.

[24] http://pages.stern.nyu.edu/~adamodar/New_Home_Page/datafile/wacc.html.htm, accessed on 6/21/2013.

Francisco housing market, characterized by excess demand and a lack of supply, and the particular exceptional infill location of the subject project, and the developer's association with Webcor, a very experienced general contractor, it is my opinion that this is a relatively low risk development project. Thus a roughly five percent (5%) spread over the cost of capital for publicly-traded REITs (e.g., a 15% developer return) for this relatively low risk project would be far more appropriate than a roughly 8% spread (e.g., an 18% developer return).

F. The EPS Report Includes the Purchase of TDRs

27. The EPS Report includes the purchase of TDRs as an option in its Reduced Shadow Alternative feasibility analysis, despite not including it for a number of other alternatives, including the Project Alternative.[25] While I do not know with certainty what the City of San Francisco will or will not do regarding TDRs, it seems unlikely that the Project Alternative and Reduced Shadow Alternative would have different outcomes with respect to TDR purchase requirement. To reflect this presumed consistency, I assume no TDR purchases will be required for the Reduced Shadow Alternative.

V. Correcting Flawed and/or Unsupported EPS Report Assumptions Makes the Reduced Shadow Alternative Financially Feasible

28. The impact these flawed and unsupported assumptions have on the Reduced Shadow Alternative project residual cannot be overstated. By employing more appropriate and accurate assumptions, I reach a very different conclusion regarding the viability of the Reduced Shadow Alternative.

[25] EPS Report, Table 8.

29. Exhibit 4 is a re-creation of the EPS Report's Appendix A, Table 5, with corrected assumptions. In this analysis, for the reasons discussed above, I have:

a. Increased the average condominium size from to 2,052 square feet, which reduces construction costs per square foot, reduces affordable housing in-lieu fees, and increases expected sales revenue per square foot.

b. Increased the proposed tower's floorplate to 12,970 gross square feet.

c. Increased expected sales revenue per square foot to $1,692.[26]

d. Increased the efficiency ratio to 80%.

e. Decreased the required developer return to 15%.

f. Removed the scenario where TDRs would need to be purchased.

Exhibit 5 shows the individual impact of each of these changes and that, after making these required corrections, the Reduced Shadow Alternative has an expected project residual of $100,525,117, making the Reduced Shadow Alternative financially feasible.

30. Note that this correction is conservative, as I describe above why I would expect sales revenue per square foot to be higher than $1,692 if the units were sold today. Furthermore, I have not researched and corrected every flawed and/or unsupported assumption made by the EPS Report.

VI. The Keyser Report Does Not Test the EPS Report's Assumptions

31. The Keyser Report is a very flawed peer review, as it accepted each and every key assumption in the EPS report, with seemingly no independent verification or research to test the

[26] This correction can be thought of as a combination of two separate factors: the increased price per square foot due to increased unit size and the market adjustment. For exhibit 5, I estimate the correction for unit size to increase the price per square foot from $1,150 to $1,450 for the lowest floors. Also for Exhibit 5, I estimate the market adjustment based on the Case-Shiller San Francisco Condominium Index corrects the price per square foot from $1,450 to $1,650 for the lowest floors.

veracity of the assumptions used. It simply restates the key assumptions from the EPS report and says they seem "reasonable."

32. In my experience, a proper peer review evaluates the subject's key assumptions by independently evaluating and corroborating them. The Keyser Report, commissioned to "undertake a peer review" of the EPS Report,[27] fails to rigorously review any of the key assumptions I have outlined above.

33. In evaluating the EPS Report's revenue estimate, the Keyser Report properly identifies residential sales revenue as the "dominant revenue source for the Project and Project Alternatives"[28] and briefly discusses the assumptions used for the prices per square foot (but not the size of the units or the efficiency ratios). However, it appears to simply bless what the EPS Report has done, without doing any independent research on its own. To better review such an important assumption, the Keyser Report could have at least done something similar to my analysis of recent sales in the 4 most relevant comparable buildings. Looking at that data with a critical eye would have highlighted a major flaw in the EPS Report's methodology.

34. The Keyser Report does not address the purchase of TDRs or the rate of required developer returns. In fact, the only cost-related finding it addresses in that the direct construction costs will increase, on a per square foot basis, as the size of the tower decreases. I find the Keyser Report's review of the cost assumptions to be completely lacking.

VII. Conclusion

35. The EPS Report relies on a number of flawed and/or unsupported assumptions, as well as a flawed peer review, to conclude the Reduced Shadow Alternative is economically infeasible.

[27] Keyser Report, p. 2.

[28] Keyser Report, p. 8.

After correcting a few of these flawed and/or unsupported assumptions, the EPS Report's conclusion changes and the Reduced Shadow alternative becomes economically feasible.

Executed this 28th of June, 2013



Eric Sussman

Appendix A

ERIC H. SUSSMAN, CPA

ON-CAMPUS OFFICE
UCLA Anderson Graduate School of Management
110 Westwood Plaza, Suite D420
Los Angeles, CA 90095-1481
Tel: (310) 825-3564
Fax: (310) 825-3165
Email: esussman@anderson.ucla.edu

OFF-CAMPUS OFFICE
Amber Capital, Inc.
10990 Wilshire Blvd., Suite 420
Los Angeles, CA 90024
Tel: (310) 312-4804
Fax: (310) 312-1699
Email: erichsussman@gmail.com

PROFESSIONAL SUMMARY

Highly qualified and multi-faceted business professional and educator. Award-winning faculty member at UCLA's Anderson Graduate School of Management and successful executive of real estate investment firm. Extensive experience as consultant, public speaker, expert witness, and Board member.

CAREER EXPERIENCE

1995-Present **UNIVERSITY OF CALIFORNIA, LOS ANGELES ANDERSON GRADUATE SCHOOL OF MANAGEMENT, Los Angeles, California**
LECTURER

Since joining faculty in 1995, taught thousands of graduate, undergraduate, and executive MBA students in accounting, financial reporting, finance, and real estate investment and finance. Voted 'Outstanding Professor' thirteen times by MBA students, received Citibank Teaching Award (1997), Neidorf Decade Teaching Award (2008), and rated ninth most popular business school professor in the U.S. by Business Week (2010). Taught more MBA students in past 10 years than any other faculty member. Specialist in corporate accounting and reporting, real estate investment and finance, cost accounting, financial statement analysis, corporate fraud, and valuation. Frequent lecturer on such topics. Courses/classes taught include:

- Real Estate Investment and Finance
- Introductory, Intermediate, and Advanced Financial Accounting
- Cost/Managerial Accounting
- Corporate Financial Reporting
- Financial Statement Analysis and Equity Valuation
- Corporate Finance

Additional Results/Activities:

- Creator of Insight FSA©, an accounting risk assessment software program.
- Provide forensic accounting services to numerous institutional investment clients.

Appendix A

- Creator of MBA Special Topics in Advanced Accounting course and co- developer of Undergraduate Business Institute.
- Advised numerous MBA consulting projects (nationally and globally), assisting firms on strategic, marketing, and financial issues.
- Taught MBA Cost Accounting Course at Helsinki School of Economics, Helsinki, Finland (voted best core course professor of 2004).
- Lectured in and about economic issues in Brazil, China, Dubai, Saudi Arabia, and Italy.
- Acted as expert witness and consultant for commercial litigation, involving matters of corporate disclosure, audit effectiveness, valuation, real estate due diligence and practices, and economic damage analyses.

1993-Present **AMBER CAPITAL, INC.; SEQUOIA REAL ESTATE PARTNERS; CLEAR CAPITAL, LLC; FOUNTAIN MANAGEMENT, LLC, Los Angeles, California**
www.sequoiarealestatepartners.com
PRESIDENT; MANAGING MEMBER

Since founding in 1993, firms have acquired and syndicated over $220 million of multi-family, industrial, retail, and office properties throughout the U.S., focusing on Southern California. Currently own/operate approximately 2,000 apartment units and 500 thousand square feet of commercial (retail and industrial) property. Primary focus on rehabilitation and repositioning of multifamily assets. Employ approximately 15 people in project management, construction, and accounting.

Additional Results/Activities:

- Provided investors with over 15% compounded internal rate of return since inception (over all transactions).
- Developed class-A industrial warehouse in Commerce, California and multi-family project in Hollywood; converted 76 condominium units in Los Angeles, CA.
- Formed Pacific Value Opportunities Fund I and II, L.P. to acquire and reposition single- and multi-family properties in Western U.S.
- Provide tax, financial planning, portfolio management, and related consulting services to individual and corporate clients.

1988-1992 **PRICE WATERHOUSE, Los Angeles, California**
AUDIT MANAGER

Planned, coordinated, and supervised audit and due diligence services for varied domestic and multi-national clients. Representative clients included The Walt Disney Company, Bell Industries, Inc., Carter Hawley Hale, Inc., and Loyola Marymount University. Earned highest evaluative ratings and received earliest possible promotions.

Appendix A

EDUCATION

1991-1993 **STANFORD GRADUATE SCHOOL OF BUSINESS, Palo Alto, California**
M.B.A., 1993, Arjay Miller Scholar - top 10% of graduating class

1984-1987 **UNIVERSITY OF CALIFORNIA, LOS ANGELES, Los Angeles, California**
B.A. Economics-Business, 1987
Summa Cum Laude and Phi Beta Kappa, Economics Achievement Award (top 1%)
Completed degree in three years

BOARD OF DIRECTOR/PROFESSIONAL AFFILIATIONS

- Licensed CPA and real estate broker (inactive), State of California.
- Chairman, Board of Trustees, and Audit Committee member, Causeway Capital Group of Funds (approximately $2.2 billion in assets, collectively)
- Member, Board of Directors, Bentley-Forbes, LLC
- Member, Board of Directors, Pacific Charter School Development, Inc.
- Former Chairman, Presidio Fund (domestic value fund, closed May 2010)
- Former Member, Board of Directors, and Audit Committee Chair, Atlantic Inertial Systems, developer and producer of electromechanical sensors (sold, Dec. 2009)

REPRESENTATIVE EXPERT WORK IN LITIGATION CONTEXT

Holmes v. CenterTrust, Inc.
Retained by Plaintiff
Plaintiff's Counsel: Henry Finkelstein, Esq., Greenberg, Glusker, Fields, et al

Plaintiff claimed breach of contract and fraud involving his sale of a shopping center to Defendant, a publicly traded real estate investment trust. Provided numerous valuation analyses, including damage assessments; reviewed the Defendant's financial disclosures in filings with the Securities and Exchange Commission; wrote several memoranda and declarations as a part of case filings.

Sorisho v. Solectron, Inc.
Retained by Plaintiff
Plaintiff's Counsel: Charles Wisch, Law Offices of Charles Wisch

Plaintiff, a former CFO of one of Defendant's business units, filed suit against his former employer for wrongful termination, alleging that termination was retributive, in response to complaints to corporate executives about improper, inconsistent, and material accounting issues. Provided numerous analyses and written declarations as a part of court filings.

Appendix A

TSCO Glendale, LLC v. Alex Hakakian and related cross actions
Retained by Defendant
Defendant's Counsel: Michael Taitelman, Freedman & Taitelman, LLP

Plaintiff, who owned certain retail commercial space in Glendale, California, was Defendant's landlord and filed suit against Defendant for breach of contract. Dispute centered around certain provisions of the underlying lease agreement involving whether Defendant was obligated to operate retail operations on the premises, subleasing provisions, and payment of percentage rent. Provided quantitative analyses regarding market rental rates and testified on behalf of Defendant at deposition.

Valida Michelle Bouie v. International Medical Corps, et al.
Homayoun Bazarvan v. Hilton Universal City, and
Towers et al Keith Konheim v. Veeco Instruments Inc.
(All separate actions)
Retained by Plaintiff
Plaintiff's Counsel: Frank A. Magnanimo, Esq., Appleton, Blady & Magnanimo LLP

Plaintiffs filed suit for wrongful termination and related claims. Provided damage analyses for counsel and related work.

Bryan Miller et al v. 3944 Kentucky Homeowners Association, et al.
Retained by Plaintiff
Plaintiff's Counsel: Litt, Estuar, Harrison, Miller & Kitson

Plaintiff filed suit for breach of fiduciary duty, negligence, and fraud against HOA which manages his condominium complex. Reviewed numerous documents and provided various analyses of claims.

Thomas v. Slauson Transmission Parts
Retained by Plaintiff
Plaintiff's Counsel: Frank A. Magnanimo, Esq., Appleton, Blady & Magnanimo LLP

Plaintiff sued for wrongful termination and related claims. Testified at arbitration on economic damages and provided detailed report on same.

Peter Kraus & Valshop LLC v. Cinema Drive Partners
Retained by Plaintiffs
Plaintiff's Counsel: Christine Calareso, Selman & Breitman, LLP

Plaintiff sued for fraud, negligent misrepresentation and related claims in connection with the acquisition of a shopping center. Reviewed documents and consulted extensively with counsel on economic damages and standard due diligence practices.

Appendix A

Mary Baccash et al v. George Assali et al
Retained by Plaintiffs
Plaintiff's Counsel: Jennifer Clingo, Selman & Breitman, LLP

Plaintiff sued for fraud and related claims in connection with numerous (real estate) refinancing transactions. Performed forensic accounting review of underlying documents (title, escrow, checks, bank statements) and provided conclusions to counsel.

Firestone Financial Corporation et al v. Lorman et al
Retained by Plaintiffs
Plaintiff's Counsel: E. Lee Horton, Waller Lansden Dortch' & Davis; Charles Kreindler, Mayer Brown

Plaintiff sued for numerous claims including fraud, breach of trust, breach of fiduciary duty, and related claims. Engaged to review various lending transactions, assess related risks, and damages to plaintiffs.

John H. Tory, IRA v. EVP Fourth Corp., et al.
Retained by Plaintiffs
Plaintiff's Counsel: Rick Perez, Perez & Miller

Plaintiff sued for fraud, breach fiduciary duty, and related claims, related to the sale of a substantial multi-family asset in Los Angeles. Prepared declaration for court filing(s).

Caruso Affiliated Holdings v. General Growth Properties, Inc., et al
Retained by Plaintiffs
Plaintiff's Counsel: Henry Shields, Irell & Manella, LLP; John Gordon, Quinn Emanuel

Plaintiff sued for fraud, malice, and oppression related to the tortuous interference with a large-scale retail shopping center development. Engaged in punitive damages phase of the case to evaluate defendant's financial condition and related SEC filings and disclosures.

Deborah Freeman v. Federated Department Stores, Inc., et al
Retained by Defendants
Defendant's Counsel: Chrstine Calareso, Selman & Breitman, LLP

Plaintiff sought damages caused by injuries allegedly sustained in a mall parking lot. Provided economic damage analyses.

Appendix A

Pennebaker v. Jamboree Management, et al
Retained by Defendants
Defendant's Counsel: Richard Seely, Law Offices of David Brault

Plaintiff sought damages caused by alleged injuries sustained at apartment complex owned and managed by defendant. Consulted upon regarding standard property management practices and economic damage analyses.

Jason C. Beaver et al v. PN II Inc. d/b/a Pulte Homes o Nevada Inc. Del Webb Communities, Inc., et al
Retained by Defendants
Defendant's Counsel: Sean Thueson, Holland & Hart, LLP

Plaintiff filed suit in Clark County, Nevada, alleging numerous claims (breach of covenant of good faith, fraud, negligent misrepresentation) related to the sale(s) of new homes in the Las Vegas area. Prepared detailed report rebutting plaintiffs' and plaintiffs' experts' claims.

Julian 1. Aroesty, Trustee v. Rocky Mountain Pictures, Inc., et al
Retained by Defendants
Defendant's Counsel: Ashton Watkins, Law Offices of Ashton Watkins

Plaintiff filed unlawful detainer action against defendant for alleged violations of a Form AIR commercial lease. Testified at trial on relevant accounting issues (GAAP, tax, fair market value vs. cost) and standards under assignment and subletting clause(s).

Asphalt Professionals, Inc. v. T.O. IX, et al
Retained by Defendants
Defendant's Counsel: David Wilzig, Law Offices of David Wilzig

Plaintiff filed breach of contract action and related fraud action related to alleged outstanding bills on a residential construction project. Consulted upon regarding matters of standard accounting and formation practices of special purpose real estate entities.

Johann Wernhart v. National Hotrod Association et al
Retained by Plaintiffs
Plaintiff's Counsel: Thomas Hoegh, Law Offices of Thomas Hoegh

Plaintiff filed claims for damages for personal injuries sustained during a racing accident. Prepared economic damages and lost profits assessment arising from plaintiff's abandonment of a business venture.

Appendix A

Steven Hudson v. Sotheby's et al
Retained by Plaintiffs
Plaintiff's Counsel: Allen, Matkins, Leck, Gamble, & Mallory LLP

Plaintiff filed claims for breach of contract, negligent misrepresentation, fraud and related damages arising from the alleged failure to disclose material facts related to plaintiff's purchase of a single family residence. Provided assistance in compilation of discovery assessing and evaluating economic damages claims.

Gateway 4th, LLC v. Pacific CityHome, LLC, et al
Retained by Plaintiffs
Defendant's Counsel: Miller & Barondess LLP

Plaintiff sought an injunction against a lender, to prevent foreclosure of a residential development project. Provided an opinion as to the likelihood of Defendant's ability to sell condominium units at certain specified reserve prices, and submitted declaration regarding same.

Todd Kurtin v. Bruce Elieff, SunCal Management, et al
Retained by Defendants
Defendant's Counsel: Miller & Barondess LLP

Plaintiff filed claims for breach of contract, fraud and related damages arising from the alleged breach of a Settlement Agreement. Retained to provide accounting for disbursements made from certain real estate entities, and render an opinion as to certain accounting methods and practices employed by Defendants. Prepared two detailed reports, and testified at deposition (twice), bench trial (equitable phase), and jury trial (legal phase).

Abhyankar v. Countrywide et al
Retained by Plaintiff
Plaintiff's Counsel: Blady & Weinreb LLP

Plaintiff sued for wrongful termination and related claims. Testified at arbitration on economic damages and provided detailed report on same.

Fred Sands v. KPMG et al
Retained by Defendant
Defendant's Counsel: Gibson, Dunn, & Crutcher LLP

Plaintiff sued for breach of fiduciary duty, fraud, and related claims. Retained to evaluate claims and provide guidance on discovery matters.

Appendix A

The Eugene M. St. John Living Trust v. The Del Rey Development 1997 Trust
Retained by Defendant
Defendant's Counsel: Seed Mackall LLP

Plaintiff (Petitioner) sought reduction and/or removal of trustee and asset manager related to a trust with sizeable real estate and other assets. Retained to evaluate claims and provide guidance on discovery matters. Prepared report, and provided deposition testimony on same.

Michael Garcia v. Smart & Final, Inc. et al
Retained by Plaintiff
Plaintiff's Counsel: Blady & Weinreb LLP

Plaintiff sought damages for wrongful termination. Provided report and testified at deposition as to economic damages resulting from alleged wrongful conduct.

Nisson Motor Acceptance Corporation v. Superior Auto of Fremont et al
Retained by Defendants (and Cross-complainants)
Defendant's Counsel: Miller & Barondess LLP

Retained to evaluate and estimate damages sustained by Defendants, specific to certain real property owned by Defendant, as a result of alleged Plaintiff's actions. Testified at deposition and jury trial.

Marital Dissolution Proceeds: Marriage of Kruse
Retained by Counsel for Ms. Tammy Kruse
Client's Counsel: Law Offices of William R. Burkitt

Retained to opine on approaches and protocol when valuing certain business interests owned by client and her former spouse.

Laurel Canyon-Chelsea, Theodore Stein, Jr. v. Cathay Bank
Retained by Defendants (and Cross-complainants)
Defendant's Counsel: Miller & Barondess LLP

Retained to evaluate reasonableness of Defendant's actions with respect to certain borrowings by Plaintiff.

The Rusnak Group v. R&G Builders
Retained by Plaintiffs
Plaintiff's Counsel: Glaser, Weil, Fink, Jacobs et al

Retained to evaluate and estimate damages sustained by Plaintiffs, as a result of construction defects caused by Defendants.

Appendix A

Free Regional Water Authority v. M&H REalty Partners VI, L.P. et al
Retained by Defendants
Defendant's Counsel: Glaser, Weil, Fink, Jacobs et al

Retained to value certain property subject to an easement, and related economic damages. Prepared report, and testified (deposition and arbitration) regarding same.

Clarence F. Konkel and Barbara J. Konkel, Trustees v. Alan C. Fox et al
Retained by Plaintiffs
Plaintiff's Counsel: Clarkson/Riley LLP

Retained by Plaintiffs to opine on relative risks of various real estate investment opportunities and common practices of real estate sponsors and investment offerings, including tenant-in-common syndications.

Le Kun Wu et al v. Magnus Sunhill Group, LLC et al
Retained by Plaintiffs
Plaintiff's Counsel: Godwin Heath, LLP

Retained by Plaintiffs to opine on standard structures of real estate investments, documentation and disclosures typically provided to investors in real estate partnerships or similar entities, fees and costs paid by investors to sponsors of real estate investments, and nature of accounting records that should be prepared and maintained by privately-owned real estate investment firms. Prepared report, and testified at deposition and jury trial regarding same.

IMT Capital 11525 Blucher, LLC v. NMS Properties, Inc. et al
Retained by Plaintiffs (and Cross-Defendant)
Plaintiff's Counsel: Hughes Hubbard & Reed, LLP

Retained to opine on damages alleged from improvements made to an easement between parties. Testified at deposition.

EXPERT WORK IN ADMINISTRATIVE CONTEXT

Fortune Commercial, Inc., DBA Seafood City. Retained by Charles Miller, Esq., Law Offices of Charles Miller, to review documents surrounding "Application for Alien Employment Certification," which had been initially declined, and drafting of letter/declaration to Department of Labor (DOL) on behalf of applicant.

State Bar of California. Retained by Ms. Nancie Arbogast, an Investigator with the State Bar of California, to review certain financial documents and render a written analysis and opinion to support the Bar's actions against a certain *respondent.*

Appendix A

Lewis,D'Amato, Brisbois, & Bisgaard, LLP. Retained by a certain of-counsel member of the firm to assist him in his negotiations related to his continued employment and associated compensation associated therewith. Prepared detailed analyses of the firm operations (billable hours by staff, evaluation of client activity) in order to evaluate the profitability of this individual and his team to the firm.

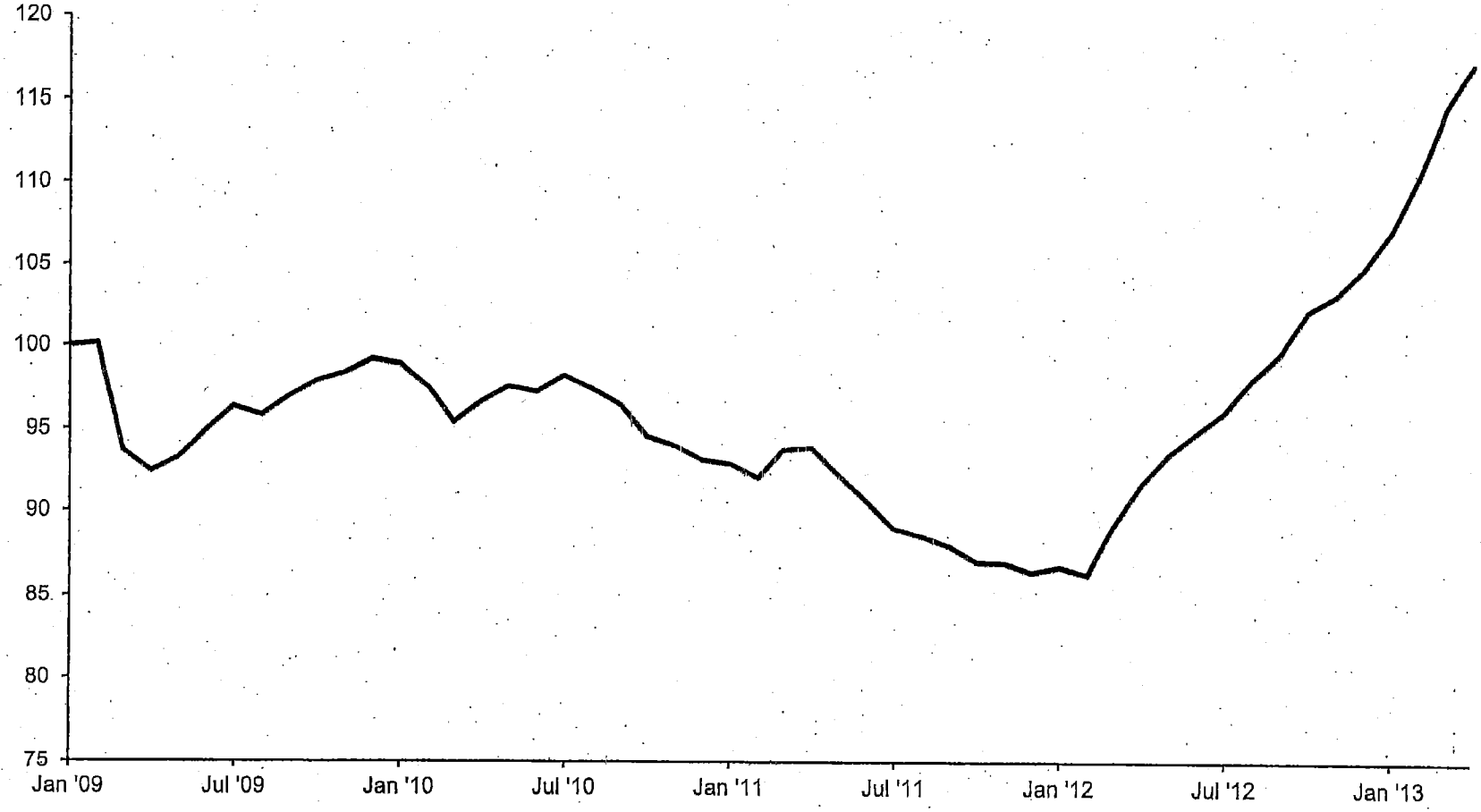
REPRESENTATIVE CLIENT LIST

Alden Vineyards
Allen, Matkins, Leck, Gamble, & Mallory LLP
Amdocs, Inc.
Appleton, Blady, & Magnanimo, LLP
Association of Scientific Advisors, Inc.
Blady & Weinreb LLP
Bruce Burkitt, Esq.
Catalina Marketing Corporation
Charles Miller, Esq., The Miller Law Offices
Clarkson Riley LLP
Community Partners
Cornerstone Research
Epoch Partners
Firestone Financial Corp.
Freedman & Taitelman, LLP
Gerson-Lehman Group
Gibson Dunn & Crutcher LLP
Glaser, Weil, Fink, Jacobs, et al
Godwin Heath LLP
Greenberg, Glusker, Fields, Claman, Machtinger, & Kinsella, LLP
HNC Corp. (Fair Isaac)
Holland & Hart, LLP
Huges Hubbard & Reed, LLP
Irell & Manella, LLP
James Hardie Corp
Johnson & Johnson
Kaiser Permanente
Kennedy Wilson
Law Offices of Ashton Watkins
Law Offices of David Brault
Law Offices of David Wilzig
Law Offices of Thomas Hoegh
Lewis, D'Amato, Brisbois, & Bisgaard, LLP
Los Angeles Kings
Mayer Brown
Merrill Lynch
Miller Barondess LLP
Montgomery & Co.
National Institute of Investor Relations (NIRI)
Perez & Miller
Public Relations Los Angeles

Appendix A

Quinn Emanuel et al, LLP
Ratkovich Company
The Riordan Program
Seed Mackall LLP
Selman & Breitman, LLP
State Bar of California
Stifel Nicolaus
TAP Pharmaceuticals, Inc.
TEKES, Finish Technology Agency
Thomas Weisel Partners
Trammel Crow
Waller Lansden Dorth & Davis, LLP
Watson Law Group
Wisch Law Group, Charles Wisch, Esq.

Exhibit 1
Case-Shiller San Francisco Condominium Index
1/09 – 4/13



Source: Standard and Poors

Note: The Index is seasonally adjusted and pegged at 100 on 1/1/09.

Exhibit 2
Comparable Condominium Sale Prices, San Francisco
January 2011 – March 2013

Case-Shiller Adjusted Average $/Sq.Ft. for Units > 2,000 Square Feet	**$1,839**
Case-Shiller Adjusted Median $/Sq.Ft. for Units > 2,000 Square Feet	**$1,814**

Complex	Unit	Date of Sale	Square Footage	Sale Price	Case-Shiller Adjusted Price [1]	Case-Shiller Adjusted $/Sq.Ft.
Millennium Tower	301 Mission St Unit 17E	1/7/2011	1,136	$1,050,000	$1,325,435	$1,167
Millennium Tower	301 Mission St Unit 22J	1/14/2011	1,207	$1,020,000	$1,287,565	$1,067
Millennium Tower	301 Mission St Unit 47C	1/24/2011	2,101	$2,716,000	$3,428,458	$1,632
Millennium Tower	301 Mission St Unit 904	1/28/2011	1,485	$1,525,000	$1,925,036	$1,296
The St. Regis San Francisco	188 Minna St Apt 32A	2/4/2011	2,027	$2,860,000	$3,644,878	$1,798
Millennium Tower	301 Mission St Unit 15G	2/15/2011	1,268	$1,324,000	$1,687,349	$1,331
Four Seasons	765 Market St Apt 32F	2/16/2011	2,576	$4,350,000	$5,543,782	$2,152
Millennium Tower	301 Mission St Unit 18B	2/18/2011	1,469	$1,300,000	$1,656,763	$1,128
Millennium Tower	301 Mission St	2/23/2011	1,485	$1,525,000	$1,943,510	$1,309
The Ritz-Carlton Residences	690 Market St Unit 2201	3/4/2011	1,515	$1,050,000	$1,313,068	$867
Millennium Tower	301 Mission St Unit 28E	3/9/2011	1,714	$1,800,000	$2,250,974	$1,313
Millennium Tower	301 Mission St Unit 47E	3/9/2011	1,671	$2,300,000	$2,876,244	$1,721
Millennium Tower	301 Mission St Unit 10C	3/10/2011	1,583	$1,250,000	$1,563,176	$987
Millennium Tower	301 Mission St Unit 23G	3/10/2011	1,268	$1,325,000	$1,656,967	$1,307
Millennium Tower	301 Mission St Unit 11C	3/14/2011	1,583	$1,255,000	$1,569,429	$991
Four Seasons	765 Market St Apt 29H	3/15/2011	1,427	$1,900,000	$2,376,028	$1,665
Four Seasons	765 Market St #344	3/15/2011	1,427	$1,075,000	$1,344,332	$942
Millennium Tower	301 Mission St #50	4/1/2011	1,526	$1,300,000	$1,623,372	$1,064
Millennium Tower	301 Mission St Unit 53D	4/1/2011	2,230	$2,850,000	$3,558,932	$1,596
Millennium Tower	301 Mission St Unit 3H	4/8/2011	773	$582,500	$727,396	$941
Millennium Tower	301 Mission St Unit 9C	4/8/2011	1,583	$1,210,000	$1,510,985	$955
Millennium Tower	301 Mission St Unit 23B	4/13/2011	668	$686,000	$856,641	$1,282
Millennium Tower	301 Mission St Unit 17H	4/14/2011	773	$640,000	$799,199	$1,034
Millennium Tower	301 Mission St Unit 12F	4/22/2011	1,845	$1,650,000	$2,060,434	$1,117
Millennium Tower	301 Mission St Unit 6J	4/26/2011	1,245	$1,000,000	$1,248,748	$1,003
The Ritz-Carlton Residences	690 Market St Unit 1505	4/26/2011	952	$665,000	$830,417	$872
Millennium Tower	301 Mission St Unit 5H	5/2/2011	773	$585,000	$743,944	$962
The St. Regis San Francisco	188 Minna St Apt 38D	5/3/2011	1,792	$3,680,000	$4,679,854	$2,612
Millennium Tower	301 Mission St Unit 12C	5/5/2011	833	$805,000	$1,023,718	$1,229
Millennium Tower	301 Mission St Unit 30E	5/10/2011	1,714	$1,775,000	$2,257,267	$1,317
Four Seasons	765 Market St Apt 27A	5/10/2011	3,318	$6,000,000	$7,630,197	$2,300
The St. Regis San Francisco	188 Minna St Apt 22F	5/16/2011	1,147	$1,050,000	$1,335,285	$1,164

Exhibit 2
Comparable Condominium Sale Prices, San Francisco
January 2011 – March 2013

Case-Shiller Adjusted Average $/Sq.Ft. for Units > 2,000 Square Feet $1,839
Case-Shiller Adjusted Median $/Sq.Ft. for Units > 2,000 Square Feet $1,814

Complex	Unit	Date of Sale	Square Footage	Sale Price	Case-Shiller Adjusted Price [1]	Case-Shiller Adjusted $/Sq.Ft.
Millennium Tower	301 Mission St Unit 21G	5/18/2011	1,246	$1,270,000	$1,615,058	$1,296
Millennium Tower	301 Mission St Unit 57C	5/20/2011	2,819	$4,600,000	$5,849,818	$2,075
Millennium Tower	301 Mission St Unit 603	5/26/2011	1,526	$1,320,000	$1,678,643	$1,100
Millennium Tower	301 Mission St Unit 51D	5/31/2011	2,203	$3,025,000	$3,846,891	$1,746
Millennium Tower	301 Mission St Unit 16G	6/1/2011	1,268	$1,270,000	$1,643,665	$1,296
Millennium Tower	301 Mission St Unit 15J	6/2/2011	1,245	$1,050,000	$1,358,935	$1,092
Millennium Tower	301 Mission St Unit 36D	6/14/2011	1,952	$2,725,000	$3,526,761	$1,807
Millennium Tower	301 Mission St Unit 17B	6/22/2011	668	$643,500	$832,833	$1,247
Millennium Tower	301 Mission St Unit 50C [2]	6/29/2011	678	$640,000	$828,303	$1,222
Millennium Tower	301 Mission St Unit 50C [2]	6/29/2011	2,819	$4,000,000	$5,176,897	$1,836
Millennium Tower	301 Mission St Unit 7G	6/30/2011	1,268	$950,000	$1,229,513	$970
The Ritz-Carlton Residences	690 Market St Unit 1604	6/30/2011	1,900	$1,500,000	$1,941,336	$1,022
Millennium Tower	301 Mission St Unit 29D	7/6/2011	1,952	$2,495,000	$3,289,026	$1,685
Millennium Tower	301 Mission St Unit 52D	7/14/2011	2,230	$3,075,000	$4,053,609	$1,818
Millennium Tower	301 Mission St Unit 28B	7/18/2011	1,652	$1,728,000	$2,277,930	$1,379
Millennium Tower	301 Mission St Unit 46D	7/18/2011	2,053	$2,750,000	$3,625,178	$1,766
Millennium Tower	301 Mission St Unit 20J	7/25/2011	1,127	$970,000	$1,278,699	$1,135
Millennium Tower	301 Mission St Unit 43E	7/25/2011	1,671	$2,075,000	$2,735,362	$1,637
Millennium Tower	301 Mission St Unit 26B	7/26/2011	1,652	$1,680,000	$2,214,654	$1,341
Millennium Tower	301 Mission St Unit 3A	7/29/2011	1,479	$1,060,000	$1,397,342	$945
Millennium Tower	301 Mission St Unit 905	7/29/2011	1,731	$1,710,000	$2,254,202	$1,302
Millennium Tower	301 Mission St Unit 21C	8/3/2011	1,583	$1,395,000	$1,848,821	$1,168
Millennium Tower	301 Mission St Unit 24F	8/3/2011	1,845	$1,650,100	$2,186,910	$1,185
Millennium Tower	301 Mission St Unit 5B	8/3/2011	668	$550,000	$728,926	$1,091
Millennium Tower	301 Mission St Unit 8J	8/5/2011	1,207	$930,000	$1,232,547	$1,021
Millennium Tower	301 Mission St Unit 7F	8/8/2011	1,845	$1,330,000	$1,762,675	$955
Millennium Tower	301 Mission St Unit 34F	8/11/2011	1,601	$1,650,000	$2,186,778	$1,366
The St. Regis San Francisco	188 Minna St Apt 30A	8/23/2011	2,027	$2,920,000	$3,869,934	$1,909
Millennium Tower	301 Mission St Unit 7B	8/26/2011	668	$600,000	$795,192	$1,190
Millennium Tower	301 Mission St Unit 24B	9/1/2011	668	$652,000	$869,690	$1,302
Millennium Tower	301 Mission St Unit 28F	9/8/2011	1,601	$1,575,000	$2,100,861	$1,312
Millennium Tower	301 Mission St Unit 24E	9/30/2011	1,136	$1,231,000	$1,642,006	$1,445

Exhibit 2
Comparable Condominium Sale Prices, San Francisco
January 2011 – March 2013

Case-Shiller Adjusted Average $/Sq.Ft. for Units > 2,000 Square Feet **$1,839**
Case-Shiller Adjusted Median $/Sq.Ft. for Units > 2,000 Square Feet **$1,814**

Complex	Unit	Date of Sale	Square Footage	Sale Price	Case-Shiller Adjusted Price [1]	Case-Shiller Adjusted $/Sq.Ft.
Millennium Tower	301 Mission St Unit 39B	9/30/2011	1,652	$1,760,000	$2,347,628	$1,421
Millennium Tower	301 Mission St Unit 704	9/30/2011	1,485	$1,550,000	$2,067,514	$1,392
Millennium Tower	301 Mission St Unit 18E	10/4/2011	1,098	$1,080,000	$1,455,494	$1,326
Millennium Tower	301 Mission St Unit 28C	10/4/2011	2,170	$2,300,000	$3,099,663	$1,428
Millennium Tower	301 Mission St Unit 48A	10/6/2011	1,530	$1,705,500	$2,298,467	$1,502
Millennium Tower	301 Mission St Unit 25B	10/12/2011	674	$625,000	$842,300	$1,250
The St. Regis San Francisco	188 Minna St Apt 26F	10/13/2011	1,527	$1,500,000	$2,021,519	$1,324
Millennium Tower	301 Mission St Unit 15B	10/27/2011	668	$640,000	$862,515	$1,291
Millennium Tower	301 Mission St Unit 41B	10/28/2011	1,652	$1,810,000	$2,439,300	$1,477
The St. Regis San Francisco	188 Minna St Apt 36D	10/31/2011	1,792	$2,985,000	$4,022,823	$2,245
Millennium Tower	301 Mission St Unit 42B	11/4/2011	1,652	$1,800,000	$2,427,173	$1,469
Millennium Tower	301 Mission St Unit 902	11/4/2011	1,955	$1,900,000	$2,562,016	$1,310
Millennium Tower	301 Mission St Unit 703	11/7/2011	1,526	$1,330,000	$1,793,411	$1,175
Millennium Tower	301 Mission St Unit 14B	11/15/2011	668	$633,000	$853,556	$1,278
Millennium Tower	301 Mission St Unit 9D	11/15/2011	679	$630,000	$849,510	$1,251
Millennium Tower	301 Mission St Unit 55A	11/16/2011	2,706	$3,232,000	$4,358,124	$1,611
The St. Regis San Francisco	188 Minna St Apt 38E	11/18/2011	2,740	$4,999,000	$6,740,798	$2,460
Four Seasons	765 Market St Apt 25C	11/22/2011	947	$1,185,000	$1,597,889	$1,687
Millennium Tower	301 Mission St Unit 33C	11/30/2011	2,170	$2,500,000	$3,371,073	$1,553
Millennium Tower	301 Mission St Unit 4J	12/2/2011	1,245	$920,000	$1,248,119	$1,003
Millennium Tower	301 Mission St Unit 5C	12/8/2011	833	$730,000	$990,355	$1,189
Millennium Tower	301 Mission St Unit 21E	12/12/2011	1,027	$1,010,000	$1,370,218	$1,334
Millennium Tower	301 Mission St Unit 15E	12/15/2011	1,136	$1,005,000	$1,363,434	$1,200
Millennium Tower	301 Mission St Unit 17D	12/20/2011	789	$683,000	$926,593	$1,174
The St. Regis San Francisco	188 Minna St Apt 28D	12/22/2011	1,792	$2,700,000	$3,662,958	$2,044
Millennium Tower	301 Mission St Unit 27B	12/28/2011	1,652	$1,705,000	$2,313,090	$1,400
Millennium Tower	301 Mission St Unit 9E	12/29/2011	1,027	$845,000	$1,146,370	$1,116
Millennium Tower	301 Mission St Unit 22E	1/3/2012	1,098	$1,160,000	$1,568,149	$1,428
Millennium Tower	301 Mission St Unit 50B	1/4/2012	3,315	$4,850,000	$6,556,487	$1,978
Millennium Tower	301 Mission St Unit 16D	1/9/2012	789	$675,000	$912,501	$1,157
The St. Regis San Francisco	188 Minna St Apt 28F	1/13/2012	1,527	$1,140,000	$1,541,112	$1,009
Millennium Tower	301 Mission St Unit 4H	1/18/2012	773	$580,000	$784,075	$1,014

Exhibit 2
Comparable Condominium Sale Prices, San Francisco
January 2011 – March 2013

Case-Shiller Adjusted Average $/Sq.Ft. for Units > 2,000 Square Feet **$1,839**
Case-Shiller Adjusted Median $/Sq.Ft. for Units > 2,000 Square Feet **$1,814**

Complex	Unit	Date of Sale	Square Footage	Sale Price	Case-Shiller Adjusted Price [1]	Case-Shiller Adjusted $/Sq.Ft.
Millennium Tower	301 Mission St Unit 8E	1/19/2012	1,098	$920,000	$1,243,705	$1,133
Millennium Tower	301 Mission St Unit 14G	1/20/2012	1,268	$1,130,000	$1,527,594	$1,205
Millennium Tower	301 Mission St Unit 39E	1/25/2012	1,714	$2,004,000	$2,709,113	$1,581
Millennium Tower	301 Mission St Unit 602	1/31/2012	1,779	$1,880,000	$2,541,484	$1,429
Millennium Tower	301 Mission St Unit 37D	2/9/2012	1,952	$2,750,000	$3,735,965	$1,914
Millennium Tower	301 Mission St Unit 7D	2/16/2012	789	$630,000	$855,876	$1,085
Millennium Tower	301 Mission St Unit 30B	2/23/2012	1,652	$1,770,000	$2,404,603	$1,456
Millennium Tower	301 Mission St Unit 16H	2/24/2012	773	$682,000	$926,519	$1,199
Millennium Tower	301 Mission St Unit 22B	2/24/2012	668	$685,000	$930,595	$1,393
Millennium Tower	301 Mission St Unit 19F	2/29/2012	1,887	$1,725,000	$2,343,469	$1,242
The St. Regis San Francisco	188 Minna St Apt 23E	3/2/2012	2,573	$3,800,000	$4,995,708	$1,942
Millennium Tower	301 Mission St Unit 15D	3/5/2012	789	$675,000	$887,395	$1,125
Millennium Tower	301 Mission St Unit 10J	3/6/2012	1,127	$939,000	$1,234,466	$1,095
Millennium Tower	301 Mission St Unit 6F	3/9/2012	1,845	$1,250,000	$1,643,325	$891
Millennium Tower	301 Mission St Unit 8B	3/9/2012	668	$605,000	$795,369	$1,191
Millennium Tower	301 Mission St Unit 16A	3/12/2012	1,479	$1,275,000	$1,676,191	$1,133
Millennium Tower	301 Mission St Unit 28A	3/13/2012	1,517	$1,500,000	$1,971,990	$1,300
Millennium Tower	301 Mission St Unit 34C	3/19/2012	2,170	$2,515,000	$3,306,370	$1,524
Millennium Tower	301 Mission St Unit 402	3/20/2012	1,779	$1,850,000	$2,432,121	$1,367
Millennium Tower	301 Mission St Unit 3D	3/23/2012	789	$720,000	$946,555	$1,200
Millennium Tower	301 Mission St Unit 45F	3/28/2012	1,509	$1,600,000	$2,103,456	$1,394
The St. Regis San Francisco	188 Minna St Apt 23F	4/3/2012	1,527	$1,588,000	$2,030,201	$1,330
Millennium Tower	301 Mission St Unit 34E	4/6/2012	1,714	$1,880,000	$2,403,513	$1,402
Millennium Tower	301 Mission St Unit 33D	4/11/2012	1,952	$2,312,000	$2,955,810	$1,514
Millennium Tower	301 Mission St Unit 31E	4/12/2012	1,714	$1,800,000	$2,301,236	$1,343
Millennium Tower	301 Mission St Unit 8G	4/12/2012	1,268	$1,010,000	$1,291,249	$1,018
Millennium Tower	301 Mission St Unit 27E	4/20/2012	1,714	$1,650,000	$2,109,466	$1,231
Millennium Tower	301 Mission St Unit 40B	4/20/2012	1,652	$1,840,000	$2,352,374	$1,424
Millennium Tower	301 Mission St 5A	4/25/2012	1,479	$1,339,000	$1,711,864	$1,157
Millennium Tower	301 Mission St Unit 11J	4/26/2012	1,127	$939,000	$1,200,478	$1,065
Millennium Tower	301 Mission St Unit 20H	4/26/2012	666	$668,000	$854,014	$1,282
Millennium Tower	301 Mission St Unit 47B	4/26/2012	1,652	$2,100,000	$2,684,775	$1,625

Exhibit 2
Comparable Condominium Sale Prices, San Francisco
January 2011 – March 2013

Case-Shiller Adjusted Average $/Sq.Ft. for Units > 2,000 Square Feet $1,839
Case-Shiller Adjusted Median $/Sq.Ft. for Units > 2,000 Square Feet $1,814

Complex	Unit	Date of Sale	Square Footage	Sale Price	Case-Shiller Adjusted Price [1]	Case-Shiller Adjusted $/Sq.Ft.
Millennium Tower	301 Mission St Unit 20C	4/27/2012	1,583	$1,660,500	$2,122,890	$1,341
Millennium Tower	301 Mission St Unit 14J	4/30/2012	1,245	$1,025,000	$1,310,426	$1,053
Four Seasons	765 Market St Apt 28H	4/30/2012	1,406	$1,650,000	$2,109,466	$1,500
Millennium Tower	301 Mission St Unit 12E	5/1/2012	1,098	$950,000	$1,190,374	$1,084
Millennium Tower	301 Mission St Unit 25G	5/1/2012	1,268	$658,000	$824,491	$650
Millennium Tower	301 Mission St Unit 38C	5/1/2012	2,170	$2,700,000	$3,383,169	$1,559
Millennium Tower	301 Mission St Unit 42F	5/2/2012	1,601	$1,730,000	$2,167,734	$1,354
Millennium Tower	301 Mission St Unit 903	5/2/2012	1,526	$1,360,000	$1,704,115	$1,117
Millennium Tower	301 Mission St Unit 18F	5/3/2012	1,845	$1,800,000	$2,255,446	$1,222
Millennium Tower	301 Mission St Unit 43A	5/3/2012	1,517	$1,700,000	$2,130,144	$1,404
Millennium Tower	301 Mission St Unit 46C	5/4/2012	1,602	$1,925,000	$2,412,074	$1,506
Millennium Tower	301 Mission St Unit 15C	5/8/2012	833	$820,000	$1,027,481	$1,233
Millennium Tower	301 Mission St Unit 27D	5/10/2012	1,952	$2,450,000	$3,069,913	$1,573
Millennium Tower	301 Mission St Unit 49B	5/10/2012	3,315	$4,800,000	$6,014,523	$1,814
Millennium Tower	301 Mission St Unit 502	5/14/2012	1,779	$1,875,000	$2,349,423	$1,321
Millennium Tower	301 Mission St Unit 33E	5/15/2012	1,714	$1,850,000	$2,318,098	$1,352
Millennium Tower	301 Mission St Unit 54C	5/15/2012	2,819	$4,230,000	$5,300,299	$1,880
Four Seasons	765 Market St Apt 27F	5/15/2012	2,576	$4,750,000	$5,951,872	$2,311
Four Seasons	765 Market St Apt 27G	5/15/2012	1,767	$2,735,000	$3,427,025	$1,939
Millennium Tower	301 Mission St Unit 16E	5/16/2012	1,136	$1,028,000	$1,288,110	$1,134
Millennium Tower	301 Mission St Unit 3G	5/16/2012	1,268	$860,000	$1,077,602	$850
Millennium Tower	301 Mission St Unit 45E	5/16/2012	1,680	$2,050,000	$2,568,703	$1,529
Millennium Tower	301 Mission St Unit 4B	5/18/2012	668	$575,000	$720,490	$1,079
The St. Regis San Francisco	188 Minna St Apt 34F	5/18/2012	1,527	$1,750,000	$2,192,795	$1,436
Millennium Tower	301 Mission St Unit 5E	5/21/2012	1,136	$935,000	$1,171,579	$1,031
Millennium Tower	301 Mission St Unit 32C	5/24/2012	2,170	$2,600,000	$3,257,867	$1,501
Millennium Tower	301 Mission St Unit 304	5/30/2012	1,281	$1,235,000	$1,547,487	$1,208
Millennium Tower	301 Mission St Unit 12D	5/31/2012	751	$650,000	$814,467	$1,085
Millennium Tower	301 Mission St Unit 55D	5/31/2012	2,230	$3,350,000	$4,197,636	$1,882
Millennium Tower	301 Mission St Unit 5D	5/31/2012	789	$665,000	$833,262	$1,056
Millennium Tower	301 Mission St Unit 6D	6/1/2012	789	$727,000	$898,127	$1,138
Millennium Tower	301 Mission St Unit 8C	6/4/2012	833	$725,000	$895,656	$1,075

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Exhibit 2
Comparable Condominium Sale Prices, San Francisco
January 2011 – March 2013

Case-Shiller Adjusted Average $/Sq.Ft. for Units > 2,000 Square Feet $1,839
Case-Shiller Adjusted Median $/Sq.Ft. for Units > 2,000 Square Feet $1,814

Complex	Unit	Date of Sale	Square Footage	Sale Price	Case-Shiller Adjusted Price [1]	Case-Shiller Adjusted $/Sq.Ft.
Millennium Tower	301 Mission St Unit 35E	6/6/2012	1,714	$1,925,000	$2,378,122	$1,387
Millennium Tower	301 Mission St Unit 3E	6/6/2012	1,136	$970,000	$1,198,326	$1,055
Millennium Tower	301 Mission St Unit 12B	6/11/2012	668	$610,000	$753,587	$1,128
Millennium Tower	301 Mission St Ph 2B	6/13/2012	5,460	$9,840,000	$12,156,217	$2,226
Millennium Tower	301 Mission St Unit 1002	6/13/2012	1,675	$1,900,000	$2,347,237	$1,401
Millennium Tower	301 Mission St Unit 17C	6/14/2012	833	$825,000	$1,019,195	$1,224
Millennium Tower	301 Mission St Unit 604	6/15/2012	1,485	$1,500,000	$1,853,082	$1,248
Millennium Tower	301 Mission St Unit 40A	6/20/2012	1,517	$1,670,000	$2,063,098	$1,360
The St. Regis San Francisco	188 Minna St Apt 29E	6/20/2012	2,542	$4,350,000	$5,373,937	$2,114
The St. Regis San Francisco	188 Minna St Apt 31A	6/21/2012	2,027	$3,025,000	$3,737,048	$1,844
Millennium Tower	301 Mission St Unit 36A	6/22/2012	1,517	$1,620,000	$2,001,328	$1,319
Millennium Tower	301 Mission St Unit 31B	6/29/2012	1,652	$1,800,000	$2,223,698	$1,346
Millennium Tower	301 Mission St Unit 36B	6/29/2012	1,652	$1,835,000	$2,266,937	$1,372
Millennium Tower	301 Mission St Unit 805	7/3/2012	1,731	$1,700,000	$2,073,996	$1,198
Millennium Tower	301 Mission St Unit 15F	7/6/2012	1,845	$1,700,000	$2,073,996	$1,124
Millennium Tower	301 Mission St Unit 1006	7/10/2012	1,633	$1,450,000	$1,768,996	$1,083
Millennium Tower	301 Mission St Unit 37B	7/11/2012	1,652	$1,760,000	$2,147,196	$1,300
The Ritz-Carlton Residences	690 Market St Unit 1502	7/11/2012	1,900	$1,130,000	$1,378,597	$726
The Ritz-Carlton Residences	690 Market St Unit 1502	7/11/2012	1,900	$1,130,000	$1,378,597	$726
Millennium Tower	301 Mission St Unit 1001	7/20/2012	1,953	$1,905,000	$2,324,095	$1,190
Millennium Tower	301 Mission St Unit 56D	7/20/2012	2,230	$3,560,000	$4,343,191	$1,948
Millennium Tower	301 Mission St Unit 5J	7/20/2012	1,245	$1,067,000	$1,301,737	$1,046
Millennium Tower	301 Mission St Unit 37C	7/27/2012	2,170	$2,725,000	$3,324,493	$1,532
Millennium Tower	301 Mission St Unit 14C	7/31/2012	833	$790,000	$963,798	$1,157
Millennium Tower	301 Mission St Unit 6G	8/1/2012	1,268	$979,000	$1,169,036	$922
Millennium Tower	301 Mission St Unit 7E	8/1/2012	1,136	$1,044,000	$1,246,654	$1,097
Millennium Tower	301 Mission St Unit 38A	8/3/2012	1,517	$1,650,000	$1,970,286	$1,299
Millennium Tower	301 Mission St Unit 46B	8/6/2012	2,129	$2,750,000	$3,283,810	$1,542
Millennium Tower	301 Mission St Unit 10H	8/10/2012	666	$650,000	$776,173	$1,165
Millennium Tower	301 Mission St Unit 25F	8/14/2012	1,845	$1,975,000	$2,358,372	$1,278
Millennium Tower	301 Mission St Unit 50A	8/16/2012	2,706	$3,541,000	$4,228,353	$1,563
The St. Regis San Francisco	188 Minna St Apt 31D	8/21/2012	1,792	$3,100,000	$3,701,749	$2,066

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Exhibit 2
Comparable Condominium Sale Prices, San Francisco
January 2011 – March 2013

Case-Shiller Adjusted Average $/Sq.Ft. for Units > 2,000 Square Feet $1,839
Case-Shiller Adjusted Median $/Sq.Ft. for Units > 2,000 Square Feet $1,814

Complex	Unit	Date of Sale	Square Footage	Sale Price	Case-Shiller Adjusted Price [1]	Case-Shiller Adjusted $/Sq.Ft.
Millennium Tower	301 Mission St Unit 18C	8/22/2012	833	$890,000	$1,062,760	$1,276
Millennium Tower	301 Mission St Unit 26F	8/23/2012	1,601	$1,500,000	$1,791,169	$1,119
Millennium Tower	301 Mission St Unit 31F	8/27/2012	1,601	$1,630,000	$1,946,404	$1,216
Millennium Tower	301 Mission St Unit 53A	8/31/2012	2,706	$3,600,000	$4,298,805	$1,589
Millennium Tower	301 Mission St Unit 8F	8/31/2012	1,845	$1,450,000	$1,731,463	$938
Millennium Tower	301 Mission St Unit 1004	9/5/2012	1,400	$1,595,000	$1,875,824	$1,340
Four Seasons	765 Market St Apt 36F	9/5/2012	2,572	$5,100,000	$5,997,934	$2,332
The St. Regis San Francisco	188 Minna St Apt 33C	9/5/2012	1,670	$1,750,000	$2,058,115	$1,232
Millennium Tower	301 Mission St Unit 9J	9/10/2012	1,127	$910,000	$1,070,220	$950
Millennium Tower	301 Mission St Unit 25H	9/11/2012	773	$849,000	$998,480	$1,292
Millennium Tower	301 Mission St Unit 51A	9/14/2012	2,706	$3,585,000	$4,216,195	$1,558
The St. Regis San Francisco	188 Minna St Apt 37B	9/14/2012	1,639	$2,300,000	$2,704,951	$1,650
Millennium Tower	301 Mission St Unit 35F	9/18/2012	1,601	$1,749,000	$2,056,939	$1,285
Millennium Tower	301 Mission St Unit 5F	9/18/2012	1,845	$1,435,000	$1,687,654	$915
Millennium Tower	301 Mission St Unit 8D	9/18/2012	751	$700,000	$823,246	$1,096
Four Seasons	765 Market St Apt 36E	9/18/2012	1,453	$1,950,000	$2,293,328	$1,578
Millennium Tower	301 Mission St Unit 404	9/26/2012	1,485	$1,500,000	$1,764,098	$1,188
Millennium Tower	301 Mission St Ph 6	9/28/2012	1,633	$1,400,000	$1,646,492	$1,008
Millennium Tower	301 Mission St Unit 14F	9/28/2012	1,845	$1,700,000	$1,999,311	$1,084
Millennium Tower	301 Mission St Unit 38E	10/3/2012	1,714	$2,288,000	$2,623,198	$1,530
Millennium Tower	301 Mission St Unit 5G	10/3/2012	1,268	$1,010,000	$1,157,968	$913
Millennium Tower	301 Mission St Unit 40D	10/4/2012	1,952	$2,800,000	$3,210,207	$1,645
Millennium Tower	301 Mission St Unit 54D	10/9/2012	2,230	$3,450,000	$3,955,434	$1,774
Millennium Tower	301 Mission St Unit 49A	10/15/2012	2,706	$3,500,000	$4,012,759	$1,483
Millennium Tower	301 Mission St Unit 3J	10/16/2012	1,245	$995,000	$1,140,770	$916
Millennium Tower	301 Mission St Unit 48F	11/2/2012	1,605	$2,200,000	$2,498,904	$1,557
Millennium Tower	301 Mission St Unit 606	11/9/2012	1,633	$1,325,000	$1,505,022	$922
Millennium Tower	301 Mission St Unit 15H	11/15/2012	773	$820,000	$931,410	$1,205
Millennium Tower	301 Mission St Unit 40F	11/20/2012	1,601	$1,888,000	$2,144,514	$1,339
Millennium Tower	301 Mission St Unit 54A	11/20/2012	2,706	$4,300,000	$4,884,222	$1,805
The St. Regis San Francisco	188 Minna St Apt 25D	11/21/2012	1,792	$3,300,000	$3,748,357	$2,092
The St. Regis San Francisco	188 Minna St Apt 27A	11/28/2012	2,027	$2,810,000	$3,191,782	$1,575

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Exhibit 2
Comparable Condominium Sale Prices, San Francisco
January 2011 – March 2013

Case-Shiller Adjusted Average $/Sq.Ft. for Units > 2,000 Square Feet $1,839
Case-Shiller Adjusted Median $/Sq.Ft. for Units > 2,000 Square Feet $1,814

Complex	Unit	Date of Sale	Square Footage	Sale Price	Case-Shiller Adjusted Price [1]	Case-Shiller Adjusted $/Sq.Ft.
Millennium Tower	301 Mission St Unit 17F	11/30/2012	1,845	$1,810,000	$2,055,917	$1,114
Millennium Tower	301 Mission St Unit 20F	11/30/2012	1,887	$1,850,000	$2,101,351	$1,114
Millennium Tower	301 Mission St Unit 701	12/5/2012	1,955	$1,817,000	$2,031,034	$1,039
Millennium Tower	301 Mission St Unit 4G	12/12/2012	1,268	$1,020,000	$1,140,151	$899
Millennium Tower	301 Mission St Unit 806	12/17/2012	1,633	$1,410,000	$1,576,092	$965
Millennium Tower	301 Mission St Unit 803	12/18/2012	1,526	$1,450,000	$1,620,803	$1,062
Four Seasons	765 Market St Apt 33E	12/18/2012	1,453	$1,925,000	$2,151,756	$1,481
Millennium Tower	301 Mission St Unit 506	12/21/2012	1,633	$1,215,000	$1,358,121	$832
Millennium Tower	301 Mission St Unit 26D	12/24/2012	1,952	$2,500,000	$2,794,489	$1,432
Millennium Tower	301 Mission St Unit 46F	12/24/2012	1,509	$1,750,000	$1,956,142	$1,296
Millennium Tower	301 Mission St Unit 501	12/24/2012	1,955	$1,875,000	$2,095,866	$1,072
Millennium Tower	301 Mission St Unit 504	12/27/2012	1,485	$1,475,000	$1,648,748	$1,110
The Ritz-Carlton Residences	690 Market St Unit 1404	12/27/2012	1,900	$3,845,500	$4,298,482	$2,262
The Ritz-Carlton Residences	690 Market St Unit 1503	12/27/2012	1,431	$2,483,000	$2,775,486	$1,940
The Ritz-Carlton Residences	690 Market St Unit 1504	12/27/2012	1,900	$3,739,500	$4,179,996	$2,200
The Ritz-Carlton Residences	690 Market St Unit 1804	12/27/2012	1,900	$3,948,500	$4,413,615	$2,323
The Ritz-Carlton Residences	690 Market St Unit 2001	12/27/2012	1,515	$3,803,500	$4,251,535	$2,806
The Ritz-Carlton Residences	690 Market St Unit 2104	12/27/2012	1,900	$4,277,500	$4,781,370	$2,517
The Ritz-Carlton Residences	690 Market St Unit 2103	12/27/2012	1,431	$2,936,500	$3,282,406	$2,294
The Ritz-Carlton Residences	690 Market St Unit 2102	12/27/2012	1,192	$2,194,500	$2,453,002	$2,058
The Ritz-Carlton Residences	690 Market St Unit 2204	12/27/2012	1,257	$2,398,500	$2,681,032	$2,133
The Ritz-Carlton Residences	690 Market St Unit 2304	12/27/2012	1,414	$2,902,000	$3,243,842	$2,294
Millennium Tower	301 Mission St Unit 36E	12/28/2012	1,714	$2,380,000	$2,660,353	$1,552
Millennium Tower	301 Mission St Unit 51B	12/28/2012	3,315	$7,800,000	$8,718,805	$2,630
Millennium Tower	301 Mission St Unit 601	12/28/2012	1,955	$1,845,000	$2,062,333	$1,055
Millennium Tower	301 Mission St Unit 27F	12/31/2012	1,601	$1,517,000	$1,695,696	$1,059
Millennium Tower	301 Mission St Unit 33A	12/31/2012	1,517	$1,680,000	$1,877,896	$1,238
Millennium Tower	301 Mission St Unit 39A	12/31/2012	1,517	$1,700,000	$1,900,252	$1,253
Millennium Tower	301 Mission St Unit 45C	12/31/2012	1,602	$2,250,000	$2,515,040	$1,570
Millennium Tower	301 Mission St Unit 47A	12/31/2012	1,517	$1,750,000	$1,956,142	$1,289
Millennium Tower	301 Mission St Unit 47F	12/31/2012	1,564	$1,740,000	$1,944,964	$1,244
The St. Regis San Francisco	188 Minna St Apt 29C	12/31/2012	1,670	$2,150,000	$2,403,260	$1,439

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Exhibit 2
Comparable Condominium Sale Prices, San Francisco
January 2011 – March 2013

Case-Shiller Adjusted Average $/Sq.Ft. for Units > 2,000 Square Feet **$1,839**
Case-Shiller Adjusted Median $/Sq.Ft. for Units > 2,000 Square Feet **$1,814**

Complex	Unit	Date of Sale	Square Footage	Sale Price	Case-Shiller Adjusted Price [1]	Case-Shiller Adjusted $/Sq.Ft.
Millennium Tower	301 Mission St Unit 21H	1/2/2013	666	$735,000	$803,993	$1,207
The St. Regis San Francisco	188 Minna St Apt 33A	1/10/2013	2,027	$3,500,000	$3,828,538	$1,889
The St. Regis San Francisco	188 Minna St Apt 25F	1/11/2013	1,527	$1,930,000	$2,111,165	$1,383
Millennium Tower	301 Mission St Unit 42A	1/14/2013	1,517	$1,732,000	$1,894,579	$1,249
The Ritz-Carlton Residences	690 MARKET St #2005	1/15/2013	950	$760,000	$831,340	$875
Millennium Tower	301 Mission St Unit 36F	1/16/2013	1,601	$1,800,000	$1,968,962	$1,230
Millennium Tower	301 Mission St Unit 21J	1/23/2013	1,127	$970,000	$1,061,052	$941
Four Seasons	765 Market St Apt 32H	1/23/2013	1,427	$2,025,000	$2,215,083	$1,552
Millennium Tower	301 Mission St Unit 801	1/24/2013	1,955	$1,880,000	$2,056,472	$1,052
Millennium Tower	301 Mission St Unit 26A	1/28/2013	1,517	$1,500,000	$1,640,802	$1,082
Millennium Tower	301 Mission St Unit 48C	1/29/2013	2,180	$3,850,000	$4,211,392	$1,932
Millennium Tower	301 Mission St Unit 34B	1/31/2013	1,652	$1,850,000	$2,023,656	$1,225
Millennium Tower	301 Mission St Unit 43F	1/31/2013	1,564	$1,640,000	$1,793,944	$1,147
Millennium Tower	301 Mission St Unit 1005	2/7/2013	1,728	$2,130,000	$2,257,956	$1,307
Millennium Tower	301 Mission St Unit 302	2/14/2013	1,766	$2,300,000	$2,438,169	$1,381
Millennium Tower	301 Mission St Unit 41A	2/14/2013	1,517	$1,700,000	$1,802,125	$1,188
The St. Regis San Francisco	188 Minna St Apt 26B	2/21/2013	1,772	$710,000	$752,652	$425
Millennium Tower	301 Mission St Unit 605	2/27/2013	1,731	$1,750,000	$1,855,129	$1,072
The Ritz-Carlton Residences	690 Market St Unit 1401	2/28/2013	1,382	$1,300,000	$1,378,095	$997
Millennium Tower	301 Mission St Unit 12J	3/26/2013	1,207	$1,195,000	$1,222,521	$1,013
Millennium Tower	301 Mission St Unit 25C	3/29/2013	838	$1,160,000	$1,186,715	$1,416

Source: Redfin, Standard and Poors

Note:
[1] The Case-Shiller Condominium Index is seasonally adjusted.
[2] This unit appears twice in the Redfin data, but is likely two separate units based on differences in square footage and sale price. Both entries are included in this analysis.

Exhibit 3
Corrected Price per Square Foot

Category	EPS Report, Table 3 Average $/Sq.Ft.	Corrected Average $/Sq.Ft.
Tower		
Floors 3 - 10	$1,150	$1,650
Floors 11 - 25 [1]	$1,200	$1,722
Floor 26 [2]	$1,275	$1,829
Floor 27 [3]	$1,400	$2,009
Aronson Building [4]	$1,100	$1,578
Weighted Average $/Sq.Ft.	**$1,179**	**$1,692**

Sources: EPS Report Table 3; Exhibit 1

Exhibit 4
EPS Report's Appendix A, Table 5
With Corrected Assumptions

Item	Assumption	Residential Flex Option
DEVELOPMENT PROGRAM		
Gross Building Square Feet		477,060
Residential		
Gross Square Feet		376,810
Net Saleable Area	80% Efficiency Ratio	301,448 [1]
Units		147 [2]
Parking Spaces		470
DEVELOPMENT REVENUE		
Residential Sales Revenue		$511,120,930 [3]
(less) Commission Expenses	3% of purchase price	($15,333,628)
Residential Parking Sales Revenue	$100,000 per space	$14,700,000
Lease Revenue		
Parking	$322 / space / mo.	$1,244,208
Subtotal, Lease Revenue		$1,244,208
(less) Capital Reserve	1.0% of Lease Revenue	($12,442)
Annual Net Operating Income		$1,231,766
Capitalized Value	6.0% cap rate	$20,118,843
Total Revenues		**$530,606,146**
DEVELOPMENT COSTS		
2006 Acquisition of Aronson Building		$23,500,000
Agency Site Purchase/Conveyance		$39,393,904
Aronson Building Property Costs		–
Direct Construction Costs		
Predevelopment Entitlement Costs		$9,388,235
Direct Construction	$517 / gross sq.ft.	$227,437,625 [4]
Exterior/ Curtain Wall	$100 / sq.ft of façade	$1,328,000
Tenant Improvements (Office)	$100 / sq. ft.	$0
Subtotal, Direct Construction Costs		$238,153,860
Indirect Costs		
Architecture and Engineering	3.9% of Direct Costs	$9,288,001
Fees and Permits	2.9% of Direct Costs	$6,906,462
Legal	0.6% of Direct Costs	$1,428,923
Sales and Marketing	1.4% of Direct Costs	$3,334,154
Other Indirect Costs	9.8% of Direct Costs	$23,339,078
Subtotal, Indirect Costs	18.5% to 18.6% of Direct Costs	$44,296,618

Exhibit 4
EPS Report's Appendix A, Table 5
With Corrected Assumptions

Item	Assumption	Residential Flex Option
Other Project Costs		
Museum Operating Endowment		$5,000,000
Aronson Building Rehab/Renovation		–
Required Affordable Housing In-Lieu Fees		$10,275,917 [5]
Additional Affordable Housing In-Lieu Fees		$4,110,367 [5]
Purchase of TDRs (if applicable)	$24 / gross sq.ft.	$0 [6]
Absorption Period HOA Dues		$241,825
Open Space Maintenance (GMOS)		$471,013
EIR-Related Measures		$975,000
Other Project Costs		$7,565,000
Subtotal, Other Project Costs		$28,639,122
Total Costs		**$373,983,503**
Developer Return	15% of Total Costs	**$56,097,525** [7]
Project Residual		**$100,525,117**

Note:
[1] The 80% efficiency ratio is updated based my own research and conversations with other real estate experts.
[2] The updated number of units is based on the corrected unit size of 2,052 sq.ft and the Net Saleable Area of 376,810 sq.ft.
[3] The updated Residential Sales Revenue is calculated by multiplying Net Saleable Area by the expected sales price per sq.ft.
[4] Direct construction costs are calculated based on a corrected gross square foot cost of $477/sq.ft, which has been corrected based on the larger average units.
[5] Affordable Housing In-Lieu Fees are calculated based on the updated number of units .
[6] No TDR purchases are included.
[7] Corrected from 18% in the EPS Report.

Exhibit 5

Impact of Corrections to the EPS Report's Reduced Shadow Alternative

Adjustment	EPS Value	Adjustment	Impact of Adjustment	Cumulative Resulting Project Residual [1]
EPS Results [2]	–	–	–	($139,541,222)
Reduced costs due to increased unit size	1,300 sq.ft.	2,052 sq.ft.	$25,077,331	($114,463,891)
Increased revenue due to increased floor plate	10,650 sq.ft.	12,970 sq.ft.	$34,536,007	($79,927,884)
Increased sale prices due to increased unit size [3]	$1,150/sq.ft.	$1,450/sq.ft.	$85,635,989	$5,708,105
Increased sale prices due to market adjustment [4]	$1,450/sq.ft.	$1,650/sq.ft.	$57,090,659	$62,798,764
Increased revenue due to increased efficiency ratio	76%	80%	$24,243,627	$87,042,390
Increased residual due to reduced developer return	18%	15%	$11,277,045	$98,319,435
Reduced costs due to elimination of TDR purchases	79,916	0	$2,205,682	$100,525,117
Final Adjusted Residual	–	–	–	**$100,525,117**

Note:
[1] Resulting project residuals are calculated by making adjustments in the order they are shown in the table.
[2] EPS Report Appendix A, Table 5.
[3] This adjustment refers to the $/sq.ft. for the bottom residential floors (3–10).
[4] This adjustment is based on the seasonally-adjusted Case-Shiller Condominium Index for San Francisco and refers to the $/sq. ft for the bottom residential floors (3–10).

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EXHIBIT 2

Report

Financial Feasibility of 706 Mission Street: The Mexican Museum and Residential Tower Project and Alternatives

The Economics of Land Use

Prepared for:

706 Mission Street Co., LLC

Prepared by:

Economic & Planning Systems, Inc.

Economic & Planning Systems, Inc.
2501 Ninth Street, Suite 200
Berkeley, CA 94710-2257
510 841 9190 tel
510 841 9208 fax

Berkeley
Denver
Los Angeles
Sacramento

www.epsys.com

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EPS #121084

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1. INTRODUCTION

In order to assist the City of San Francisco in making environmental findings pursuant to the California Environmental Quality Act (CEQA), Economic & Planning Systems, Inc. (EPS) has evaluated the financial feasibility of the 706 Mission Street: The Mexican Museum and Residential Tower Project (the "Project") and the project alternatives (the "Project Alternatives") identified in the Environmental Impact Report ("EIR") prepared for the Project. The Project analyzed in the EIR includes construction of a new residential tower at 706 Mission Street connected to a restored and rehabilitated Aronson Building, with a mix of residential, Mexican Museum, restaurant/retail, and possibly office uses.

For this analysis, EPS prepared financial pro formas for the Project and the Project Alternatives that indicate whether or not each is financially feasible. The Project and the Project Alternatives are described in **Chapter 2**. The pro formas evaluate whether or not the Project and the Project Alternatives will generate sufficient revenues to pay for all development costs and developer return.

In this analysis, the net revenues above the minimum returns required for project feasibility are referred to as the "Project Residual." If the Project Residual is positive, then the project is financially feasible. If the Project Residual is negative, then the developer is not able to earn a sufficient return on the project and it is considered financially infeasible. In these cases, the project is not likely to be developed. As summarized in **Table 1** and further detailed in **Chapter 3** and **Appendix A**, EPS has determined that the Project is financially feasible. The Separate Buildings Alternative is also financially feasible, while the other Project Alternatives are not financially feasible because in those cases, project costs plus developer targeted return exceed project revenues.

Table 1
Summary of Project Residual by Alternative
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Project Residual	Project		Alternative						
			B: Existing Zoning		C: Separate Buildings	D: Increased Res. Density		E: Reduced Shadow	
Flex Option	*Residential*	*Office*	*Residential*	*Office*	*n/a*	*Residential*	*Office*	*Residential*	*Office*
Project Residual									
Project Residual (w/out TDR Purchase)	$40,300,000	$30,600,000	($142,600,000)	($133,400,000)	$5,300,000	($25,600,000)	($29,300,000)	($137,600,000)	($134,500,000)
Project Residual (w/ TDR Purchase)	n/a	n/a	($143,400,000)	($134,200,000)	n/a	n/a	n/a	($139,500,000)	($136,400,000)

Source: Economic & Planning Systems, Inc.

2. DESCRIPTION OF PROJECT AND PROJECT ALTERNATIVES

EPS evaluated the Project as well as four of the five Project Alternatives analyzed in the EIR. Alternative A, the No Project Alternative, is not evaluated in this analysis. The components of the Project and the Project Alternatives that affect the financial feasibility analyses are described below and displayed on **Table 2**. More detailed descriptions of the Project and the Project Alternatives can be found in the EIR.

Project

The Project Site (the "Site") is on the northwest corner of Third and Mission Streets, near the southern edge of San Francisco's Financial District neighborhood. As shown on **Figures 1 and 2**, the Site consists of three lots: the entirety of Assessor's Block 3706, Lots 093 and 275, and portions of Assessor's Block 3706, Lot 277. Together, these lots cover an area of approximately 63,468 square feet or approximately 1.45 acres.

The eastern portion of the Site is occupied by the historically important, 10-story Aronson Building. The Aronson Building has a retail use on the ground floor and office uses on the floors above. The western portion of the Site is vacant at the surface. This vacant surface lot is the location that was chosen in 1993 by the San Francisco Redevelopment Agency and The Mexican Museum as the future permanent home of The Mexican Museum. The Site also includes the four-level Jessie Square Garage, which is underneath Jessie Square. The garage has 442 parking spaces and is open to the public. Jessie Square is adjacent to and west of the Site, and the Site also includes an airspace parcel for the portion of the tower that cantilevers over Jessie Square.

The Successor Agency to the San Francisco Redevelopment Agency (the "Successor Agency") is the owner of Assessor's Block 3706, Lots 275 and 277.[1] The Project Sponsor, 706 Mission Street Co., LLC (the "Project Sponsor" or the "Developer"), is the owner of Assessor's Block 3706, Lot 093. The purchase/conveyance of what is referred to as the "Agency Site" in the pro formas in **Appendix A** refers only to the portion of the Project Site that is currently owned by the Successor Agency.

The Project consists of the construction of a new 47-story, 520-foot-tall tower with two floors below grade (basement floors of the tower) on The Mexican Museum portion of the Agency Site. The new tower would be adjacent to and physically connected to the Aronson Building, which would be restored and rehabilitated as part of the Project. Overall, the Project would contain up

[1] The San Francisco Redevelopment Agency was dissolved by State legislation effective February 1, 2012. The Successor Agency to the former Redevelopment Agency has assumed responsibility for working with 706 Mission Street Co., LLC, the Project Sponsor, fulfilling the obligations of the Redevelopment Agency. Though the Yerba Buena Center Redevelopment Project Area has expired, the Project site is the final vacant site that had been identified for infill redevelopment in the former Redevelopment Area.

Table 2
Development Program by Alternative
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Item	Project		Alternative B: Existing Zoning		C: Separate Buildings	D: Increased Residential Density		E: Reduced Shadow	
Total Gross Sq.Ft.	**710,525**		**275,590**		**704,280**	**710,525**		**418,441**	
Flex Option	*Residential*	*Office*	*Residential*	*Office*	*n/a*	*Residential*	*Office*	*Residential*	*Office*
Residential									
Units	215	191	74	50	187	325	283	186	162
Gross Sq.Ft.	580,630	519,310	175,340	122,780	487,630	580,630	519,310	318,191	265,631
Amenity (Gross Sq.Ft.)	22,199	22,199	2,000	2,000	19,215	22,199	22,199	2,000	2,000
Office (Gross Sq.Ft.)	0	61,320	0	52,560	78,840	0	61,320	0	52,560
Museum - Cultural (Gross Sq.Ft.) [1]	52,285	52,285	45,000	45,000	46,655	52,285	52,285	45,000	45,000
Retail (Potential Museum) (Sq.Ft.) [1]	4,800	4,800	4,800	4,800	4,800	4,800	4,800	4,800	4,800
Other (Gross Sq.Ft.) [2]	50,611	50,611	48,450	48,450	67,140	50,611	50,611	48,450	48,450
Parking (Spaces)									
Public [3]	210	210	442	442	210	210	210	210	210
Residential [4]	215	191	0	0	187	228	198	186	162
Carshare (Private)	2	1	0	0	1	2	2	1	1
Leased	43	68	0	0	72	30	60	73	97
Subtotal (Spaces)	470	470	442	442	470	470	470	470	470
Open Space (Sq.Ft.)	12,131	12,131	14,484	14,484	3,506	12,131	12,131	14,484	14,484

[1] Museum square footage includes up to approximately 52,285 gross square feet of interior space (varies by alternative), and approximately 4,800 gross square feet of potential ground-floor retail space. The Museum will also include approximately 2,830 gross square feet of exterior terrace space on the 4th floor, though that space is not accounted for here.
[2] Other includes storage space, building core, mechanical and service space and Jessie Square Garage ramp to Mission Street.
[3] The public parking spaces include 4 car share spaces.
[4] The Existing Zoning Alternative does not include conveyance of the Jessie Square Garage to the Project Sponsor, so there would not be parking available for private use.

Sources: 706 Mission Street Co., LLC; Economic & Planning Systems, Inc.

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Figure 1. Project Site Parcel Map

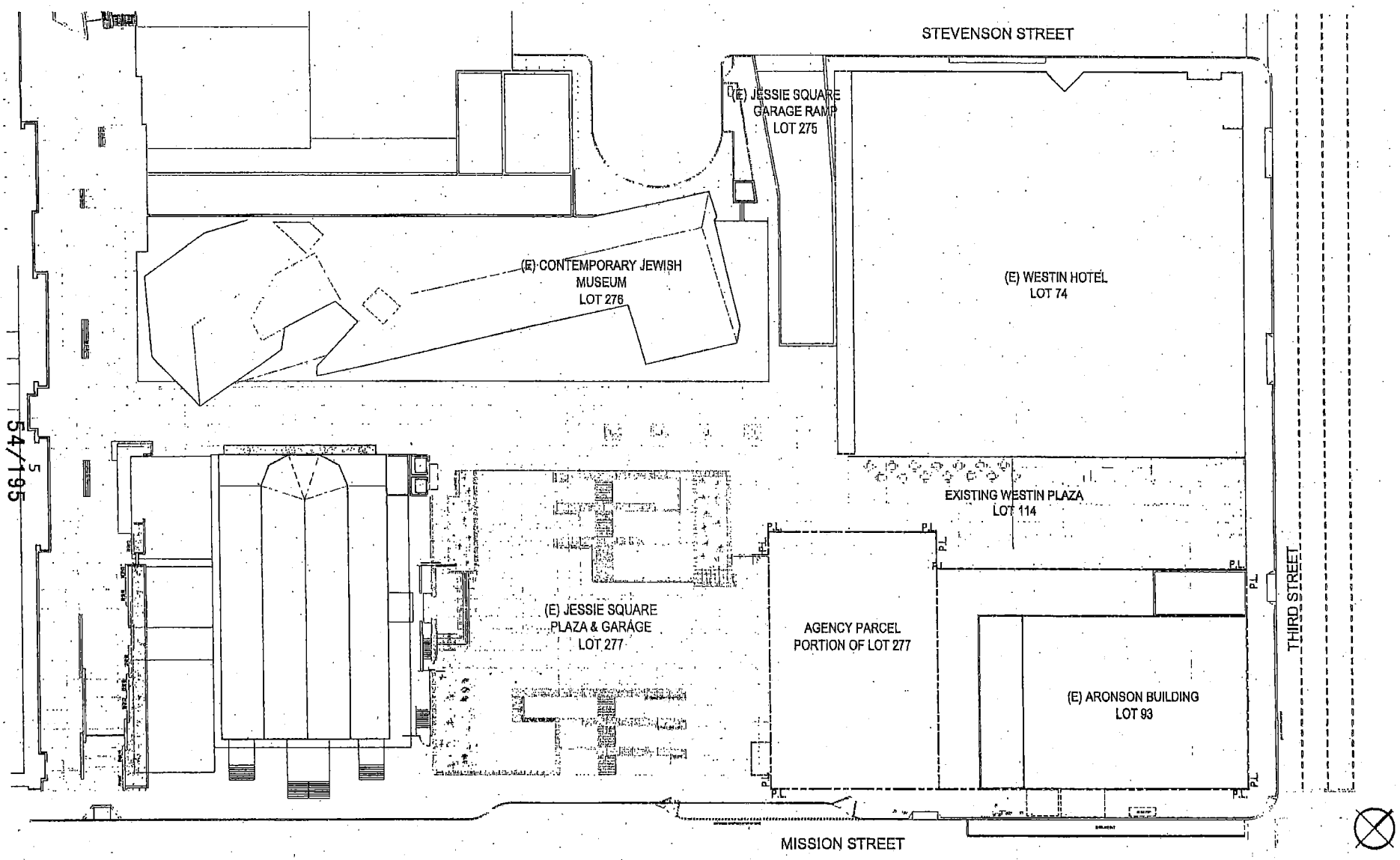

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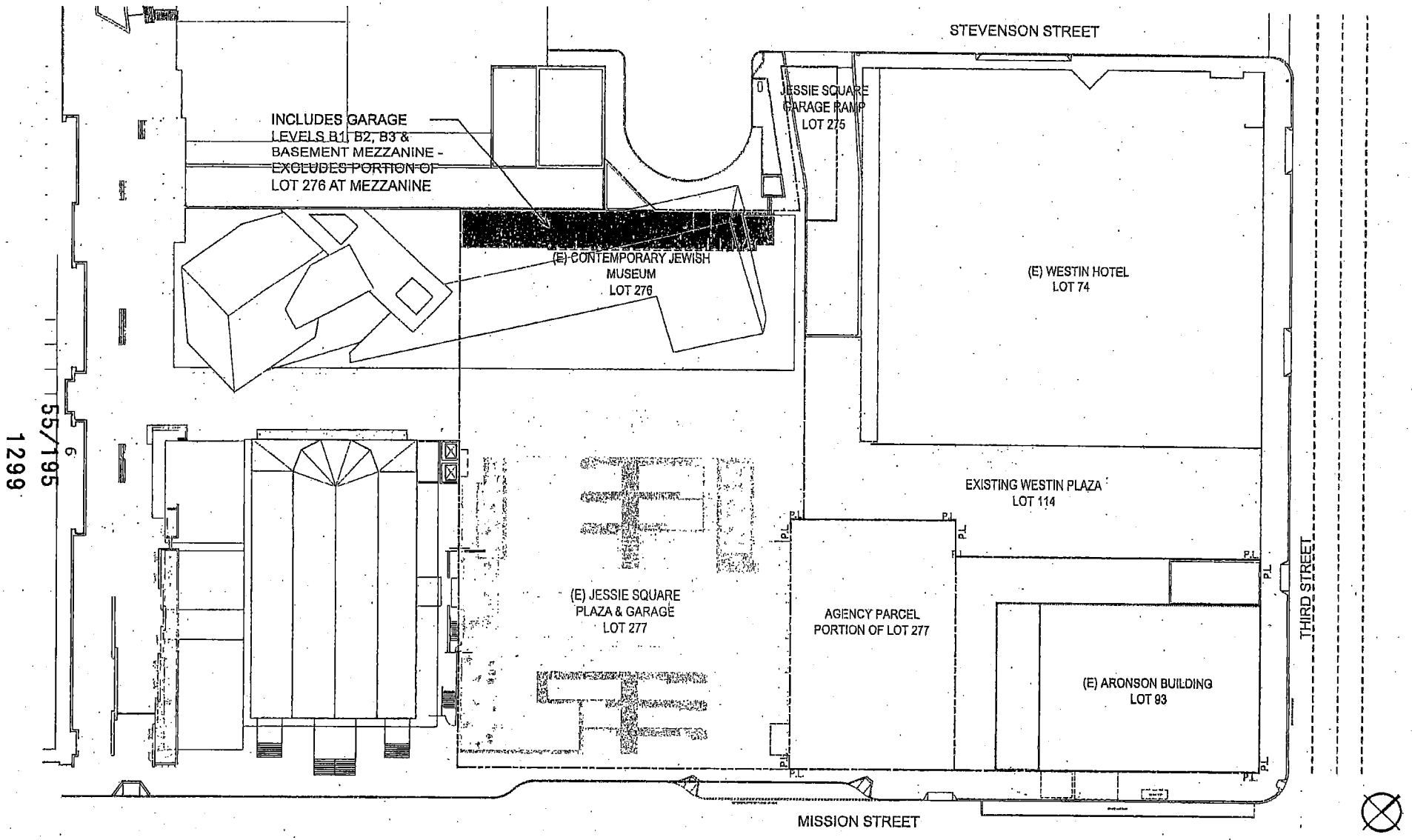
Figure 2. Project Site Below-Grade Parcel Map



to 215 premium condominium units with an average size of 2,000 square feet, seven floors of flex space (residential or office use) in the Aronson Building, approximately 52,285 gross square feet of space for The Mexican Museum (in both the Aronson Building and the tower), 4,800 gross square feet of ground-floor retail/restaurant space for potential use by The Mexican Museum, and associated building services. The new tower would contain up to 43 floors of residential space and four floors of museum space. The Aronson Building would contain retail/restaurant space on the ground floor and museum space on the second and third floors. In addition, two flex space options are proposed for the fourth through tenth floors of the Aronson Building. The residential flex option (the "Residential Flex Option") would convert these seven floors from office use to up to 28 residential units, and the office flex option (the "Office Flex Option") would continue their use as office space. The tenth floor of the Aronson Building could be dedicated to residential amenity space if the residential amenity space is not provided on the fifth floor of the new tower.

As part of the Project, the Successor Agency would convey the Jessie Square Garage and its entrance ramp to the Project Sponsor. The garage would be converted from a publicly-owned garage to a privately-owned garage. The total number of parking spaces in the Jessie Square Garage would increase from 442 to 470 with the Project. The utilization of the existing mezzanine area below the Contemporary Jewish Museum will accommodate approximately 38 new parking spaces. Approximately 10 spaces will be removed for vehicular access and circulation, resulting in a net increase of 28 spaces. Of the 470 parking spaces, 210 spaces on the upper two levels would remain available to the general public. These 210 spaces would include parking for St. Patrick's Church, the Contemporary Jewish Museum, and The Mexican Museum. The remaining 260 spaces would include one parking space available for each residential unit, leased spaces and one to two car share spaces.

The Project and related real estate transaction(s) are the subject of a May 4, 2010, Exclusive Negotiation Agreement ("ENA") between the Successor Agency and the Project Sponsor. In addition to the Project components described above, the ENA also requires the Project to: construct the core and shell of the museum space; contribute $5.0 million to an operating endowment for The Mexican Museum to help support its ongoing operations; defease the outstanding Jessie Square Garage bonds and repay the Successor Agency's debt to the City; pay the equivalent of a 28 percent affordable housing in-lieu fee; and make annual contributions to the Yerba Buena Gardens common area maintenance account.

Alternative A: No Project Alternative

Alternative A, the No Project Alternative, is not evaluated in this analysis.

Alternative B: Existing Zoning Alternative

The purpose of the Existing Zoning Alternative is to provide an alternative that complies with the existing zoning for the Site, which includes a maximum floor area ratio of 9.0 to 1 with the purchase of transferable development rights ("TDRs"). With the purchase of TDRs, the Existing Zoning Alternative would result in a new 196-foot tall (13-story) residential building, which is 354 feet (34 stories) shorter than the Project. As with the Project, the new building would also be physically connected to the adjacent Aronson Building. If the Office Flex Option were

pursued, the Existing Zoning Alternative would include approximately 52,560 gross square feet of Class A office space in the Aronson Building and up to 50 condominium units in the new building. If the Residential Flex Option were pursued, the Existing Zoning Alternative would include up to 74 condominium units and no office space.

The amount of space set aside for The Mexican Museum would be reduced to approximately 45,000 gross square feet in this Alternative. Consistent with the Project, approximately 4,800 gross square feet of ground floor retail/restaurant space could potentially be part of The Mexican Museum.

Under the Existing Zoning Alternative, the Jessie Square Garage would not be conveyed to the Project Sponsor as the scale of the development under this Alternative is insufficient to justify the expense of purchasing the garage.[2] The garage would remain public, and there would not be any private parking spaces available for purchase by prospective residents.

Alternative C: Separate Buildings Alternative

The purpose of the Separate Buildings Alternative is to minimize changes to the Aronson Building.[3] Accordingly, this alternative does not call for a physical connection between the new tower and the Aronson Building and assumes a reduced scope of restoration for the Aronson Building. However, the parameters of the new tower otherwise remain consistent with the tower proposed as part of the Project (520 feet tall and 47 stories). The Separate Buildings Alternative would include up to 187 condominium units in the tower and approximately 78,840 gross square feet of office space in the Aronson Building (there would be no flex options). The amount of space set aside for The Mexican Museum would be reduced from 52,285 gross square feet to approximately 46,655 gross square feet (the lower five floors) in the tower. The amount of ground floor retail/restaurant space potentially available to The Mexican Museum would remain unchanged at approximately 4,800 gross square feet.

Alternative D: Increased Residential Density Alternative

The Increased Residential Density Alternative would be similar to the Project except the size of the residential units would decrease, for an overall increase in the number of units. If the Office Flex Option were pursued, the Alternative would include approximately 61,320 gross square feet of Class A office space in the Aronson Building and up to 283 condominium units. If the

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[2] Including conveyance of the Jessie Square Garage would add additional costs to the Existing Zoning Alternative, as the amount of the Jessie Square Garage bond defeasance and the outstanding loan to the City are greater than the parking revenues that could be realized. Including conveyance of the Jessie Square Garage would further erode the financial feasibility of this Alternative.

[3] Under the Separate Buildings Alternative, both of the non-historic additions would be demolished. The west non-historic addition currently serves as the core of the building (elevator, stairs, etc.), so a new internal core for the Aronson Building would need to be constructed under this Alternative.

Residential Flex Option were pursued, the Alternative would include up to 325 condominium units and no office space.

Like the Project, the Increased Residential Density Alternative would allocate approximately 52,285 gross square feet, spread between the tower and the Aronson Building, for The Mexican Museum, and approximately 4,800 gross square feet of ground floor retail/restaurant space could potentially be part of the Museum.

Alternative E: Reduced Shadow Alternative

The Reduced Shadow Alternative would reduce the height of the tower from 520 feet to 351 feet (27 stories) to reduce the shadow impacts of the Project. Like the Project, the new tower would be connected to the Aronson Building and the full scope of restoration of the Aronson Building would be completed. If the Office Flex Option were pursued, the Alternative would include approximately 52,560 gross square feet of Class A office space in the Aronson Building and up to 162 condominium units. If the Residential Flex Option were pursued, the Alternative would include up to 186 condominium units and no office space.

The amount of space set aside for The Mexican Museum would be reduced from 52,285 gross square feet to approximately 45,000 gross square feet in this alternative. The amount of ground floor retail/restaurant space potentially available to The Mexican Museum would remain unchanged at approximately 4,800 gross square feet.

3. FINANCIAL FEASIBILITY

EPS developed financial models to simulate the development economics of the Project and four of the Project Alternatives under consideration in the EIR. The financial model consists of a static pro forma based on development costs and revenue estimates specific to each of the alternatives, resulting in a "Project Residual" that can be compared across the alternatives. If the Project Residual is negative, a property owner or developer will not have economic incentive to develop the property, and the project is therefore deemed to be infeasible. Those alternatives resulting in positive Project Residuals after accounting for developer return are considered to be feasible. It should be noted that even if this analysis determines that the Project or an alternative is feasible from the perspective of development economics, a financial lender will need to separately evaluate feasibility based on lending criteria.

Methodology and Assumptions

EPS developed financial pro formas for the Project and each Project Alternative, differentiating between the Office Flex options and the Residential Flex options where relevant. The financial pro formas are used to simulate the costs of developing the Project and the Project Alternatives compared with the potential revenues that may be generated. The resulting Project Residuals provide an indication of financial feasibility.

The pro forma models developed for these analyses are "static" and do not account for the timing of construction costs relative to the revenues from residential sales. The Project Sponsor provided all the project description information for the Project and the alternatives, consistent with the EIR, and much of the development revenue and cost information. Webcor Builders provided all direct construction cost information. Where specific development revenue or cost information was not provided or is unknown, EPS applied generalized development and operating cost figures based on our previous experience in San Francisco and vetted these assumptions with the Project Sponsor.

The pro forma analyses (included in **Appendix A**) provide an estimate of potential Project Residuals associated with the Project and each alternative under near-term market conditions (i.e., the next five years). Actual feasibility will depend on the price points and absorption schedule that the Project is able to realize. Specific revenue and cost assumptions are described in detail below.

Development Revenue

Residential Revenue Assumptions

To estimate potential per square foot prices for the Project and the Project Alternatives, EPS reviewed publicly available condominium sales data in San Francisco, including project-specific sales data at other luxury condominium developments in the project vicinity, taking as many project similarities and dissimilarities into account as possible. This research was used to confirm the price per square foot estimates provided by the Project Sponsor. In the pro formas, residential revenue calculations are based on a weighted-average price per square foot that varies by flex option and by alternative to reflect variations in height and unit configuration,

which affect views. The analysis assumes a 76 percent efficiency ratio across the alternatives for the sake of consistency, which is applied to the gross residential square footage to calculate the net saleable square feet.

Project Pricing Factors

The Project will add up to 215 luxury condominium units to the Yerba Buena neighborhood. Unlike the nearby Four Seasons, Ritz Carlton and St. Regis, however, the Project would not offer affiliation with a branded hotel and the services they provide. There are several critical factors to consider in establishing the projected prices that are used in this analysis, which are described below.

Project Location

The Site is located on Mission Street at Third Street in San Francisco, overlooking the Yerba Buena Center and Gardens to the southwest, in the South of Market neighborhood. This area is considered a premiere residential location in the City due to its proximity to downtown, cultural offerings, numerous amenities and transit.

Size and Quality of Units

The Project in total would include up to 215 premium condominium units featuring high quality design and finishes and averaging approximately 2,000 square feet in size. Like the Project, the Existing Zoning Alternative and the Separate Buildings Alternative also propose large residential units, with average unit sizes between 1,800 and 2,000 square feet. The Increased Residential Density Alternative and Reduced Shadow Alternative propose smaller residential units averaging between 1,250 and 1,400 square feet.

The residential units will vary (size, orientation, views and price) depending on whether they are in the tower or the Aronson Building (residential flex options only) and by alternative. For the Project, the tower would contain up to 43 floors of residential space over four floors reserved for The Mexican Museum, with up to 191 units. The Aronson Building would contain up to seven floors of residential space over three floors of museum and retail space and would include up to 24 units.

Parking

Parking for all units would be available for purchase in the Project and all Project Alternatives except for the Existing Zoning Alternative. However, as parking would be sold separately (unbundled) from the units, as required in San Francisco, projected unit prices exclude the cost of parking. In contrast, sales prices for comparable projects such as the Four Seasons, Ritz-Carlton, St. Regis, and Millennium Tower reflect unit prices that include parking. It is important to note this difference when projecting unit prices for the Project and Project Alternatives, as parking revenues are shown as a separate line item. Because the Existing Zoning Alternative does not include conveyance of the Jessie Square Garage, there will not be private parking available for purchase.

View and Building Location Premiums

Many of the residential units, depending on the floor and orientation of the unit, would offer premium views. Due to existing development surrounding the project site and the geographic location within the city, views (and therefore view premiums) would likely vary significantly by

floor level and unit orientation. Below is a breakdown of segmentation by floor and unit orientation and estimates of correlated view premiums:

- **Floors 4 through 10:** On these lower floors, Yerba Buena Center and Gardens would be visible for south and southwest facing units in both the tower and Aronson Building[4]. As northern facing units in this segment of floors would not have comparable views, the southern facing units would likely command higher prices per square foot.
- **Floors 11 through 25:** In addition to the views for south and southwest facing units as discussed above, on floors 11 through 25, views of the water to the east and southeast would begin to be available. South and southeast facing units are therefore anticipated to command higher prices per square foot than both lower floors as well as north facing units of equal floor level.
- **Floors 26 through 33:** Site lines in units above the 25th floor would begin to clear the Westin Hotel to the northwest, opening partial site lines to the Bay towards Marin. In this floor segment, southern and northern facing units are expected to command comparable prices per square foot.
- **Floors 34 through 44:** Above the 33rd floor, premium views to the north become available, with clear site lines to the Golden Gate Bridge. In this floor segment, premiums for northern facing units begin to exceed southern facing units.
- **Floors 45 through 47 (Penthouse Units):** The top three floors of the tower, in addition to possessing premium views to the north similar to floors 34 through 44, would offer penthouse layouts, which include larger floor plans and private terraces. The uniqueness of these units, both with regard to their size and design, is anticipated to command an additional price premium per square foot. It should be noted that the penthouse units will be unfinished, as it is expected that buyers will finish units to their personal taste.
- **Aronson Building Units:** Due to restrictions imposed by historic preservation regulations, units in the Aronson Building will vary from units in the tower. For example, the Aronson Building units will be smaller, with smaller window openings and area, and may be finished and configured differently from the units in the proposed tower although with higher ceiling heights. Due to these characteristics (and in conjunction with the limited view premiums described above), the Aronson Building units are expected, on average, to sell for a lower price per square foot than units in the proposed tower. The "City Residences" in Millennium Tower are comparable to the units that would be available in the Aronson Building, both in regards to size and finish. However, as noted above, parking would be sold separately from the unit in the Aronson Building, whereas sales prices for the "City Residences" included parking.

Table 3 outlines projected sales prices per square foot for each of the floor segments described above as well as the Aronson Building units. The estimates below reflect both the view

[4] Note that in the Project, residential units in the tower would begin on the 5th floor, whereas the Aronson Building would have residential units starting on the 4th floor.

premiums by floor as well as the building specifications of the Project and may not be the same across all Project Alternatives as certain unit product types vary by design.[5] The detailed analysis of these prices by floor and alternative are provided in **Appendix D.**

Table 3 Analysis of Revenue by Floor Segmentation

Category	Average Price per SqFt
Tower	
Floors 4 -10	$1,150
Floors 11 - 25	$1,200
Floors 26 - 33	$1,275
Floors 34 - 44	$1,400
Floors 45 - 47	$1,800
Aronson Building	$1,100

Sources: Millennium Partners; Economic & Planning Systems, Inc.

Hotel Condominium Premium

Unlike the nearby Four Seasons, St. Regis and Ritz-Carlton residences, the Project will not be built in conjunction with a branded luxury hotel. Condominium developments that include a hotel component with associated branding and service levels often command substantial price premiums over traditional condominiums on a dollar per square foot basis. Condo units in condo/hotel projects can sell for a premium over traditional condos due primarily to the services provided to the condo hotel owner that are inherent in being part of a hotel operation such as housekeeping, maintenance, room service, and concierge service as well as the uniqueness in design, sophistication, and overall product offering that comes along with being a managed hotel. As the Project includes neither a hotel component nor associated amenities, the affiliated price premiums would therefore not apply.

Market Context

Sales Prices

Over the past 15 years, the San Francisco condominium market has incurred numerous peaks and valleys. As the market is cyclical by nature, and there is substantial risk involved in bringing new condo units to the market, the success of a condo project often stems from market positioning and timing as much as any other element. Although the current market continues to improve, it is imperative to understand market fluctuations of varying severity, their implications on pricing and the length of the sale period, and associated development risks.

[5] For instance, in B: Existing Zoning Alternative and E: Reduced Shadow Alternative, penthouse unit layouts would be located on lower floors than in the Project and would therefore command a higher sales price per square foot than a unit in the Project at the same floor level.

Figure 3 illustrates the San Francisco condominium market since 1998 in aggregate as well as within one half mile of the Project site. As shown, the volatility in the market is quite apparent. Currently, the condominium market has reached, or is approaching, a new high. Whether such favorable market conditions will dissolve, be maintained or improve over the coming years remains to be seen and is subject to a myriad of factors such as competitive supply, job growth, and the health of the overall economy.

As shown in **Table 4**, a search of condominium sales in buildings constructed since 2005 within roughly one-half mile of the Project site yields a square foot price of approximately $1,057 regardless of unit size, and a square foot price of approximately $1,397 for units more than 2,000 square feet in size.

Figure 4 shows the average developer sales prices and developer sale periods for the Four Seasons, Ritz-Carlton, St. Regis, and Millennium Tower, the four most applicable product comparisons built within the last ten years. Average sales prices per square foot are also shown for all sales within one half mile of the project site for units over 2,000 square feet and for units that sold for $1.5 million or more. It should be noted that the area-wide averages include all re-sales in addition to developer sales and therefore show sales prices per square foot that exceed developer sales for luxury units in some instances.

For context, the Four Seasons' sales period lasted from 2000 to 2004 and sales averaged $1,100 per square foot, with a high of $1,800 per square foot in the premium units. The St. Regis began sales in 2004, selling out by 2006, and sales averaged roughly $1,200 per square foot. The Ritz-Carlton sold finished units at the height of the market between 2005 and 2007, and achieved sale prices per square foot of just over $1,200.[6] Millennium Tower began selling units in 2007 and sold its last unit in March of 2013, averaging roughly $1,125 per square foot.[7] These prices include parking in the sales costs for the units. Sale prices per square foot for the individual projects noted above are shown to be flat throughout the sale period as individual unit data are not available at this time.

Market Supply

As the supply of available condos at any given time can have dramatic implications on prices, it is important to note that upon completion of construction of the Project, up to 215 high-end residential units (under the Project scenario) would become available for purchase, significantly increasing the supply of available luxury units in the market. Due to the limited number of luxury condominium units currently available, a large influx of supply into this niche, relatively thin segment of the market may keep prices down. Furthermore, if units in other developments of similar quality become available during the same sale period, prices could be further suppressed.

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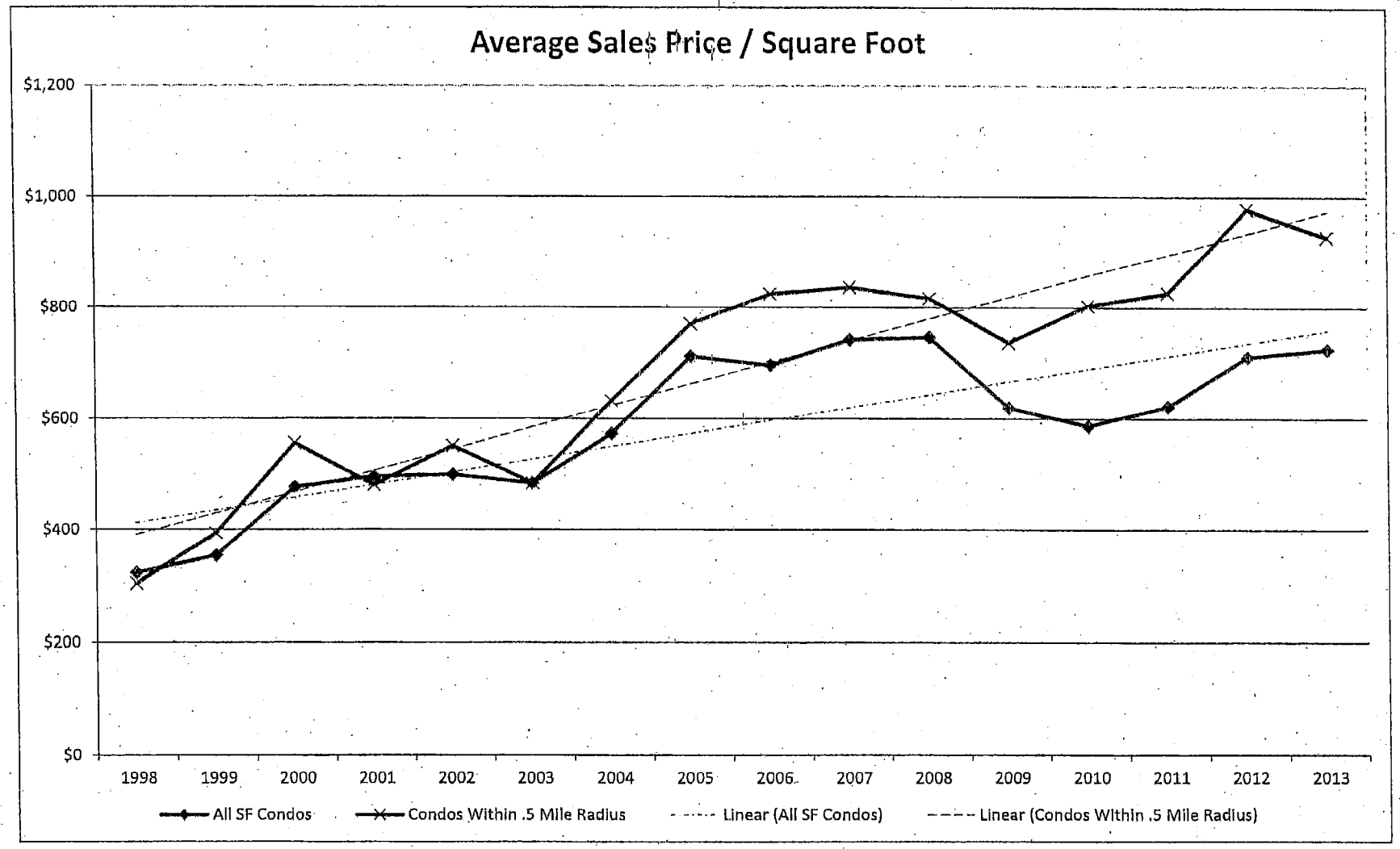
[6] Unlike the Four Seasons, St. Regis, Millennium Tower or the Proposed Project, the Ritz-Carlton units were completely built out, including finishes, at the time of sale, though several of the project amenities were not built. Average prices would have been lower if units were unfinished.

[7] Sales prices do not reflect developer concessions agreed upon during transaction negotiations. Such concessions could include alternative finishes, interior wall layouts, financial credits, etc.

Figure 3
San Francisco Condominium Average Price Square Foot by Location, Size and Sale Price



Sources: Redfin.com; Millennium Partners; Economic & Planning Systems, Inc.

Table 4
Residential Market Research (2005 - 2013)
706 Mission Street; EPS #121084

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Item	Avg. Sales Price	Avg. Sq.Ft.	Avg. $/Sq.Ft.
San Francisco Condominium Sales [1]	$835,399	1,091	$765
San Francisco Condominium Sales (over 2,000 Sq.Ft.)	$2,562,112	2,480	$1,033
Project Area Condominium Sales [2]	$1,491,876	1,411	$1,057
Project Area Condominium Sales (over 2,000 Sq.Ft.)	$3,815,000	2,732	$1,397

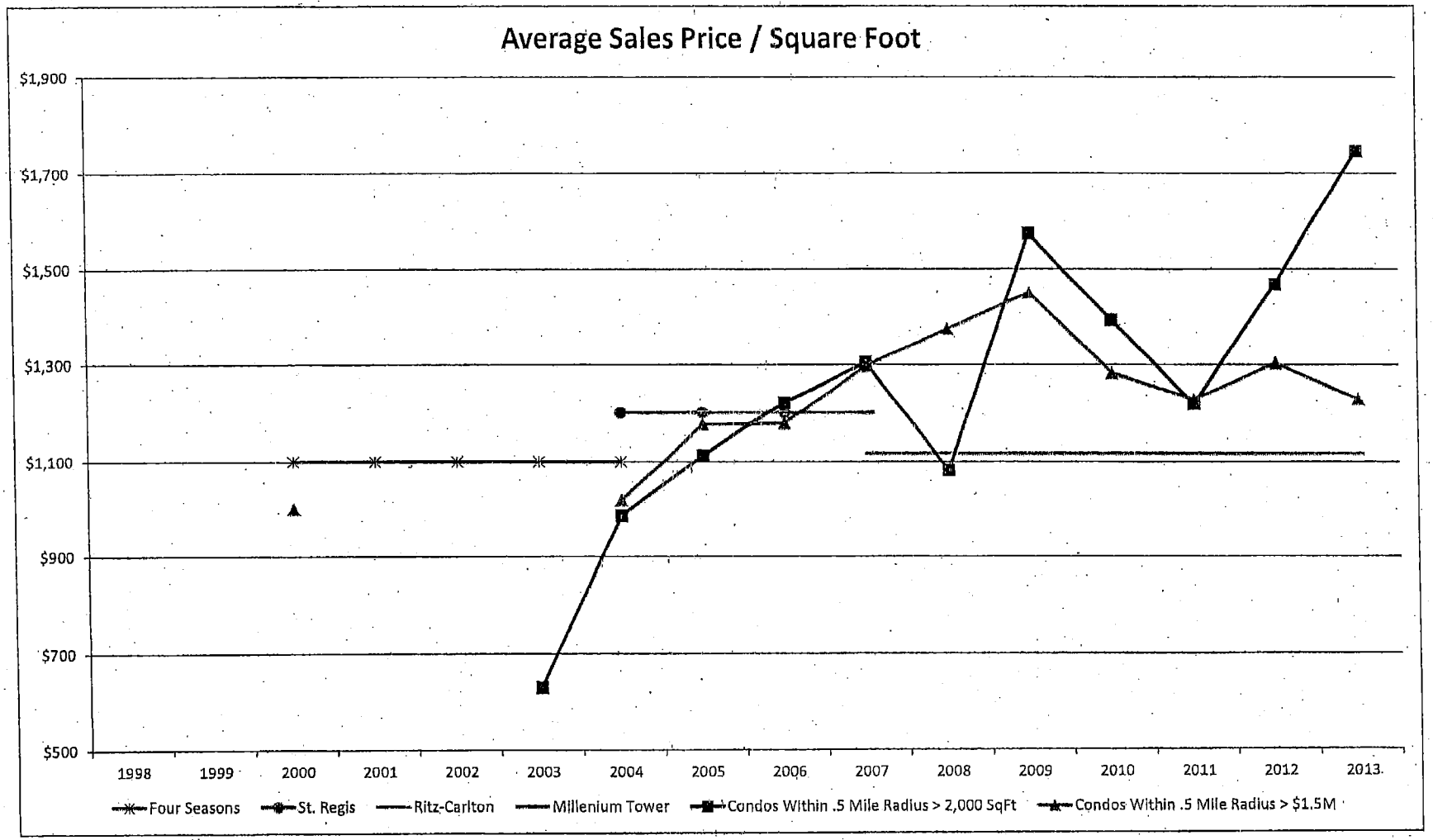
Other Market Notes

- Four Seasons averaged approx. $1,100 per square foot, range from $750 to $1,700/$1,800. Developer sales occurred between 2000 and 2004. Reflects a premium for branded hotel association.
- St. Regis averaged approx. $1,200 per square foot with developer sales occuring between 2004 and 2006.
- Millennium Tower commenced sales in late 2007 and has averaged approximately $1,140 for MT and approximately $975 for City Residences. Prices include parking.

[1] Taken from all sales identified on Redfin.com for San Francisco condominiums built since 2005. Sample size includes over 2,600 individual sales. Comps are resales, which reflect value added through resident improvements.
[2] Includes sales data from ten residential buildings within roughly one-half mile of the proposed project site built since 2005. Sample size includes over 700 individual sales. Comps include developer sales and resales. Resales reflect value added through resident improvements.

Sources: Redfin.com; 706 Mission Street Co, LLC; Economic & Planning Systems, Inc.

Figure 4
Average Developer Sales and Resales Prices per Square Foot for the Four Seasons, Ritz-Carlton, St. Regis, and Millennium Tower Layered over Other Condominium Sales within a ½-Mile Radius



Sources: Redfin.com; Millennium Partners; Economic & Planning Systems, Inc.

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66/195
1310

Developer Sales versus Resident Re-sales

The Project's residential units would be built out with the understanding that potential owners intend to customize the interior of their respective units to fit their taste. Customization often includes complete kitchen and bathroom remodels, installation of all new lighting, ceiling treatments, finishes, and the physical alteration of unit layout (demolition and/or new construction of non-load bearing walls and door openings). In some cases, interior renovations of this magnitude can cost as much, if not more, than the price of the unit itself. At Millennium Tower, residential improvements ranged from $100 to $300 per square foot and have been completed on approximately 30 percent of the units. This percentage is higher for projects like the Four Seasons and the St. Regis that are older and have experienced more turnover. Given that Millennium Tower began selling units in 2007, it is anticipated that this percentage will increase as resales continue to occur.

For example, **Table 5** illustrates the price differential between developer sale prices (units with warm-shell build out shown on the right as "MP Original Sales") and resale prices, which include significant value-adding renovation. This trend can be observed in other comparable, high-end residential projects such as the Four Seasons, Ritz-Carlton, St. Regis, and Millennium Tower (as illustrated above) and should be accounted for when assessing projected sale prices for new units of this type. Consequently, EPS has relied more significantly upon original sale prices in order to best predict revenues for the Project. Taking into account this trend is especially pertinent when predicting sale prices for penthouse units, as the developer build out for new penthouse units would be particularly limited.

Residential Revenue Conclusions

Based on all of this data and contextual information, the Project pro forma assumes a weighted-average sales per square foot of $1,283 for the Project (residential flex option) with per square foot pricing by floor ranging from $1,100 for the units in the Aronson Building to $1,800 for the unfinished penthouse units that command premium views to the north in the tower. Pricing assumptions by Alternative and flex option are shown in **Appendix D**. These prices are higher than what the San Francisco condominium market has previously experienced for developer-sold, luxury condominium units even in hotel-branded buildings that have included parking in the project area and thus represent a conservative approach to the analyses.

As shown in **Table 6,** the applied sales per square foot assumptions result in average sales prices per unit of $2.6 million for the Project, $2.1 million for Alternative B, $2.6 million for Alternative C, $1.8 million for Alternative D, and $1.5 for Alternative E since the units will be smaller. EPS expects prices for the Increased Residential Density Alternative would be discounted because they would be smaller and there would be a greater number of units, which would make them less unique. However, for the sake of consistency across the Project Alternatives, the same pricing structure is applied. Prices vary depending on the flex option and ultimately will be determined by market demand at the time of sale.

Residential Commissions

Residential sales commissions are typically 6 percent. The split between the buyer's and the seller's agents are negotiated at the time of sale, with the full commission amount coming out of the proceeds of the sale. Because this figure can vary, this analysis conservatively assumes average outside commissions of 3 percent of residential transactions.

Table 5
Millennium Tower Developer Sales and Resales
706 Mission Street; EPS #121084

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Address	Year Built	Square Footage	MP Original Sales: Closed/ Deed Recorded	MP Original Sales: Final Purchase Price	MP Original Sales: Price/ SqFt	Resales: Last Sale Date	Resales: Last Sale Price	Resales: Price/ SqFt	Price Increase: Price/SqFt Increase	Price Increase: % Price/SqFt Increase
301 Mission St Unit 51B	2009	3,315	10/14/2011	$4,800,000	$1,448	12/28/2012	$7,800,000	$2,353	$905	63%
301 Mission St Unit 54A	2009	2,706	11/1/2011	$3,150,000	$1,164	11/20/2012	$4,300,000	$1,589	$425	37%
301 Mission St Unit 302	2009	1,766	5/1/2009	$1,844,500	$1,044	2/14/2013	$2,300,000	$1,302	$258	25%
301 Mission St Unit 1005	2009	1,728	1/29/2010	$1,720,000	$995	2/7/2013	$2,130,000	$1,233	$237	24%
301 Mission St Unit 36E	2009	1,714	4/3/2012	$1,950,000	$1,138	12/28/2012	$2,380,000	$1,389	$251	22%
301 Mission St Unit 15H	2009	773	8/2/2011	$675,000	$873	11/15/2012	$820,000	$1,061	$188	21%
301 Mission St Unit 21H	2009	666	9/15/2009	$612,500	$920	1/2/2013	$735,000	$1,104	$184	20%
301 Mission St Unit 10H	2009	666	2/24/2011	$560,000	$841	8/10/2012	$650,000	$976	$135	16%
301 Mission St Unit 8D	2009	751	10/15/2009	$620,000	$826	9/18/2012	$700,000	$932	$107	13%
301 Mission St Unit 48F	2009	1,605	5/14/2010	$1,968,000	$1,226	11/2/2012	$2,200,000	$1,371	$145	12%
301 Mission St Unit 5A	2009	1,479	8/12/2010	$1,200,000	$811	4/25/2012	$1,339,000	$905	$94	12%
301 Mission St Unit 40D	2009	1,952	5/12/2009	$2,531,000	$1,297	10/4/2012	$2,800,000	$1,434	$138	11%
301 Mission St Unit 25H	2009	773	9/30/2009	$788,375	$1,020	9/11/2012	$849,000	$1,098	$78	8%
301 Mission St Unit 18C	2009	833	10/29/2009	$835,125	$1,003	8/22/2012	$890,000	$1,068	$66	7%

Sources: Redfin.com; Millennium Partners; Economic & Planning Systems, Inc.

Table 6
Residential Sales Revenue Assumptions
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Item	Assumption	Project	Alternative B: Existing Zoning	Alternative C: Separate Buildings	Alternative D: Increased Res. Density	Alternative E: Reduced Shadow
Residential Flex Option						
Residential						
For Sale (Units)		215	74	not applicable	325	186
For Sale (Gross Sq.Ft.)		580,630	175,340		580,630	318,191
For Sale (Net Sq.Ft.)	76% Efficiency Ratio	441,279	133,258		441,279	241,825
Avg. Net Sq.Ft. per Unit		2,052	1,801		1,358	1,300
Avg. Price Per Sq.Ft. [1]		$1,283	$1,152		$1,278	$1,179
Total Residential Revenue		$566,149,429	$153,483,313		$563,764,266	$285,193,602
Avg. Price Per Unit		$2,633,253	$2,074,099		$1,734,659	$1,533,299
Office Flex Option						
Residential						
For Sale (Units)		191	50	187	283	162
For Sale (Gross Sq.Ft.)		519,310	122,780	487,630	519,310	265,631
For Sale (Net Sq.Ft.)	76% Efficiency Ratio	394,676	93,313	370,599	394,676	201,880
Avg. Net Sq.Ft. per Unit		2,066	1,866	1,982	1,395	1,246
Avg. Price Per Sq.Ft. [1]		$1,304	$1,175	$1,304	$1,297	$1,195
Total Residential Revenue		$514,487,836	$109,642,540	$483,102,007	$511,930,967	$241,246,074
Avg. Price Per Unit		$2,693,654	$2,192,851	$2,583,433	$1,808,943	$1,489,173

[1] Price per square foot is a weighted average based on average prices per square foot by floor. See Appendix D for detailed calculations.

Sources: 706 Mission Street Co., LLC; Economic & Planning Systems, Inc.

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69/195
1313

Operating Revenues

Office Revenue

Class A office rents in the Yerba Buena submarket are approximately $52.67 per square foot per year as of the fourth quarter of 2012 as shown on **Table 7**. In the pro formas, rents are rounded up to $55 per square foot per year to reflect a premium for newly-remodeled interior space and to account for further market recovery between now and project completion. Lease rates reflect full service leases, with operating expenses assumed to be 20 percent of gross revenue.

Class A office vacancy rates in the Yerba Buena submarket are approximately 21.2 percent, also as of the fourth quarter of 2012. Vacancy rates are rounded down to 10 percent in the pro formas to reflect the desirability of leasing space in a newly renovated, historically-important building. Actual lease and vacancy rates will vary depending on market conditions at the time of leasing.

Parking Revenue

The Jessie Square Garage consists of the existing 442-space garage as well as the area below the existing Contemporary Jewish Museum and adjacent to the mezzanine level of the existing garage. The Jessie Square Garage is presently owned by the Successor Agency. After conveyance and reconfiguration, the Jessie Square Garage will contain 470 parking spaces (the existing garage contains 442).[8] There will be 210 spaces preserved for public use, and 260 for private use, including one parking space available for each residential unit (for sale as an "unbundled" transaction at a cost of approximately $100,000 per space), leased spaces and one to two car share spaces. The public parking spaces likely will be operated by a parking operator entity, which would pay a fee to the Project Sponsor for the privilege of operating the Jessie Square Garage. The structure of the terms has not yet been determined. To account for revenue from the leased spaces and the public spaces, this analysis assumes a monthly net revenue of $322 per space. This value is based on the current operator's (CityPark) annual net revenues generated by the 350 spaces available to the public (see **Appendix F**). It should be noted that CityPark is not required to pay property taxes, though the Project Sponsor would pay property taxes, which would affect net revenue.

Conveyance of the Jessie Square Garage would not occur under the Existing Zoning Alternative and the existing spaces would remain available for public parking. No parking-related revenue is generated under this Alternative.

Capital Reserves

A capital reserve line item, estimated at 1 percent of net lease revenue, is included to account for any unforeseen capital requirements related to the office space (under the office flex options) and public parking.

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[8] The utilization of the existing mezzanine area below the Contemporary Jewish Museum will accommodate approximately 38 new parking spaces. Approximately 10 spaces will be removed for vehicular access and circulation, resulting in a net increase of 28 spaces.

Table 7 DRAFT - For Discussion Purposes Only
Class A San Francisco Office Market Research
706 Mission Street; EPS #121084

Submarket	Vacancy Rate	Annual Class A Asking Rent [1]
Financial District	7.8%	$51.89
South Financial District	7.7%	$52.27
N. Waterfront & Jackson Sq.	8.0%	$43.46
South of Market	3.5%	$57.29
Yerba Buena	***21.2%***	***$52.67***
South of Market West	7.8%	$45.13
Mission Bay/ China Basin	18.0%	$59.88
Potrero Hill	22.0%	$45.92
Civic Center & Van Ness	44.4%	$38.50
Union Square	2.3%	$47.50
San Francisco Office Market	**9.1%**	**$51.96**

[1] Rent is shown as an annual cost per square foot. All rents reflect full service leases.

Source: CBRE (Q4 2012).

Capitalization of Operating Revenues

The net operating income from the office uses and leased and public parking revenue is capitalized at a rate of 6.0 percent, in addition to a one-time 2 percent cost of sale that would be incurred at the time of sale. The capitalization rate of 6.0 percent is based on a San Francisco-specific, CBD office reversion cap rate of 5.75 percent as presented by IRR Viewpoint, 2013 and increased to account for inclusion of the Project's parking component. A cap rate of 6.0 percent is used even in the Existing Zoning Alternative for the sake of consistency across the Project and the Project Alternatives. The capitalized value of the lease revenue and the revenue from the residential (and parking) sales comprise the Project's total revenues.

Development Costs

Aronson Building Acquisition Costs

The Project Sponsor purchased 706 Mission Street, the Aronson Building, in 2006 for $23.5 million, which is included as a development cost. Upon purchasing the building, the Project Sponsor immediately commenced discussions with the former Redevelopment Agency regarding the incorporation of the Aronson Building in a redevelopment project. These discussions culminated in the 2008 ENA.

Agency Site Purchase and Conveyance

Under the terms of the existing Exclusive Negotiation Agreement, the Successor Agency will convey the Agency Site to the Developer for $1 in exchange for agreed upon contributions from the Project Sponsor. Among these contributions is the defeasance of the full outstanding amount of the Jessie Square Garage bond debt, currently estimated to be approximately $21.1 million. In addition, the Developer will pay amounts required to be paid under a Cooperation and Tax Increment Reimbursement Agreement between the City and the Successor Agency as necessary to defease the Jessie Square Garage bond debt, which is estimated to be approximately $18.3 million. These two amounts will result in payments of approximately $39.4 million.

The Developer will also be responsible for any other costs associated with payoff or defeasance of the existing bonds as well as all transaction costs related to conveyance of the Agency Site. Transaction costs include transfer taxes, title insurance premiums, escrow fees and recording fees. Transfer taxes and title insurance will be estimated based on the assessed value of the Agency Site once it is determined. Because the Agency site is owned by the Successor Agency, it is government owned, and therefore, not assessed. Until the value is determined, these costs have been excluded, which is conservative for purposes of this analysis.

Agency Site Property Costs

Once the Project Site is conveyed to the Project Sponsor, the Project Sponsor will be responsible for paying the property taxes associated with the Site. Because the value of the site is unknown at this time, property taxes are not included. Exclusion of Agency Site property costs is conservative in that it underestimates costs.

Predevelopment Entitlement Costs and Fees

Predevelopment entitlement costs include those costs that were incurred by the Project Sponsor as part of the predevelopment process through the end of 2012 (when the data was assembled),

before design, permitting, and construction costs. Costs include architecture and engineering (for renderings to support the EIR alternatives), land use and other consultants, permits and other fees, legal fees, advertising and promotion, and other costs. Predevelopment costs are indicated to be approximately $10.2 million for the Project, including approximately $407,000 that is directly attributable to the Mexican Museum. Detail is provided in **Appendix G.**

Direct Construction Costs

Direct construction costs vary by alternative and range between $403 per gross square foot and $580 per gross square foot, depending primarily on the height of the tower. The taller the tower, the lower the cost per square foot due to cost-spreading efficiencies. Estimates were prepared by Webcor Builders and provided to EPS (see **Appendix E**). Total direct construction costs for the Project are approximately $296 million for the residential flex option and $287 million for the office flex option. For all Project Alternatives, the estimates reflect LEED Silver compliance for the Residential space and LEED Gold compliance for the office and The Mexican Museum space. The estimate includes construction of the core and shell for the Museum and office spaces with mechanical, electrical and plumbing stubs provided. Costs include demolition of the Aronson Building annexes and site improvement costs such as hardscape and landscape improvements. The tenants will be responsible for interior buildout of the office and cultural space. Tenant improvement allowances of approximately $100 per square foot of office space are expected to be provided by the Developer and are included. In addition, the exterior of The Museum's curtain wall is assumed to be treated with a unique finish that sets the design of The Museum apart. The estimated cost of the curtain wall is approximately $1.3 million. Other Direct Costs such as a Contractor Controlled Insurance Program, adjacent property improvements, utility set-up charges, pre-construction charges, some initial on-site environmental work and contingency are also included.

Indirect Costs

Indirect construction costs include architecture and engineering costs (schematics through construction documents) (3.9 percent of direct costs), fees and permits (2.9 to 3.1 percent of direct costs depending on the alternative), legal costs (0.6 percent of direct costs), sales and marketing costs (1.4 percent of direct costs), and other indirect costs (9.8 percent of direct costs). Fees and Permits include Building Department and other Agency fees and are calculated for the Project the Project Alternatives (see **Appendix B**).

Other Indirect Costs include developer fees; local real estate taxes; owner's liability, and miscellaneous insurance coverage premiums; bank and financing fees for loans, closing costs, appraisals, title insurance, interest; start-up expenses; sales office; local office operations and administrative; general contributions; other miscellaneous costs; and contingency.

Other Project Costs

<u>The Mexican Museum</u>

The Project and each Project Alternative are proposed to include space for the permanent home of The Mexican Museum. The ENA stipulates that between 35,000 and 45,000 net square feet will be set aside for the "Cultural Component" which is to front and relate to Jessie Square.

Construction of The Mexican Museum Core and Shell

The Developer will allocate space in the Project ranging from approximately 45,000 gross square feet to 52,285 gross square feet, depending on the alternative, plus 4,800 square feet for potential retail space for The Mexican Museum. The Developer will pay for the construction of the base, core and shell of the Museum. Once the space is constructed, the Project Sponsor will convey the space to the Successor Agency or its designee at no cost. The Successor Agency or its designee is expected then to sign an operating agreement or lease with The Mexican Museum for use of the space. Buildout costs will be the responsibility of The Mexican Museum with some grant assistance from the Successor Agency pursuant to the existing Grant Agreement. The costs of constructing The Mexican Museum's core and shell are included in the direct and indirect costs described above for simplicity of presentation.

The Mexican Museum Endowment

The Project Sponsor will contribute a $5 million operating endowment to The Mexican Museum. The contribution is expected to occur in two payments with the first payment occurring within six months of the issuance of the first certificate of occupancy for a residential unit(s) in the Project, and the second payment occurring within 24 months of the first payment. The value of the endowment does not vary across the Project and the Project Alternatives.

Aronson Building Rehabilitation

The historically important Aronson Building is located on the corner of Mission and Third Streets and is proposed to be an integral part of the Project. As part of the Project, the Project Sponsor will rehabilitate the building and incorporate it into the Project. The scope of the rehabilitation will include extensive seismic upgrading, as well as renovation of the façade surfaces with historical accuracy. In addition, two non-historic annexes along the northern and western walls will be removed. The estimated cost of these improvements is approximately $11.3 million, based on information prepared by Webcor Builders.

This scope is the same across the Project and all of the alternatives except the Separate Buildings Alternative. Under the Separate Buildings Alternative, the scope of rehabilitation is reduced. Only the minimum amount of work required to prevent further deterioration and to permit continued occupancy will be undertaken at a reduced cost of approximately $10.5 million. This restoration cost information was prepared by Webcor Builders and is summarized on **Table 8.**

Affordable Housing In-Lieu Fees

The ENA requires the Project Sponsor to comply with the City's Inclusionary Affordable Housing Program through payment of the Affordable Housing Fee. Planning Code Section 415 et seq. requires residential developments of 10 or more units to pay an Affordable Housing Fee of 20 percent (i.e., a fee equivalent to providing 20 percent of total units as affordable units). Furthermore, the ENA provides that if the Affordable Housing Fee is based on an affordable housing requirement of less than 28 percent of the total units in the project, then the Project

Table 8
Other Project Development Costs
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Item	Assumption	Project		B: Existing Zoning Alternative		C: Separate Buildings Alternative [1]	D: Increased Residential Density		E: Reduced Shadow	
		Residential	Office	Residential	Office		Residential	Office	Residential	Office
Aronson Building										
Estimated Restoration Cost [2]		$11,301,728		$11,301,728		$10,451,728	$11,301,728		$11,301,728	
Transferable Development Rights (TDRs)										
Number of TDRs Required [3]		0	0	30,703	30,703	0	0	0	79,916	79,916
TDR Cost [4]	$24	$0	$0	$736,872	$736,872	$0	$0	$0	$1,917,984	$1,917,984
Affordable Housing										
20% In-Lieu Req (City of SF)		$15,034,090	$13,356,389	$5,172,911	$3,495,210	$13,076,722	$19,458,495	$16,934,271	$13,002,181	$11,324,480
8% In-Lieu Req (Agency)		$6,013,636	$5,342,556	$2,069,164	$1,398,084	$5,230,709	$7,783,398	$6,773,708	$5,200,872	$4,529,792
Total Affordable Housing In-Lieu		$21,047,726	$18,698,945	$7,242,075	$4,893,294	$18,307,431	$27,241,893	$23,707,979	$18,203,053	$15,854,272
Open Space Maintenance (GMOS) [5]										
Commercial	$1.50	$0	$91,980	$0	$78,840	$118,260	$0	$91,980	$0	$78,840
Residential	$1.25	$725,788	$649,138	$219,175	$153,475	$609,538	$725,788	$649,138	$397,739	$332,039
Total GMOS per Year		$725,788	$741,118	$219,175	$232,315	$727,798	$725,788	$741,118	$397,739	$410,879
Year 1 of sales	67%	$483,858	$494,078	$146,117	$154,877	$485,198	$483,858	$494,078	$265,159	$273,919.17
Year 2 of sales	33%	$241,929	$247,039	$73,058	$77,438	$242,599	$241,929	$247,039	$132,580	$136,960
Total		$725,788	$741,118	$219,175	$232,315	$727,798	$725,788	$741,118	$397,739	$410,879
HOA Dues [6]										
Residential	$1	$441,279	$394,676	$133,258	$93,313	$370,599	$441,279	$394,676	$241,825	$201,880
Year 1 of sales	67%	$294,186	$263,117	$88,839	$62,209	$247,066	$294,186	$263,117	$161,217	$134,586
Year 2 of sales	33%	$147,093	$131,559	$44,419	$31,104	$123,533	$147,093	$131,559	$80,608	$67,293
Total		$441,279	$394,676	$133,258	$93,313	$370,599	$441,279	$394,676	$241,825	$201,880

[1] There is no flex option for the Separate Buildings Alternative.
[2] Detailed estimate prepared by Webcor Builders. Separate Building Alternative does not undertake full scope of rehabilitation and restoration for Aronson Building. Partial rehabilitation estimate also provided by Webcor Builders.
[3] The Project Residuals are calculated without the purchase of TDRs for the Project and all alternatives and with the purchase of TDRs for the Existing Zoning Alternative and the Reduced Shadow Alternative. The Existing Zoning Alternative, by definition, would require the purchase of TDRs. The purchase of TDRs is also assumed for the Reduced Shadow Alternative for consistency with the description in the EIR, which states that the Reduced Shadow Alternative would require the purchase of TDRs.
[4] Market rate cost of a TDR is approximately $24 to $25 per gross square foot as of April 2013 based on information provided by TDR brokers and would be determined at the time of sale, if appropriate.
[5] In accordance with the Term Sheet (Exhibit D) of the ENA, the developer shall contribute $1.50/Sq.Ft. per year for all leasable commercial and $1.25/Sq.Ft. per year for all saleable residential. Estimate assumes Project sponsor pays 2/3 of costs in the first year of sales and 1/3 of costs in the second year of sales.
[6] As the residential units are being absorbed, the Project Sponsor will be responsible for paying the Homeowners' Association Dues of unsold units. Estimate assumes Project sponsor pays 2/3 of dues in the first year of sales and 1/3 of dues in the second year of sales.

Sources: City of San Francisco Mayor's Office of Housing; 706 Mission Street Co, LLC; Economic & Planning Systems, Inc.

Sponsor must pay a separate fee to the Successor Agency equal to the difference between the City's Affordable Housing Fee and an affordable housing requirement of 28 percent. Pursuant to this provision, in addition to paying to the City the Affordable Housing Fee of 20 percent, the Project Sponsor will pay to the Successor Agency a separate affordable housing fee of 8 percent.

Based on the City's 2013 Affordable Housing Fee schedule, the Project would be required to pay Affordable Housing Fees as follows, assuming the maximum number of units:

- Residential Flex Option (215 units, including 107 two-bedroom and 108 three-bedroom units): City fee of $15,034,090 plus Successor Agency fee of $6,013,636, for a total of $21,047,726.
- Office Flex Option (191 units, including 95 two-bedroom and 96 three-bedroom units): City fee of $13,356,389 plus Successor Agency fee of $5,342,556, for a total of $18,698,945.

Across the alternatives, the fees would range from $4.9 million (Existing Zoning Alternative) to $27.2 million (Increased Residential Density, Residential Flex Option). The fees are shown on **Table 8.**

Purchase of TDRs

The City's Planning Department tracks TDRs belonging to private owners, which may be purchased in some instances to increase allowable densities for specific projects. The Site is located in the Downtown Retail (C-3-R) District, which permits a base floor area ratio (FAR) of 6.0 to 1 and an FAR of up to 9.0 to 1 with the purchase of TDRs. The proposed Special Use District would allow development of the Project without the purchase of TDRs. The Existing Zoning Alternative, by definition, would require the purchase of TDRs. The purchase of TDRs is also included for the Reduced Shadow Alternative for consistency with the EIR.

In order to permit an equivalent comparison of the alternatives, this analysis includes calculations of financial feasibility without the purchase of TDRs for the Project and all alternatives and *with* the purchase of TDRs for the Existing Zoning Alternative and the Reduced Shadow Alternative to be consistent with the EIR. For the Existing Zoning Alternative and the Reduced Shadow Alternative, TDR calculations are shown on **Table 8.** The Developer provided estimates of the number of TDRs that would be required. The market rate for TDRs is approximately $24 to $25 per gross square foot, based on average market rates provided by TDR brokers as of April 2013.

Homeowners' Association Dues

As the residential units are being absorbed, the Project Sponsor will be responsible for paying the Homeowners' Association (HOA) Dues of unsold units. The HOA dues are estimated to be $1 per square foot per month. The cost estimate assumes the Project Sponsor pays 2/3 of dues in the first year of sales and 1/3 of dues in the second year of sales and is shown on **Table 8.**

Gardens Management, Operations and Security

The Project Sponsor will contribute to the Gardens Management, Operations and Security (GMOS) account, which provides funding toward the operations, management and security of Yerba Buena Gardens and which has already been established for other projects in the area. The annual payments are calculated at the rate of $1.50 per square foot of the Project's above-grade

net leasable commercial building area and $1.25 per square foot of the Project's above-grade net saleable residential area. Though the fees are subject to annual CPI increases, these static pro formas do not take this into account. Calculations are shown on **Table 8.** Ultimately the GMOS payment obligations will be the responsibility of the residents who purchase the Project's residential units. To estimate the payments that will be the responsibility of the Developer during the absorption period for purposes of this evaluation, it is assumed that the Project Sponsor pays 2/3 of costs in the first year of sales and 1/3 of costs in the second year of sales.

EIR Mitigation and Improvement Measures

Various one-time mitigation measures are required by the EIR, amounting to approximately $190,000 of one-time costs beyond those mitigation expenditures already included in the direct construction cost estimate. EIR improvement measures such as traffic and pedestrian safety improvement items, are also proposed, amounting to approximately $625,000. EIR greenhouse gas compliance measures are estimated to cost approximately $160,000 beyond those costs already reflected in the construction costs. These measures are detailed in **Appendix C.**

Other Project Costs

Other Project Costs include Developer-proposed improvements such as loading dock and capacity improvements at the Jessie Square Garage, repair of the Jessie Square Garage turntable, pedestrian crosswalk and signage improvements, and the relocation of existing tenants in the Aronson Building. Other Project Costs amount to approximately $7.56 million. These items and costs are detailed in **Appendix C.**

Developer Return

Developer return, or profit, is calculated as a percentage of Project costs, yielding an unleveraged cash-on-cash return. Acceptable rates of return can vary across projects, geographies and developers, are affected by market conditions and must reflect the level of risk associated with the project. Prior EPS experience in San Francisco suggests a reasonable rate of return could range from 15 percent to 18 percent in today's market. Residential towers often require rates of return that are on the high-end of the range, accounting for market risk of rolling out all of the units at the same time, high front-end costs, as well as construction and financing risks. Additionally because the financial pro formas are static models that do not account for the time/value of future revenues relative to current and near-term costs, the rate of return is set higher to correct for this. The financial pro formas apply a rate of return of 18 percent.

Project Residual

The Project Residual represents the difference between the gross revenues generated and the cost of developing the Project or the Project Alternatives, including a cash-on-cash return on investment to the Project Sponsor. The Project Residual is calculated both with and without the purchase of TDRs for the Existing Zoning Alternative and the Reduced Shadow Alternative. A positive Project Residual represents a financially feasible development whereas a negative Project Residual means the development is not financially feasible.

Financial Results

The results of the pro forma analyses are shown for each alternative in **Appendix A** and summarized on **Table 1.**

- **Project.** Both the residential and office flex options of the Project are financially feasible. The Project, as outlined in the preceding section is projected to generate approximately $568 million in gross project revenues under the Office Flex Option and approximately $586 million under the Residential Flex Option. Projected development costs, including developer return, are approximately $537 million under the Office Flex Option and approximately $546 million under the Residential Flex Option. The Project Residuals, above the minimum return on investment needed for project feasibility, are estimated at approximately $30.6 million under the Office Flex Option and approximately $40.3 million under the Residential Flex Option.

- **Alternative A: No Project.** The No Project Alternative is not evaluated.

- **Alternative B: Existing Zoning.** The Existing Zoning Alternative is not financially feasible with or without the purchase of TDRs because under this Alternative, the height of the tower is reduced, which reduces the number of revenue generating units, and per square foot construction costs are highest under this alternative due to a decrease in construction cost efficiency. Additionally, the Jessie Square Garage would not be conveyed to the Project Sponsor under this alternative, which means the Alternative does not include defeasance of the outstanding Jessie Square Garage bonds or repayment of the Agency's debt to the City. It also does not generate parking-related revenue.

  The Existing Zoning Alternative is projected to generate approximately $134 million in gross project revenues under the Office Flex Option and approximately $149 million under the Residential Flex Option. With the purchase of TDRs, projected development costs, including developer return, are approximately $268 million under the Office Flex Option and approximately $292 million under the Residential Flex Option. The Project Residuals, above the minimum return on investment needed for project feasibility, are estimated at approximately *negative* $133.4 million under the Office Flex Option and approximately *negative* $142.6 million under the Residential Flex Option. With the purchase of TDRs, the Project Residuals for this Alternative are estimated at approximately *negative* $134.2 million under the Office Flex Option and approximately *negative* $143.4 million under the Residential Flex Option.

- **Alternative C: Separate Buildings.** The Separate Buildings Alternative is financially feasible. In many ways, this Alternative performs similarly to the Project office flex option, however, there are four fewer residential units in the tower. The direct construction costs are slightly higher under the Separate Buildings Alternative than under the office flex option of the Project due to reduced construction efficiencies.

  The Separate Buildings Alternative is projected to generate approximately $547 million in gross project revenues. Projected development costs, including developer return, are approximately $541 million. The Project Residual, above the minimum return on investment needed for project feasibility, is estimated at approximately $5.3 million.

- **Alternative D: Increased Residential Density.** The Increased Residential Density Alternative is not financially feasible because the direct per square foot construction costs are higher under the Increased Residential Density Alternative than under the Proposed Project. Though there are more units in the Increased Residential Density Alternative than there are in the Proposed Project, the overall square footage is the same. Because residential revenue is based on a per square foot price (rather than a per unit price), the residential revenue is similar to the Proposed Project.

  The Increased Residential Density Alternative is projected to generate approximately $566 million in gross project revenues under the Office Flex Option and approximately $585 million under the Residential Flex Option. Projected development costs, including developer return, are approximately $595 million under the Office Flex Option and approximately $610 million under the Residential Flex Option. The Project Residuals, above the minimum return on investment needed for project feasibility, are estimated at approximately *negative* $29.3 million under the Office Flex Option and approximately *negative* $25.6 million under the Residential Flex Option.

- **Alternative E: Reduced Shadow.** The Reduced Shadow Alternative is not financially feasible with or without the purchase of TDRs. In this Alternative, the height of the tower is reduced from 520 feet in the Proposed Project to 351 feet, which reduces the number of residential units to 162 under the office flex option and 186 under the residential flex option and reduces potential revenue from residential sales. There are fewer units to generate revenue, and the number of upper floors of the Project, which command substantial price premiums due to views, are not available under the Reduced Shadow Alternative. At the same time, per square foot development costs are higher under the Reduced Shadow Alternative relative to the Proposed Project due to a decrease in construction cost efficiency. Within certain construction type thresholds, the taller the structure, the lower the cost per square foot due to cost-spreading efficiencies. The combination of these factors results in an alternative that is not financially feasible.

  The Reduced Shadow Alternative is projected to generate approximately $297 million in gross project revenues under the Office Flex Option and approximately $313 million under the Residential Flex Option. With the purchase of TDRs, projected development costs, including developer return, are approximately $434 million under the Office Flex Option and approximately $452 million under the Residential Flex Option. The Project Residuals, above the minimum return on investment needed for project feasibility, are estimated at approximately *negative* $134.5 million under the Office Flex Option and approximately *negative* $137.6 million under the Residential Flex Option. With the purchase of TDRs, the Project Residuals for this Alternative are estimated at approximately *negative* $136.4 million under the Office Flex Option and approximately *negative* $139.5 million under the Residential Flex Option.

APPENDIX A:

Pro Forma Analyses



Appendix A, Table 1
Project Pro Forma
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Item	Assumption	Flex Option Residential	Flex Option Office
DEVELOPMENT PROGRAM			
Gross Building Square Feet		710,525	710,525
Residential			
Gross Square Feet		580,630	519,310
Net Saleable Area	76% Efficiency Ratio	441,279	394,676
Units		215	191
Office			
Gross Leasable Area (sq.ft.)		0	61,320
Net Leasable Area (sq.ft.)	85% Efficiency Ratio	0	52,122
Parking Spaces		470	470
DEVELOPMENT REVENUE			
Residential Sales Revenue [1]		$566,149,429	$514,487,836
(less) Commission Expenses	3.0% of purchase price	($16,984,483)	($15,434,635)
Residential Parking Sales Revenue [2]	$100,000 per space	$21,500,000	$19,100,000
Lease Revenue			
Office			
Gross Revenue (Full Service Gross) [3]	$55.00 /sq. ft./yr.	$0	$2,866,710
(less) Vacancy [4]	10.0% of Gross Revenue	$0	($286,671)
(less) Operating Expenses [5]	20.0% of Gross Revenue	$0	($573,342)
Subtotal, Office		$0	$2,006,697
Parking [6]	$322.00 /space / mo.	$977,592	$1,074,192
Subtotal, Lease Revenue		$977,592	$3,080,889
(less) Capital Reserve [7]	1.0% of Lease Revenue	($9,776)	($30,809)
Annual Net Operating Income		$967,816	$3,050,080
Capitalized Value [8]	6.0% cap rate	$15,807,663	$49,817,975
Total Revenues		**$586,472,609**	**$567,971,176**
DEVELOPMENT COSTS			
2006 Acquisition of Aronson Building		$23,500,000	$23,500,000
Agency Site Purchase/Conveyance [9]		$39,393,904	$39,393,904
Aronson Building Property Costs [10]		–	–
Direct Construction Costs			
Predevelopment Entitlement Costs [11]		$9,388,235	$9,388,235
Direct Construction [12]	$403 to $416	$295,880,173	$286,538,188
Exterior/ Curtain Wall [13]	$100 /sq.ft. of façade	$1,328,000	$1,328,000
Tenant Improvements (Office) [14]	$100 /sq. ft.	$0	$5,212,200
Subtotal, Direct Construction Costs		$306,596,824	$302,467,026
Indirect Costs			
Architecture and Engineering	3.9% of Direct Costs	$11,803,978	$11,644,981
Fees and Permits [15]	3.1% of Direct Costs	$9,637,050	$9,340,890
Legal	0.6% of Direct Costs	$1,839,581	$1,814,802
Sales and Marketing	1.4% of Direct Costs	$4,292,356	$4,234,538
Other Indirect Costs [16]	9.8% of Direct Costs	$30,046,489	$29,641,769
Subtotal, Indirect Costs	18.7% to 18.8% of Direct Costs	$57,619,453	$56,676,980
Other Project Costs			
Museum Operating Endowment		$5,000,000	$5,000,000
Aronson Building Rehab/Renovation [17]		–	–
Required Affordable Housing In-Lieu Fees [18]		$15,034,090	$13,356,389
Additional Affordable Housing In-Lieu Fees [19]		$5,013,636	$5,342,556
Purchase of TDRs (if applicable) [20]		–	–
Absorption Period HOA Dues [21]		$441,279	$394,676
Open Space Maintenance (GMOS) [22]		$725,788	$741,118
EIR-Related Measures		$975,000	$975,000
Other Project Costs		$7,565,000	$7,565,000
Subtotal, Other Project Costs		$35,754,792	$33,374,738
Total Costs		**$462,864,973**	**$455,412,648**
Developer Return [23]	18.0% of Total Costs	**$83,315,695**	**$81,974,277**
Project Residual		**$40,291,941**	**$30,584,251**

[1] See Tables 3 through 6 and Appendix D for residential revenue estimate assumptions and calculations.
[2] Residential parking spaces will be available at a 1:1 ratio at a cost of $100,000 per space. Purchase will be unbundled from residential sales.
[3] Office rents based on 4Q, 2012 CBRE report for Class A office space in Yerba Buena submarket; rounded up from $52.67 p.s.f. to $55 p.s.f. to account for a premium for newly remodeled space. Actual rents will vary depending on market conditions at the time of leasing.
[4] Office vacancy rates based on 4Q, 2012 CBRE report for Class A office space in Yerba Buena submarket; rounded down from 21.2% to 10.0% to account for improving office market conditions and the desirability of newly remodeled space. Actual vacancy rates will vary depending on market conditions at the time of leasing.
[5] Operating expenses include cleaning, utilities, general building management, management fee, insurance and property tax, and commissions.
[6] Revenue per month is applied to the public and leased spaces (see Table 2) based on City Park's average monthly net revenue of approximately $113,000 for 350 spaces (for FY12/13 through February), see Appendix F. It should be noted that City Park does not pay property taxes, whereas the Project Sponsor will. As such, this cost estimate potentially overstates per month net revenues, which is conservative for purposes of this analysis. This revenue is applied to the public spaces and the leased spaces.
[7] Capital reserves to cover any unforeseen capital requirements.
[8] Capitalization rate of 6.0% is based on a San Francisco-specific, CBD office reversion cap rate of 5.75% as presented by IRR Viewpoint, 2013 and increased to account for inclusion of the Project's parking component. Includes a 2% cost of sale.
[9] Estimate provided by the Successor Agency, includes $21.1 million to defease outstanding Jessie Square Garage bonds, $18.3 million for payment required under the Cooperation and Tax Increment Reimbursement Agreement, and $1 for site conveyance. Because the assessed value of the Agency Site is unknown at this time, associated transaction costs are not included. The Project Sponsor will be responsible for property taxes on the entire Project Site post-conveyance, and the property taxes will be based on the value of the site. Again, because the assessed value of the Agency Site is unknown at this time, associated property taxes also are not included. Exclusion of these costs is conservative in that it underestimates actual costs.
[10] Aronson Building net property costs of approximately $4.5 million are not included in this analysis.
[11] Predevelopment entitlement costs include those costs that were incurred by the Project Sponsor as part of the predevelopment costs through the end of 2012, prior to design/permitting/construction costs. Estimate includes pre-development costs for The Mexican Museum. See Appendix G.
[12] Construction cost estimate reflects LEED Silver standards for the residential components and LEED Gold standards for the commercial components. Estimate includes construction of the core and shell for Museum and Office, with MEP services stubbed out into space. Commercial and cultural tenants will be responsible for interior build-out, which is not included in estimate. Cost includes demolition of the Aronson Building annexes, restoration of the Aronson Building, and site improvement (hardscape and landscape) costs. Estimate includes other direct costs such as Contractor Controlled Insurance Program (CCIP), adjacent property improvements, utility set-up charges, preconstruction charges, some initial on-site environmental work and contingency.
[13] The exterior/ curtain wall refers to the unique façade treatment of The Mexican Museum. The surface square footage is estimated to be 13,280 square feet.
[14] Tenant improvement allowance is applied to net leasable office space.
[15] Estimate is calculated and provided by the Project Sponsor. See Appendix Table B-1.
[16] Other Indirect Costs include development fee (includes General and Administrative), taxes, insurance, finance fees and contingency.
[17] Aronson Building restoration costs are included in the overall project development costs. See Table 8 for estimate of Aronson Building breakout provided by Webcor Builders.
[18] Reflects City requirement of 20%. Excludes additional Successor Agency requirement of 8%.
[19] Reflects additional Successor Agency requirement of 8%.
[20] The purchase of TDRs may be required under the Existing Zoning Alternative and the Reduced Shadow Alternative. For these alternatives, TDR purchase costs are assumed to be $24 per gross square foot, based on information provided by TDR brokers as of April 2013.
[21] See Table 8 for annual Homeowners' Association Dues calculations. As the residential units are being absorbed, the Project Sponsor will be responsible for paying the Homeowners' Association Dues of unsold units. Estimate assumes Project sponsor pays 2/3 of dues in the first year of sales and 1/3 of dues in the second year of sales.
[22] See Table 8 for annual Open Space Maintenance cost calculations. Homeowners will assume these costs as units are purchased. Estimate assumes Project sponsor pays 2/3 of costs in the first year of sales and 1/3 of costs in the second year of sales.
[23] Reflects an unleveraged, cash-on-cash rate of return.

Sources: 706 Mission Street Co., LLC; Webcor Builders; CBRE; IRR Viewpoint 2013; City of San Francisco; Economic & Planning Systems, Inc.

Appendix A, Table 2
Pro Forma: Existing Zoning Alternative
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Item	Assumption	Flex Option: Residential	Flex Option: Office
DEVELOPMENT PROGRAM			
Gross Building Square Feet		275,590	275,590
Residential			
Gross Square Feet		175,340	122,780
Net Saleable Area	76% Efficiency Ratio	133,258	93,313
Units		74	50
Office			
Gross Leasable Area (sq.ft.)		0	52,560
Net Leasable Area (sq.ft.)	85% Efficiency Ratio	0	44,676
Parking Spaces		442	442
DEVELOPMENT REVENUE			
Residential Sales Revenue [1]		$153,483,313	$109,642,540
(less) Commission Expenses	3.0% of purchase price	($4,604,499)	($3,289,276)
Residential Parking Sales Revenue [2]	$100,000 per space	$0	$0
Lease Revenue			
Office			
Gross Revenue (Full Service Gross) [3]	$55.00 /sq. ft./yr.	$0	$2,457,180
(less) Vacancy [4]	10.0% of Gross Revenue	$0	($245,718)
(less) Operating Expenses [5]	20.0% of Gross Revenue	$0	($491,436)
Subtotal, Office		$0	$1,720,026
Parking [6]	$0 /space / mo.	$0	$0
Subtotal, Lease Revenue		$0	$1,720,026
(less) Capital Reserve [7]	1.0% of Lease Revenue	$0	($17,200)
Annual Net Operating Income		$0	$1,702,826
Capitalized Value [8]	6.0% cap rate	$0	$27,812,820
Total Revenues		**$148,878,813**	**$134,166,084**
DEVELOPMENT COSTS			
2006 Acquisition of Aronson Building		$23,500,000	$23,500,000
Agency Site Purchase/Conveyance [9]		$1	$1
Aronson Building Property Costs [10]		–	–
Direct Construction Costs			
Predevelopment Entitlement Costs [11]		$9,388,235	$9,388,235
Direct Construction [12]	$509 to $580 /gross sq. ft.	$159,793,100	$140,305,998
Exterior/ Curtain Wall [13]	$100 per sq.ft. of façade	$1,328,000	$1,328,000
Tenant Improvements (Office) [14]	$100 /sq. ft.	$0	$4,467,600
Subtotal, Direct Construction Costs		$170,509,915	$155,490,342
Indirect Costs			
Architecture and Engineering	3.9% of Direct Costs	$6,564,632	$5,986,378
Fees and Permits [15]	2.9% to 3.0% of Direct Costs	$5,116,573	$4,570,139
Legal	0.6% of Direct Costs	$1,023,059	$932,942
Sales and Marketing	1.4% of Direct Costs	$2,387,139	$2,176,865
Other Indirect Costs [16]	9.8% of Direct Costs	$16,709,972	$15,238,054
Subtotal, Indirect Costs	18.6% of Direct Costs	$31,801,374	$28,904,377
Other Project Costs			
Museum Operating Endowment		$5,000,000	$5,000,000
Aronson Building Rehab/Renovation [17]		–	–
Required Affordable Housing In-Lieu Fees [18]		$5,172,911	$3,495,210
Additional Affordable Housing In-Lieu Fees [19]		$2,069,164	$1,398,084
Purchase of TDRs (if applicable) [20]		$736,872	$736,872
Absorption Period HOA Dues [21]		$133,258	$93,313
Open Space Maintenance (GMOS) [22]		$219,175	$232,315
EIR-Related Measures		$975,000	$975,000
Other Project Costs		$7,565,000	$7,565,000
Subtotal, Other Project Costs		$21,871,380	$19,495,794
Total Costs		**$247,682,670**	**$227,390,514**
Developer Return [23]	18.0% of Total Costs	**$44,582,881**	**$40,930,293**
Project Residual (w/ purchase of TDRs)		**($143,386,738)**	**($134,154,722)**
Project Residual (w/out purchase of TDRs)		**($142,649,866)**	**($133,417,850)**

[1] See Tables 3 through 6 and Appendix D for residential revenue estimate assumptions and calculations.
[2] This Alternative does not include the conveyance of the Jessie Square Garage, which means that there are no private parking spaces available for purchase by prospective residents.
[3] Office rents based on 4Q, 2012 CBRE report for Class A office space in Yerba Buena submarket; rounded up from $52.67 p.s.f. to $55 p.s.f. to account for a premium for newly remodeled space. Actual rents will vary depending on market conditions at the time of leasing.
[4] Office vacancy rates based on 4Q, 2012 CBRE report for Class A office space in Yerba Buena submarket; rounded down from 21.2% to 10.0% to account for improving office market conditions and the desirability of newly remodeled space. Actual vacancy rates will vary depending on market conditions at the time of leasing.
[5] Operating expenses include cleaning, utilities, general building management, management fee, insurance and property tax, and commissions.
[6] This Alternative does not include the conveyance of the Jessie Square Garage, which means that the Project Sponsor would not operate the public or leased parking spaces.
[7] Capital reserves to cover any unforeseen capital requirements.
[8] Capitalization rate of 6.0% is based on a San Francisco-specific, CBD office reversion cap rate of 5.75% as presented by IRR Viewpoint, 2013 and increased to account for inclusion of the Project's parking component. Though this Alternative does not include a parking component, the cap rate of 6.0% is used for the sake of consisency across the Project and Project Alternatives. Includes a 2% cost of sale.
[9] Estimate includes $1 for The Mexican Museum Agency Parcel Site conveyance. The Jessie Square Garage is not conveyed under this Alternative. Because the assessed value of The Mexican Museum Agency Parcel Site is unknown at this time, associated transaction costs and property taxes are not included. Exclusion of these costs is conservative in that it underestimates actual costs.
[10] Aronson Building net property costs of approximately $4.5 million are not included in this analysis.
[11] Predevelopment entitlement costs include those costs that were incurred by the Project Sponsor as part of the predevelopment costs through the end of 2012, prior to design/permitting/construction costs. Estimate includes pre-development costs for The Mexican Museum. See Appendix G.
[12] Construction cost estimate reflects LEED Silver standards for the residential components and LEED Gold standards for the commercial components. Estimate includes construction of the core and shell for Museum and Office, with MEP services stubbed out into space. Commercial and cultural tenants will be responsible for interior build-out, which is not included in estimate. Cost includes demolition of the Aronson Building annexes, restoration of the Aronson Building, and site improvement (hardscape and landscape) costs. Estimate includes other direct costs such as Contractor Controlled Insurance Program (CCIP), adjacent property improvements, utility set-up charges, preconstruction charges, some initial on-site environmental work and contingency.
[13] The exterior/ curtain wall refers to the unique façade treatment of The Mexican Museum. The surface square footage is estimated to be 13,280 square feet.
[14] Tenant improvement allowance is applied to net leasable office space.
[15] Estimate is calculated and provided by the Project Sponsor. See Appendix Table B-1.
[16] Other Indirect Costs include development fee (includes General and Administrative), taxes, insurance, finance fees and contingency.
[17] Aronson Building restoration costs are included in the overall project development costs. See Table 8 for estimate of Aronson Building breakout provided by Webcor Builders.
[18] Reflects City requirement of 20%. Excludes additional Successor Agency requirement of 8%.
[19] Reflects additional Successor Agency requirement of 8%.
[20] The purchase of TDRs may be required under the Existing Zoning Alternative and the Reduced Shadow Alternative. For these alternatives, TDR purchase costs are assumed to be $24 per gross square foot, based on information provided by TDR brokers as of April 2013.
[21] See Table 8 for annual Homeowners' Association Dues calculations. As the residential units are being absorbed, the Project Sponsor will be responsible for paying the Homeowners' Association Dues of unsold units. Estimate assumes Project sponsor pays 2/3 of dues in the first year of sales and 1/3 of dues in the second year of sales.
[22] See Table 8 for annual Open Space Maintenance cost calculations. Homeowners will assume these costs as units are purchased. Estimate assumes Project sponsor pays 2/3 of costs in the first year of sales and 1/3 of costs in the second year of sales.
[23] Reflects an unleveraged, cash-on-cash rate of return.

Sources: 706 Mission Street Co., LLC; Webcor Builders; CBRE; IRR Viewpoint 2013; City of San Francisco; Economic & Planning Systems, Inc.

Appendix A, Table 3
Pro Forma: Separate Buildings Alternative
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Item	Assumption	Amount
DEVELOPMENT PROGRAM		
Gross Building Square Feet		704,280
Residential		
Gross Square Feet		487,630
Net Saleable Area	76% Efficiency Ratio	370,599
Units		187
Office		
Gross Leasable Area (sq.ft.)		78,840
Net Leasable Area (sq.ft.)	85% Efficiency Ratio	67,014
Parking Spaces		470
DEVELOPMENT REVENUE		
Residential Sales Revenue [1]		$483,102,007
(less) Commission Expenses	3.0% of purchase price	($14,493,060)
Residential Parking Sales Revenue [2]	$100,000 per space	$18,700,000
Lease Revenue		
Office		
Gross Revenue (Full Service Gross) [3]	$55.00 /sq. ft./yr.	$3,685,770
(less) Vacancy [4]	10.0% of Gross Revenue	($368,577)
(less) Operating Expenses [5]	20.0% of Gross Revenue	($737,154)
Subtotal, Office		$2,580,039
Parking [6]	$322 /space / mo.	$1,089,648
Subtotal, Lease Revenue		$3,669,687
(less) Capital Reserve [7]	1.0% of Lease Revenue	($36,697)
Annual Net Operating Income		$3,632,990
Capitalized Value [8]	6.0% cap rate	$59,338,839
Total Revenues		**$546,647,786**
DEVELOPMENT COSTS		
2006 Acquisition of Aronson Building		$23,500,000
Agency Site Purchase/Conveyance [9]		$39,393,904
Aronson Building Property Costs [10]		–
Direct Construction Costs		
Predevelopment Entitlement Costs [11]		$9,388,235
Direct Construction [12]	$409 /gross sq. ft.	$288,238,119
Exterior/ Curtain Wall [13]	$100 per sq.ft. of façade	$1,328,000
Tenant Improvements (Office) [14]	$100 /sq. ft.	$6,701,400
Subtotal, Direct Construction Costs		$305,656,163
Indirect Costs		
Architecture and Engineering	3.9% of Direct Costs	$11,767,762
Fees and Permits [15]	3.1% of Direct Costs	$9,453,424
Legal	0.6% of Direct Costs	$1,833,937
Sales and Marketing	1.4% of Direct Costs	$4,279,186
Other Indirect Costs [16]	9.8% of Direct Costs	$29,954,304
Subtotal, Indirect Costs	18.7% of Direct Costs	$57,288,613
Other Project Costs		
Museum Operating Endowment		$5,000,000
Aronson Building Rehab/Renovation [17]		–
Required Affordable Housing In-Lieu Fees [18]		$13,076,722
Additional Affordable Housing In-Lieu Fees [19]		$5,230,709
Purchase of TDRs (if applicable) [20]		–
Absorption Period HOA Dues [21]		$370,599
Open Space Maintenance (GMOS) [22]		$727,798
EIR-Related Measures		$975,000
Other Project Costs		$7,565,000
Subtotal, Other Project Costs		$32,945,827
Total Costs		**$458,784,508**
Developer Return [23]	18.0% of Total Costs	**$82,581,211**
Project Residual		**$5,282,067**

[1] See Tables 3 through 6 and Appendix D for residential revenue estimate assumptions and calculations.
[2] Residential parking spaces will be available at a 1:1 ratio at a cost of $100,000 per space. Purchase will be unbundled from residential sales.
[3] Office rents based on 4Q, 2012 CBRE report for Class A office space in Yerba Buena submarket; rounded up from $52.67 p.s.f. to $55 p.s.f. to account for a premium for newly remodeled space. Actual rents will vary depending on market conditions at the time of leasing.
[4] Office vacancy rates based on 4Q, 2012 CBRE report for Class A office space in Yerba Buena submarket; rounded down from 21.2% to 10.0% to account for improving office market conditions and the desirability of newly remodeled space. Actual vacancy rates will vary depending on market conditions at the time of leasing.
[5] Operating expenses include cleaning, utilities, general building management, management fee, insurance and property tax, and commissions.
[6] Revenue per month is applied to the public and leased spaces (see Table 2) based on City Park's average monthly net revenue of approximately $113,000 for 350 spaces (for FY12/13 through February), see Appendix F. It should be noted that City Park does not pay property taxes, whereas the Project Sponsor will. As such, this cost estimate potentially overstates per month net revenues, which is conservative for purposes of this analysis. This revenue is applied to the public spaces and the leased spaces.
[7] Capital reserves to cover any unforeseen capital requirements.
[8] Capitalization rate of 6.0% is based on a San Francisco-specific, CBD office reversion cap rate of 5.75% as presented by IRR Viewpoint, 2013 and increased to account for inclusion of the Project's parking component. Includes a 2% cost of sale.
[9] Estimate provided by the Successor Agency, includes $21.1 million to defease outstanding Jessie Square Garage bonds, $18.3 million for payment required under the Cooperation and Tax Increment Reimbursement Agreement, and $1 for site conveyance. Because the assessed value of the Agency Site is unknown at this time, associated transaction costs are not included. The Project Sponsor will be responsible for property taxes on the entire Project Site post-conveyance, and the property taxes will be based on the value of the site. Again, because the assessed value of the Agency Site is unknown at this time, associated property taxes also are not included. Exclusion of these costs is conservative in that it underestimates
[10] Aronson Building net property costs of approximately $4.5 million are not included in this analysis.
[11] Predevelopment entitlement costs include those costs that were incurred by the Project Sponsor as part of the predevelopment costs through the end of 2012, prior to design/permitting/construction costs. Estimate includes pre-development costs for The Mexican Museum. See Appendix G.
[12] Construction cost estimate reflects LEED Silver standards for the residential components and LEED Gold standards for the commercial components. Estimate includes construction of the core and shell for Museum and Office, with MEP services stubbed out into space. Commercial and cultural tenants will be responsible for interior build-out, which is not included in estimate. Cost includes demolition of the Aronson Building annexes, restoration of the Aronson Building, and site improvement (hardscape and landscape) costs. Estimate includes other direct costs such as Contractor Controlled Insurance Program (CCIP), adjacent property improvements, utility set-up charges, preconstruction charges, some initial on-
[13] The exterior/ curtain wall refers to the unique façade treatment of The Mexican Museum. The surface square footage is estimated to be 13,280 square feet.
[14] Tenant improvement allowance is applied to net leasable office space.
[15] Estimate is calculated and provided by the Project Sponsor. See Appendix Table B-1.
[16] Other Indirect Costs include development fee (includes General and Administrative), taxes, insurance, finance fees and contingency.
[17] Aronson Building restoration costs are included in the overall project development costs. See Table 8 for estimate of Aronson Building breakout provided by Webcor Builders.
[18] Reflects City requirement of 20%. Excludes additional Successor Agency requirement of 8%.
[19] Reflects additional Successor Agency requirement of 8%.
[20] The purchase of TDRs may be required under the Existing Zoning Alternative and the Reduced Shadow Alternative. For these alternatives, TDR purchase costs are assumed to be $24 per gross square foot, based on information provided by
[21] See Table 8 for annual Homeowners' Association Dues calculations. As the residential units are being absorbed, the Project Sponsor will be responsible for paying the Homeowners' Association Dues of unsold units. Estimate assumes Project sponsor pays 2/3 of dues in the first year of sales and 1/3 of dues in the second year of sales.
[22] See Table 8 for annual Open Space Maintenance cost calculations. Homeowners will assume these costs as units are purchased. Estimate assumes Project sponsor pays 2/3 of costs in the first year of sales and 1/3 of costs in the second year of sales.
[23] Reflects an unleveraged, cash-on-cash rate of return.

Sources: 706 Mission Street Co., LLC; Webcor Builders; CBRE; IRR Viewpoint 2013; City of San Francisco; Economic & Planning Systems, Inc.

Appendix A, Table 4
Pro Forma: Increased Residential Density Alternative
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Item	Assumption	Flex Option Residential	Flex Option Office
DEVELOPMENT PROGRAM			
Gross Building Square Feet		710,525	710,525
Residential			
Gross Square Feet		580,630	519,310
Net Saleable Area	76% Efficiency Ratio	441,279	394,676
Units		325	283
Office			
Gross Leasable Area (sq.ft.)		0	61,320
Net Leasable Area (sq.ft.)	85% Efficiency Ratio	0	52,122
Parking Spaces		470	470
DEVELOPMENT REVENUE			
Residential Sales Revenue [1]		$563,764,256	$511,930,967
(less) Commission Expenses	3.0% of purchase price	($16,912,928)	($15,357,929)
Residential Parking Sales Revenue [2]	$100,000 per space	$22,800,000	$19,800,000
Lease Revenue			
Office			
Gross Revenue (Full Service Gross) [3]	$55.00 /sq. ft./yr.	$0	$2,866,710
(less) Vacancy [4]	10.0% of Gross Revenue	$0	($286,671)
(less) Operating Expenses [5]	20.0% of Gross Revenue	$0	($573,342)
Subtotal, Office		$0	$2,006,697
Parking [6]	$322 /space / mo.	$927,360	$1,043,280
Subtotal, Lease Revenue		$927,360	$3,049,977
(less) Capital Reserve [7]	1.0% of Lease Revenue	($9,274)	($30,500)
Annual Net Operating Income		$918,086	$3,019,477
Capitalized Value [8]	6.0% cap rate	$14,995,411	$49,318,128
Total Revenues		$584,646,750	$565,691,166
DEVELOPMENT COSTS			
2006 Acquisition of Aronson Building		$23,500,000	$23,500,000
Agency Site Purchase/Conveyance [9]		$39,393,904	$39,393,904
Aronson Building Property Costs [10]		–	–
Direct Construction Costs			
Predevelopment Entitlement Costs [11]		$9,388,235	$9,388,235
Direct Construction [12]	$456 to $474 /gross sq. ft.	$336,814,452	$323,898,314
Exterior/ Curtain Wall [13]	$100 per sq.ft. of façade	$1,328,000	$1,328,000
Tenant Improvements (Office) [14]	$100 /sq. ft.	$0	$5,212,200
Subtotal, Direct Construction Costs		$347,531,161	$339,827,205
Indirect Costs			
Architecture and Engineering	3.9% of Direct Costs	$13,379,950	$13,083,347
Fees and Permits [15]	2.9% to 3.0% of Direct Costs	$10,365,655	$9,956,023
Legal	0.6% of Direct Costs	$2,085,187	$2,038,963
Sales and Marketing	1.4% of Direct Costs	$4,865,436	$4,757,581
Other Indirect Costs [16]	9.8% of Direct Costs	$34,058,054	$33,303,066
Subtotal, Indirect Costs	18.6% of Direct Costs	$64,754,281	$63,138,981
Other Project Costs			
Museum Operating Endowment		$5,000,000	$5,000,000
Aronson Building Rehab/Renovation [17]		–	–
Required Affordable Housing In-Lieu Fees [18]		$19,458,495	$16,934,271
Additional Affordable Housing In-Lieu Fees [19]		$7,783,398	$6,773,708
Purchase of TDRs (if applicable) [20]		–	–
Absorption Period HOA Dues [21]		$441,279	$394,676
Open Space Maintenance (GMOS) [22]		$725,788	$741,118
EIR-Related Measures		$975,000	$975,000
Other Project Costs		$7,565,000	$7,565,000
Subtotal, Other Project Costs		$41,948,959	$38,383,772
Total Costs		**$517,128,306**	**$504,243,862**
Developer Return [23]	18.0% of Total Costs	**$93,083,095**	**$90,763,895**
Project Residual		**($25,564,651)**	**($29,316,591)**

[1] See Tables 3 through 6 and Appendix D for residential revenue estimate assumptions and calculations.
[2] Residential parking spaces will be available at a 1:1 ratio at a cost of $100,000 per space. Purchase will be unbundled from residential sales.
[3] Office rents based on 4Q, 2012 CBRE report for Class A office space in Yerba Buena submarket; rounded up from $52.67 p.s.f. to $55 p.s.f. to account for a premium for newly remodeled space. Actual rents will vary depending on market conditions at the time of leasing.
[4] Office vacancy rates based on 4Q, 2012 CBRE report for Class A office space in Yerba Buena submarket; rounded down from 21.2% to 10.0% to account for improving office market conditions and the desirability of newly remodeled space. Actual vacancy rates will vary depending on market conditions at the time of leasing.
[5] Operating expenses include cleaning, utilities, general building management, management fee, insurance and property tax, and commissions.
[6] Revenue per month is applied to the public and leased spaces (see Table 2) based on City Park's average monthly net revenue of approximately $113,000 for 350 spaces (for FY12/13 through February), see Appendix F. It should be noted that City Park does not pay property taxes, whereas the Project Sponsor will. As such, this cost estimate potentially overstates per month net revenues, which is conservative for purposes of this analysis. This revenue is applied to the public spaces and the leased spaces.
[7] Capital reserves to cover any unforeseen capital requirements.
[8] Capitalization rate of 6.0% is based on a San Francisco-specific, CBD office reversion cap rate of 5.75% as presented by IRR Viewpoint, 2013 and increased to account for inclusion of the Project's parking component. Includes a 2% cost of sale.
[9] Estimate provided by the Successor Agency, includes $21.1 million to defease outstanding Jessie Square Garage bonds, $18.3 million for payment required under the Cooperation and Tax Increment Reimbursement Agreement, and $1 for site conveyance. Because the assessed value of the Agency Site is unknown at this time, associated transaction costs are not included. The Project Sponsor will be responsible for property taxes on the entire Project Site post-conveyance, and the property taxes will be based on the value of the site. Again, because the assessed value of the Agency Site is unknown at this time, associated property taxes also are not included. Exclusion of these costs is conservative in that it underestimates actual costs.
[10] Aronson Building net property costs of approximately $4.5 million are not included in this analysis.
[11] Predevelopment entitlement costs include those costs that were incurred by the Project Sponsor as part of the predevelopment costs through the end of 2012, prior to design/permitting/construction costs. Estimate includes pre-development costs for The Mexican Museum. See Appendix G.
[12] Construction cost estimate reflects LEED Silver standards for the residential components and LEED Gold standards for the commercial components. Estimate includes construction of the core and shell for Museum and Office, with MEP services stubbed out into space. Commercial and cultural tenants will be responsible for interior build-out, which is not included in estimate. Cost includes demolition of the Aronson Building annexes, restoration of the Aronson Building, and site improvement (hardscape and landscape) costs. Estimate includes other direct costs such as Contractor Controlled Insurance Program (CCIP), adjacent property improvements, utility set-up charges, preconstruction charges, some initial on-site environmental work and contingency.
[13] The exterior curtain wall refers to the unique façade treatment of The Mexican Museum. The surface square footage is estimated to be 13,280 square feet.
[14] Tenant improvement allowance is applied to net leasable office space.
[15] Estimate is calculated and provided by the Project Sponsor. See Appendix Table B-1.
[16] Other Indirect Costs include development fee (includes General and Administrative), taxes, insurance, finance fees and contingency.
[17] Aronson Building restoration costs are included in the overall project development costs. See Table 8 for estimate of Aronson Building breakout provided by Webcor Builders.
[18] Reflects City requirement of 20%. Excludes additional Successor Agency requirement of 8%.
[19] Reflects additional Successor Agency requirement of 8%.
[20] The purchase of TDRs may be required under the Existing Zoning Alternative and the Reduced Shadow Alternative. For these alternatives, TDR purchase costs are assumed to be $24 per gross square foot; based on information provided by TDR brokers as of April 2013.
[21] See Table 8 for annual Homeowners' Association Dues calculations. As the residential units are being absorbed, the Project Sponsor will be responsible for paying the Homeowners' Association Dues of unsold units. Estimate assumes Project sponsor pays 2/3 of dues in the first year of sales and 1/3 of dues in the second year of sales.
[22] See Table 8 for annual Open Space Maintenance cost calculations. Homeowners will assume these costs as units are purchased. Estimate assumes Project sponsor pays 2/3 of costs in the first year of sales and 1/3 of costs in the second year of sales.
[23] Reflects an unleveraged, cash-on-cash rate of return.

Sources: 706 Mission Street Co., LLC; Webcor Builders; CBRE; IRR Viewpoint 2013; City of San Francisco; Economic & Planning Systems, Inc.

Appendix A, Table 5
Pro Forma: Reduced Shadow Alternative
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Item	Assumption	Flex Option Residential	Flex Option Office
DEVELOPMENT PROGRAM			
Gross Building Square Feet		418,441	418,441
Residential			
Gross Square Feet		318,191	265,631
Net Saleable Area	76% Efficiency Ratio	241,825	201,880
Units		186	162
Office			
Gross Leasable Area (sq.ft.)		0	52,560
Net Leasable Area (sq.ft.)	85% Efficiency Ratio	0	44,676
Parking Spaces		470	470
DEVELOPMENT REVENUE			
Residential Sales Revenue [1]		$285,193,602	$241,246,074
(less) Commission Expenses	3.0% of purchase price	($8,555,808)	($7,237,382)
Residential Parking Sales Revenue [2]	$100,000 per space	$18,600,000	$16,200,000
Lease Revenue			
Office			
Gross Revenue (Full Service Gross) [3]	$55.00 /sq. ft./yr.	$0	$2,457,180
(less) Vacancy [4]	10.0% of Gross Revenue	$0	($245,718)
(less) Operating Expenses [5]	20.0% of Gross Revenue	$0	($491,436)
Subtotal, Office		$0	$1,720,026
Parking [6]	$322 /space / mo.	$1,093,512	$1,186,248
Subtotal, Lease Revenue		$1,093,512	$2,906,274
(less) Capital Reserve [7]	1.0% of Lease Revenue	($10,935)	($29,063)
Annual Net Operating Income		$1,082,577	$2,877,211
Capitalized Value [8]	6.0% cap rate	$17,582,089	$46,994,451
Total Revenues		$312,919,683	$297,203,143
DEVELOPMENT COSTS			
2006 Acquisition of Aronson Building		$23,500,000	$23,500,000
Agency Site Purchase/Conveyance [9]		$39,393,904	$39,393,904
Aronson Building Property Costs [10]		--	--
Direct Construction Costs			
Predevelopment Entitlement Costs [11]		$9,388,235	$9,388,235
Direct Construction [12]	$513 to $551 /gross sq. ft.	$230,634,523	$214,797,615
Exterior Curtain Wall [13]	$100 per sq.ft. of façade	$1,328,000	$1,328,000
Tenant Improvements (Office) [14]	$100 /sq. ft.	$0	$4,467,600
Subtotal, Direct Construction Costs		$241,351,309	$229,981,963
Indirect Costs			
Architecture and Engineering	3.9% of Direct Costs	$9,292,025	$8,854,306
Fees and Permits [15]	2.9% of Direct Costs	$7,124,321	$6,651,672
Legal	0.6% of Direct Costs	$1,448,108	$1,379,892
Sales and Marketing	1.4% of Direct Costs	$3,378,918	$3,219,747
Other Indirect Costs [16]	9.8% of Direct Costs	$23,652,428	$22,538,232
Subtotal, Indirect Costs	18.5% to 18.6% of Direct Costs	$44,895,800	$42,643,849
Other Project Costs			
Museum Operating Endowment		$5,000,000	$5,000,000
Aronson Building Rehab/Renovation [17]		--	--
Required Affordable Housing In-Lieu Fees [18]		$13,002,181	$11,324,480
Additional Affordable Housing In-Lieu Fees [19]		$5,200,872	$4,529,792
Purchase of TDRs (if applicable) [20]		$1,917,984	$1,917,984
Absorption Period HOA Dues [21]		$241,825	$201,880
Open Space Maintenance (GMOS) [22]		$397,739	$410,879
EIR-Related Measures		$975,000	$975,000
Other Project Costs		$7,565,000	$7,565,000
Subtotal, Other Project Costs		$34,300,601	$31,925,014
Total Costs		$383,441,614	$367,444,730
Developer Return [23]	18.0% of Total Costs	$69,019,491	$66,140,051
Project Residual (w/ purchase of TDRs)		($139,541,222)	($136,381,639)
Project Residual (w/out purchase of TDRs)		($137,623,238)	($134,463,655)

[1] See Tables 3 through 6 and Appendix D for residential revenue estimate assumptions and calculations.
[2] Residential parking spaces will be available at a 1:1 ratio at a cost of $100,000 per space. Purchase will be unbundled from residential sales.
[3] Office rents based on 4Q, 2012 CBRE report for Class A office space in Yerba Buena submarket; rounded up from $52.67 p.s.f. to $55 p.s.f. to account for a premium for newly remodeled space. Actual rents will vary depending on market conditions at the time of leasing.
[4] Office vacancy rates based on 4Q, 2012 CBRE report for Class A office space in Yerba Buena submarket; rounded down from 21.2% to 10.0% to account for improving office market conditions and the desirability of newly remodeled space. Actual vacancy rates will vary depending on market conditions at the time of leasing.
[5] Operating expenses include cleaning, utilities, general building management, management fee, insurance and property tax, and commissions.
[6] Revenue per month is applied to the public and leased spaces (see Table 2) based on City Park's average monthly net revenue of approximately $113,000 for 350 spaces (for FY12/13 through February), see Appendix F. It should be noted that City Park does not pay property taxes, whereas the Project Sponsor will. As such, this cost estimate potentially overstates per month net revenues, which is conservative for purposes of this analysis. This revenue is applied to the public spaces and the leased spaces.
[7] Capital reserves to cover any unforeseen capital requirements.
[8] Capitalization rate of 6.0% is based on a San Francisco-specific, CBD office reversion cap rate of 5.75% as presented by IRR Viewpoint, 2013 and increased to account for inclusion of the Project's parking component. Includes a 2% cost of sale.
[9] Estimate provided by the Successor Agency, includes $21.1 million to defease outstanding Jessie Square Garage bonds, $18.3 million for payment required under the Cooperation and Tax Increment Reimbursement Agreement, and $1 for site conveyance. Because the assessed value of the Agency Site is unknown at this time, associated transaction costs are not included. The Project Sponsor will be responsible for property taxes on the entire Project Site post-conveyance, and the property taxes will be based on the value of the site. Again, because the assessed value of the Agency Site is unknown at this time, associated property taxes also are not included. Exclusion of these costs is conservative in that it underestimates actual costs.
[10] Aronson Building net property costs of approximately $4.5 million are not included in this analysis.
[11] Predevelopment entitlement costs include those costs that were incurred by the Project Sponsor as part of the predevelopment costs through the end of 2012, prior to design/permitting/construction costs. Estimate includes pre-development costs for The Mexican Museum. See Appendix G.
[12] Construction cost estimate reflects LEED Silver standards for the residential components and LEED Gold standards for the commercial components. Estimate includes construction of the core and shell for Museum and Office, with MEP services stubbed out into space. Commercial and cultural tenants will be responsible for interior build-out, which is not included in estimate. Cost includes demolition of the Aronson Building annexes, restoration of the Aronson Building, and site improvement (hardscape and landscape) costs. Estimate includes other direct costs such as Contractor Controlled Insurance Program (CCIP), adjacent property improvements, utility set-up charges, preconstruction charges, some initial on-site environmental work and contingency.
[13] The exterior curtain wall refers to the unique façade treatment of The Mexican Museum. The surface square footage is estimated to be 13,280 square feet.
[14] Tenant improvement allowance is applied to net leasable office space.
[15] Estimate is calculated and provided by the Project Sponsor. See Appendix Table B-1.
[16] Other Indirect Costs include development fee (includes General and Administrative), taxes, insurance, finance fees and contingency.
[17] Aronson Building restoration costs are included in the overall project development costs. See Table 6 for estimate of Aronson Building breakout provided by Webcor Builders.
[18] Reflects City requirement of 20%. Excludes additional Successor Agency requirement of 8%.
[19] Reflects additional Successor Agency requirement of 8%.
[20] The purchase of TDRs may be required under the Existing Zoning Alternative and the Reduced Shadow Alternative. For these alternatives, TDR purchase costs are assumed to be $24 per gross square foot, based on information provided by TDR brokers as of April 2013.
[21] See Table 6 for annual Homeowners' Association Dues calculations. As the residential units are being absorbed, the Project Sponsor will be responsible for paying the Homeowners' Association Dues of unsold units. Estimate assumes Project sponsor pays 2/3 of dues in the first year of sales and 1/3 of dues in the second year of sales.
[22] See Table 6 for annual Open Space Maintenance cost calculations. Homeowners will assume these costs as units are purchased. Estimate assumes Project sponsor pays 2/3 of costs in the first year of sales and 1/3 of costs in the second year of sales.
[23] Reflects an unleveraged, cash-on-cash rate of return.

Sources: 706 Mission Street Co., LLC; Webcor Builders; CBRE; IRR Viewpoint 2013; City of San Francisco; Economic & Planning Systems, Inc.

APPENDIX B:

Entitlement Fees

Appendix B, Table 1 DRAFT - For Discussion Purposes Only
Estimated Entitlement and Development Fees
706 Mission Street; EPS #121084

Entitlement/Review/Approval	Project		B: Existing Zoning Alternative		C: Separate Buildings Alternative	D: Increased Residential Density Alternative		E: Reduced Shadow Alternative	
	Residential	Office	Residential	Office		Residential	Office	Residential	Office
Entitlement Fees									
Initial Study/Environmental Evaluation	$267,704	$267,704	$267,704	$267,704	$267,704	$267,704	$267,704	$267,704	$267,704
Environmental Impact Report	$135,982	$135,982	$135,982	$135,982	$135,982	$135,982	$135,982	$135,982	$135,982
Air Quality Assessment	$1,560	$1,560	$1,560	$1,560	$1,560	$1,560	$1,560	$1,560	$1,560
DPH Review of Hazards Issues & Phase I Report, & Air Quality Assessment	$2,643	$2,643	$2,643	$2,643	$2,643	$2,643	$2,643	$2,643	$2,643
Transportation Review of Study	$20,370	$20,370	$20,370	$20,370	$20,370	$20,370	$20,370	$20,370	$20,370
MTA Review of Transportation Impact Study	$4,100	$4,100	$4,100	$4,100	$4,100	$4,100	$4,100	$4,100	$4,100
Interdepartmental Review Fee	$1,627	$1,627	$1,627	$1,627	$1,627	$1,627	$1,627	$1,627	$1,627
Shadow Impact Fee	$513	$513	$513	$513	$513	$513	$513	$513	$513
Subdivision Application for New Condominiums (Planning Dep't Fee)	$2,200	$2,200	$2,200	$2,200	$2,200	$2,200	$2,200	$2,200	$2,200
Subdivision for Condominium Final Map (New Construction) (Public Works Dep't Fee)	$10,914	$10,914	$10,914	$10,914	$10,914	$10,914	$10,914	$10,914	$10,914
Building Permit Application for a Change in Use or Alteration of an Existing Building (Planning Dep't Fee)	$31,987	$31,987	$31,987	$31,987	$31,987	$31,987	$31,987	$31,987	$31,987
Building Permit for New Construction (Planning Dep't Fee)	$34,945	$34,945	$34,945	$34,945	$34,945	$34,945	$34,945	$34,945	$34,945
Demolition Application (Planning Dep't Fee)	$1,529	$1,529	$1,529	$1,529	$1,529	$1,529	$1,529	$1,529	$1,529
New Construction Building Permit – Plan Review and Permit Issuance Fee (DBI Fee)	$3,017,978	$2,922,690	$1,628,690	$1,431,121	$2,940,029	$3,435,507	$3,303,763	$2,362,472	$2,190,936
General Plan Referral	$3,454	$3,454	$3,454	$3,454	$3,454	$3,454	$3,454	$3,454	$3,454
Planning Code Text Amendment	$14,703	$14,703	$14,703	$14,703	$14,703	$14,703	$14,703	$14,703	$14,703
Zoning Map Change	$7,359	$7,359	$7,359	$7,359	$7,359	$7,359	$7,359	$7,359	$7,359
Downtown (C-3) District Review	$20,131	$20,131	$20,131	$20,131	$20,131	$20,131	$20,131	$20,131	$20,131
Application for one or more exceptions under Section 309	$1,919	$1,919	$1,919	$1,919	$1,919	$1,919	$1,919	$1,919	$1,919
Alteration of a Significant or Contributory Building in Designated Conservation District per Article 11	$4,349	$4,349	$4,349	$4,349	$4,349	$4,349	$4,349	$4,349	$4,349
Redevelopment Agency ENA Fees	$300,000	$300,000	$300,000	$100,000	$300,000	$300,000	$300,000	$300,000	$300,000
Total Estimated Entitlement Fees	**$3,885,967**	**$3,790,679**	**$2,497,879**	**$2,299,110**	**$3,808,018**	**$4,303,496**	**$4,171,752**	**$3,220,461**	**$3,058,925**
Development Fees									
Downtown C-3 Artwork	$2,956,802	$2,865,362	$1,697,931	$1,403,060	$2,882,381	$3,368,145	$3,236,983	$2,306,345	$2,147,976
Transit Impact Development Fee (TIDF)	$0	$61,709	$0	$0	$220,950	$0	$61,709	$0	$0
School District Fees	$1,350,337	$1,212,908	$397,242	$279,507	$1,135,333	$1,350,337	$1,212,908	$717,226	$599,493
SFPUC Wastewater Capacity Charge	$1,095,293	$1,063,562	$276,870	$241,611	$1,060,091	$997,026	$924,021	$533,636	$498,627
SFPUC Water Capacity Charge	$29,014	$29,014	$29,014	$29,014	$29,014	$29,014	$29,014	$29,014	$29,014
SFPUC Water Connection Fees	$25,000	$25,000	$25,000	$25,000	$25,000	$25,000	$25,000	$25,000	$25,000
SFDPW Street Tree In-Lieu Fees	$8,575	$8,575	$8,575	$8,575	$8,575	$8,575	$8,575	$8,575	$8,575
SFDPW Streets & Mapping Fees	$19,500	$19,500	$19,500	$19,500	$19,500	$19,500	$19,500	$19,500	$19,500
Performance Based Design Review Fee	$175,000	$175,000	$175,000	$175,000	$175,000	$175,000	$175,000	$175,000	$175,000
Shoring & Excavation Permit	$32,000	$32,000	$32,000	$32,000	$32,000	$32,000	$32,000	$32,000	$32,000
SFDPH Environmental Fees	$2,562	$2,562	$2,562	$2,562	$2,562	$2,562	$2,562	$2,562	$2,562
BAAQMD Fees Emergency Generator	$5,000	$5,000	$5,000	$5,000	$5,000	$5,000	$5,000	$5,000	$5,000
CABOE Hazardous Waste Fee	$50,000	$50,000	$50,000	$50,000	$50,000	$50,000	$50,000	$50,000	$50,000
Total Development Fees	**$5,751,083**	**$5,550,212**	**$2,818,694**	**$2,271,028**	**$5,645,406**	**$6,062,159**	**$5,764,272**	**$3,903,860**	**$3,592,747**
Total Fees	**$9,637,050**	**$9,340,890**	**$5,116,573**	**$4,570,139**	**$9,453,424**	**$10,365,655**	**$9,936,023**	**$7,124,321**	**$6,651,672**

Source: 706 Mission Street Co, LLC.

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APPENDIX C:

Cost Estimates for EIR Mitigation and Improvement Measures



Appendix C, Table 1
EIR Mitigation Measures and Cost Estimates
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Mitigation Measure Reference Number	EIR Mitigation Measure	Approximate Cost
M-CP-1a	Archeological Testing, Monitoring, Data Recovery and Reporting	$60,000
M-CP-1b	Interpretation	TBD, if required
M-CP-3	Paleontological Resources Monitoring and Mitigation Program	n/a
M-CP-4	Accidental Discovery	incl in construction hard cost, and M-CP-1a
M-NO-1a	Reduce Noise Levels During Construction	Incl in construction hard cost
M-NO-1b	Noise-Reducing Techniques and Muffling Devices for Pile Installation	Incl in construction hard cost
M-NO-2a	Minimize Vibration Levels During Construction	Incl in construction hard cost
M-NO-2b	Pre-Construction Assessment to Protect Structures from Ground Vibration Associated with Pile Installation	$20,000
M-NO-2c	Vibration Monitoring and Management Plan	$40,000
M-NO-3	Stationary Operational Noise Sources	$10,000
M-AQ-3	Construction Emissions Minimization	Incl in construction hard cost
M-HZ-2	Hazardous Materials -Testing for and Handling of Contaminated Soils	$60,000
TOTAL		**$190,000**

Source: 706 Mission Street Co, LLC, as of February 6, 2013.

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Appendix C, Table 2
EIR Improvement Measures and Cost Estimates
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Improvement Measure Reference Number	EIR Improvement Measure	Approximate Cost
I-TR-A	Traffic Signal Timing Modifications	$5,000
I-TR-B	"Garage Full" Sign on Third Street	$60,000
I-TR-C	Monitoring and Abatement of Queues	TBD, if required
I-TR-D	Installation of Eyebolts	$20,000
I-TR-E	Consolidation of Traffic Signal and Overhead Wire Poles	$30,000
I-TR-F	Pedestrian Measures on Third Street (Valet Service)	Incl in building operations costs
I-TR-F	Pedestrian Measures on Third Street (Alternate Pavement)	$30,000
I-TR-F	Pedestrian Measures on Third Street (Audio/Visual Treatments)	$20,000
I-TR-G	Reduce Pedestrian-Vehicle Conflict Areas	TBD
I-TR-H	Coordination of Moving Activities	Incl in building operations costs
I-TR-I	Construction - Traffic Control Plan	Incl in construction hard cost
I-TR-J	Construction - Carpools	Incl in construction hard cost
I-TR-K	Construction - Truck Traffic Management	$250,000
I-TR-L	Construction - Update Adjacent Businesses and Residents	Incl in construction hard cost
I-TR-M	Transportation Demand Management	Incl in building operations costs
I-TR-N	Monitoring and Abatement of Queues on Mission Street	TBD, if required
I-TR-O	Pedestrian Measures on Mission Street	Incl in building operations costs
I-TR-P	Truck Access Restrictions on Third Street	Incl in building operations costs
I-TR-Q	"Garage Full" Sign on Mission Street	$50,000
I-TR-R	Truck Access Restrictions on Mission Street under Variant 7	Incl in building operations costs
I-NO-A	Residential Use/Cultural Component Plan Review by Qualified Acoustical Consultant	$60,000
I-WS-A	Ground Level Wind Reduction	$100,000
I-WS-B	Wind Reduction	Incl in construction hard cost
Total		**$625,000**

Source: 706 Mission Street Co, LLC, as of February 6, 2013.

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Appendix C, Table 3
Other Sponsor Proposed Potential Improvement Measures
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Improvement Measure Reference Number	Other Sponsor Proposed Potential Improvement Measures	Approximate Cost
1	Dock Master for Jessie Square Garage Loading	$75,000
2	Increased Loading Capacity Within Jessie Square Garage	$1,300,000
3	Stevenson Street Shared Loading Zone - Turnaround Area	$250,000
4	Dedicated Sidewalk Loading Zones Along North Side of Stevenson Street	$525,000
5	Enlarge Turning Radius at Curb From Jessie Square Garage Exit onto Stevenson	$30,000
6	Stevenson Street Shared Loading Zone - Existing Westin Dock	$1,500,000
7	Use of Existing Jessie Square Garage Turntable	$90,000
8	New Stevenson Street Striping	$25,000
9	*NOT USED*	
10	Enhanced Raised Crosswalk at Stevenson Street	$45,000
11	New Crosswalk at Third Street South of Existing "KEEP CLEAR" Zone	$25,000
12	Pedestrian Signage Improvements at Third and Stevenson Streets Intersection	$25,000
13	Third and Stevenson Street Intersection Signal Timing Improvements	
14	Relocate and/or Reconfigure Existing Bollards and Planters Along Stevenson Street	$75,000
15	Temporary Closure of Jessie Square Garage Parking Areas	$1,000,000
16	Temporary Replacement Parking Due to Jessie Square Garage Closure	$100,000
17	Relocation of Existing Aronson Tenants	$2,500,000
Total		**$7,565,000**

Source: 706 Mission Street Co, LLC, as of February 6, 2013.

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Regulation Reference Number	EIR Greenhouse Gas Compliance Measures	Approximate Cost
1	Commuter Benefits Ordinance (San Francisco Environment Code, Section 421)	incl in operations; payroll program exists
2	Emergency Ride Home Program	no charge business enrollment; minimal mgmt time
3	Transit Impact Development Fee (Administrative Code, Chapter 38)	incl in operations costs; employees responsible for submitting reimbursement request
4	San Francisco Green Building Requirements (San Francisco Building Code, Chapter 13C.106.5 and 13C.5.106.5.2)	incl under project fees category incl in construction hard cost
5	Bicycle parking in parking garages (San Francisco Planning Code, Section 155.2)	$5,000
6	Bicycle parking in Residential Buildings (San Francisco Planning Code, Section 155.5)	$15,000
7	Car Sharing Requirements (San Francisco Planning Code, Section 166)	no charge business enrollment; incl in project cost; $200,000 value of 2 spaces
8	Parking requirements for San Francisco's Mixed-Use zoning districts (San Francisco Planning Code Section 151.1)	incl in project cost
9	San Francisco Green Building Requirements for Energy Efficiency (San Francisco Building Code, Chapter 13C)	incl in design and construction hard costs; for enhanced commissioning see item 10 below; for premium cost see item 12 below; build-out costs by tenant(s)
10	San Francisco Green Building Requirements for Energy Efficiency (LEED EA3, San Francisco Building Code, Chapter 13C.5.410.2)	for historic commercial office and ground floor retail, enhanced commissioning consultant fee $70,000; or by tenant(s) for other commercial spaces under their buildout
11	Commissioning of Building Energy Systems (LEED prerequisite, EAp1)	incl in construction hard cost; consultant fee $70,000
12	San Francisco Green Building Requirements for Energy Efficiency (San Francisco Building Code, Chapter 13C)	incl in construction hard cost; approx. $1,500,000 premium cost
13	San Francisco Green Building Requirements for Stormwater Management (San Francisco Building Code, Chapter 13C) or San Francisco Stormwater Management Ordinance (Public Works Code Article 4.2)	incl in construction hard cost - premium cost of on-site storage approx. $150,000
14	San Francisco Green Building Requirements for water efficient landscaping (San Francisco Building Code, Chapter 13C)	incl in construction hard cost; see item 13 above for costs associated with reuse of storm water
15	Indoor Water Efficiency (San Francisco Building Code, Chapter 13C sections 13C.5.103.1.2, 13C.4.103.2.2,13C.5.303.2.)	incl in construction hard cost; approx. $825,000 premium cost
16	San Francisco Green Building Requirements for water use reduction (San Francisco Building Code, Chapter 13C)	incl in construction hard cost; see item 15 above for costs associated with water use reduction
17	Commercial Water Conservation Ordinance (San Francisco Building Code, Chapter 13A)	incl in construction hard cost
18	San Francisco Water Efficient Irrigation Ordinance	incl in design and construction hard cost

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Appendix C, Table 4
EIR Greenhouse Gas Compliance Measures
706 Mission Street; EPS #121084

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Regulation Reference Number	EIR Greenhouse Gas Compliance Measures	Approximate Cost
19	Residential Water Conservation Ordinance (San Francisco Building Code, Housing Code, Chapter 12A)	Incl in construction hard cost
20	San Francisco Green Building Requirements for renewable energy (San Francisco Building Code, Chapter 13C)	Incl in design and construction hard cost; project will already achieve additional 15% beyond Title 24 per above items 9 and 12
21	San Francisco Green Building Requirements for solid waste (San Francisco Building Code, Chapter 13C)	Incl in design and construction hard cost
22	Mandatory Recycling and Composting Ordinance (San Francsico Environment Code, Chapter 19)	Incl in design, construction and operations cost
23	San Francisco Green Building Requirements for construction and demolition debris recycling (San Francisco Building Code, Chapter 13C)	Incl in construction hard cost
24	Street Tree Planting Requirements for New Construction (San Francisco Planning Code Section 138.1)	Incl in construction hard cost, and fee schedule for anticipated in-lieu street tree fees
25	San Francisco Green Building Requirements for Light Pollution Reduction (San Francisco Building Code, Chapter 13C5.106.8)	Incl in construction hard cost
26	San Francisco Green Building Requirements for Construction Site Runoff Pollution Prevention for New Construction (San Francisco Building Code, Chapter 13C)	Incl in construction hard cost
27	Regulation of Diesel Backup Generators (San Francisco Health Code, Article 30)	Incl in construction hard cost
28	San Francisco Green Building Requirements for Enhanced Refrigerant Management (San Francisco Building Code, Chapter 13C.5.508.1.2)	Incl in construction hard cost
29	San Francisco Green Building Requirements for Low-emitting materials (San Francisco Building Code, Chapter 13C.4. 103.2.2 and 13C4.504.2.1, 13C4.504.2.2)	Incl in construction hard cost
30	San Francisco Green Building Requirements for Low-emitting Adhesives, Sealants, and Caulks (San Francisco Building Code, Chapters 13C.5.103.1.9, 13C.5.103.4.2, 13C.5.103.3.2, 13C.5.103.2.2,13C.504.2.1)	Incl in construction hard cost
31	San Francisco Green Building Requirements for Low-emitting Flooring, Including carpet (San Francisco Building Code, Chapters 13C.5.103.1.9, 13C.5.103.4.2, 13C.5.103.3.2, 13C.5.103.2.2,13C.4.504.3 and 13C.4.504.4)	Incl in construction hard cost
32	San Francisco Green Building Requirements for Low-emitting Paints and Coatings (San Francisco Building Code, Chapters 13C.5.103.1.9, 13C.5.103.4.2, 13C.5.103.3.2, 13C.5.103.2.2, 13C.504.2.2 through 2.4)	Incl in construction hard cost
33	San Francisco Green Building Requirements for Low-emitting Composite Wood (San Francisco Building Code, Chapters 13C.5.103.1.9, 13C.5.103.4.2, 13C.5.103.3.2, 13C.5.103.2.2 and 13C.4.504.5)	Incl in construction hard cost
Total		**$160,000**

Source: 706 Mission Street Co, LLC, as of February 6, 2013.

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APPENDIX D:

Pricing by Floor Segment Calculations



Appendix D, Table 1
Analysis of Revenue by Floor Segmentation: Project
706 Mission Street; EPS #121084

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Category	Residential Flex			Office Flex		
	Number of Residential Floors [1]	Gross Square Feet	Average Price per SqFt	Number of Residential Floors [1]	Gross Square Feet	Average Price per SqFt
Tower						
Floors 5 - 10	5	64,850	$1,150	5	64,850	$1,150
Floors 11 - 25 [2]	15	194,550	$1,200	15	194,550	$1,200
Floors 26 - 33 [3]	8	103,760	$1,275	8	103,760	$1,275
Floors 34 - 44 [4]	11	142,670	$1,400	11	142,670	$1,400
Floors 45 - 47 [5]	3	38,910	$1,800	3	38,910	$1,800
	42			42		
Aronson Building [6]	7	61,320	$1,100	0	0	$0
Weighted Average Price per SqFt			**$1,283**			**$1,304**

Assumptions	
Floor Plate of Proposed Tower	12,970 gross sqft
Floor Plate of Aronson Building	8,760 gross sqft

[1] The number of residential floors within a segment does not include floors dedicated to residential amenity space. For example, if residential amenity space is proposed to be located on the fifth floor of the tower, then there are only 5 floors of residential space within the "Floors 5 - 10" segment.
[2] Above the 10th floor, water views begin to be visible, adding a premium to floors 11 through 25 over the lower floors. In this grouping of floors, the south facing units are expected to sell for more than the north facing units.
[3] Above the 25th floor, views begin to clear the Westin Hotel to the north.
[4] Above the 33rd floor, it is assumed the premium view lines begin especially for units on the north side of the building.
[5] In addition to possessing premium views, the top floors will offer penthouse layouts, which include larger floor plans and private terraces. The price points for these units reflect unfinished units.
[6] Aronson Building residential units will be subject to historical preservation requirements. For pricing purposes, units are being compared to City Residences, which are part of Millennium Tower.

Sources: 706 Mission Street Co, LLC; Economic & Planning Systems, Inc.

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Appendix D, Table 2
Analysis of Revenue by Floor Segmentation: Existing Zoning Alternative
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Category	Residential Flex: Number of Residential Floors	Residential Flex: Gross Square Feet	Residential Flex: Average Price per SqFt	Office Flex: Number of Residential Floors	Office Flex: Gross Square Feet	Office Flex: Average Price per SqFt
Tower						
Floors 3 - 10	8	85,200	$1,150	8	85,200	$1,150
Floors 11 - 12 [1]	2	21,300	$1,200	2	21,300	$1,200
Floor 13 [2]	1	10,650	$1,325	1	10,650	$1,325
	11			11		
Aronson Building [3]	6	52,560	$1,100	0	0	
Weighted Average Price per SqFt			**$1,152**			**$1,175**

Assumptions	
Floor Plate of Proposed Tower	10,650 gross sqft
Floor Plate of Aronson Building	8,760 gross sqft

[1] Above the 10th floor, water views begin to be visible, adding a premium to floors 11 and 12 over the lower floors. In this grouping of floors, the south facing units are expected to sell for more than the north facing units.
[2] Floor 13 is proposed to have two penthouse units and would therefore command a price premium over other units with similar views, which EPS has estimated to be $125 per sq.ft.
[3] Aronson Building residential units will be subject to historical preservation requirements. For pricing purposes, units are being compared to City Residences, which are part of Millennium Tower.

Sources: 706 Mission Street Co, LLC; Economic & Planning Systems, Inc.

Appendix D, Table 3 DRAFT - For Discussion Purposes Only
Analysis of Revenue by Floor Segmentation: Separate Buildings Alternative
706 Mission Street; EPS #121084

Category	Number of Residential Floors [1]	Gross Square Feet	Average Price per SqFt
Tower			
Floors 5 - 10	5	64,850	$1,150
Floors 11 - 25 [2]	15	194,550	$1,200
Floors 26 - 33 [3]	8	103,760	$1,275
Floors 34 - 44 [4]	11	142,670	$1,400
Floors 45 - 47 [5]	3	38,910	$1,800
	42		
Aronson Building	0	0	$1,100
Weighted Average Price per SqFt			**$1,304**

Assumptions	
Floor Plate of Proposed Tower	12,970 gross sqft
Floor Plate of Aronson Building	8,760 gross sqft

[1] The number of residential floors within a segment does not include floors dedicated to residential amenity space. For example, if residential amenity space is proposed to be located on the fifth floor of the tower, then there are only 5 floors of residential space within the "Floors 5 - 10" segment.
[2] Above the 10th floor, water views begin to be visible, adding a premium to floors 11 through 25 over the lower floors. In this grouping of floors, the south facing units are expected to sell for more than the north facing units.
[3] Above the 25th floor, views begin to clear the Westin Hotel to the north.
[4] Above the 33rd floor, it is assumed the premium view lines begin especially for units on the north side of the building.
[5] In addition to possessing premium views, the top floors will offer penthouse layouts, which include larger floor plans and private terraces. The price points for these units reflect unfinished units.

Sources: 706 Mission Street Co, LLC; Economic & Planning Systems, Inc.

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Appendix D, Table 4
Analysis of Revenue by Floor Segmentation: Increased Residential Density Alternative
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Category	Residential Flex			Office Flex		
	Number of Residential Floors	Gross Square Feet	Average Price per SqFt	Number of Residential Floors	Gross Square Feet	Average Price per SqFt
Tower						
Floors 5 - 10	6	77,820	$1,150	6	77,820	$1,150
Floors 11 - 25 [1]	15	194,550	$1,200	15	194,550	$1,200
Floors 26 - 33 [2]	8	103,760	$1,275	8	103,760	$1,275
Floors 34 - 44 [3]	11	142,670	$1,400	11	142,670	$1,400
Floor 45 [4]	1	12,970	$1,675	1	12,970	$1,675
Floors 46 - 47 [5]	2	25,940	$1,800	2	25,940	$1,800
	43			43		
Aronson Building [6]	7	61,320	$1,100	0	0	$0
Weighted Average Price per SqFt			**$1,278**			**$1,297**

Assumptions

Floor Plate of Proposed Tower	12,970 gross sqft
Floor Plate of Aronson Building	8,760 gross sqft

[1] Above the 10th floor, water views begin to be visible, adding a premium to floors 11 through 25 over the lower floors. In this grouping of floors, the south facing units are expected to sell for more than the north facing units.
[2] Above the 25th floor, views begin to clear the Westin Hotel to the north.
[3] Above the 33rd floor, it is assumed the premium view lines begin especially for units on the north side of the building.
[4] The 45th floor will offer premium views but not the penthouse layout of Floors 46 and 47.
[5] In addition to possessing premium views, the top floors will offer penthouse layouts, which include larger floor plans and private terraces. The price points for these units reflect unfinished units.
[6] Aronson Building residential units will be subject to historical preservation requirements. For pricing purposes, units are being compared to City Residences, which are part of Millennium Tower.

Sources: 706 Mission Street Co, LLC; Economic & Planning Systems, Inc.

Appendix D, Table 5
Analysis of Revenue by Floor Segmentation: Reduced Shadow Alternative
706 Mission Street; EPS #121084

DRAFT - For Discussion Purposes Only

Category	Residential Flex			Office Flex		
	Number of Residential Floors	Gross Square Feet	Average Price per SqFt	Number of Residential Floors	Gross Square Feet	Average Price per SqFt
Tower						
Floors 3 - 10	8	85,200	$1,150	6	85,200	$1,150
Floors 11 - 25 [1]	15	159,750	$1,200	15	159,750	$1,200
Floor 26 [2]	1	10,650	$1,275	1	10,650	$1,275
Floor 27 [3]	1	10,650	$1,400	1	10,650	$1,400
	25			23		
Aronson Building [4]	6	52,560	$1,100	0	0	$0
Weighted Average Price per SqFt			**$1,179**			**$1,195**

Assumptions

Floor Plate of Proposed Tower	10,650 gross sqft
Floor Plate of Aronson Building	8,760 gross sqft

[1] Above the 10th floor, water views begin to be visible, adding a premium to floors 11 through 25 over the lower floors. In this grouping of floors, the south facing units are expected to sell for more than the north facing units.
[2] Above the 25th floor, views begin to clear the Westin Hotel to the north.
[3] In addition to having a view that clears the Westin Hotel to the north, the 27th Floor is proposed to offer the penthouse layout.
[4] Aronson Building residential units will be subject to historical preservation requirements. For pricing purposes, units are being compared to City Residences, which are part of Millennium Tower.

Sources: 706 Mission Street Co, LLC; Economic & Planning Systems, Inc.

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APPENDIX E:

Construction Cost Estimates and Detailed Comparison between Project and Reduced Shadow Alternative



ALTERNATIVE OPTIONS A, B, C, D & E
CONCEPTUAL ESTIMATE
ASSUMPTIONS AND QUALIFICATIONS

A. PROJECT:

Name: 706 Mission – The Mexican Museum
San Francisco, CA

Developer: Millennium Partners

Architect: Handel Architects

Engineer: Magnusson Klemencic

B. PROJECT INFORMATION:

1. **Option A – Proposed Project** - Total Building 710,525 GSF
   a. Project Schedule: Schedule duration is 36 months
   b. Schedule used for Estimate is based on commencing construction 1/2/14.

2. **Option B – Existing Zoning** - Total Building 275,590 GSF
   c. Project Schedule: Schedule duration is 21 months
   d. Schedule used for Estimate is based on commencing construction 1/2/14.

3. **Option C – Separate Buildings** - Total Building 704,280 GSF
   e. Project Schedule: Schedule duration is 36 months
   f. Schedule used for Estimate is based on commencing construction 1/2/14.

4. **Option D – Increased Residential Density** - Total Building 710,525 GSF
   g. Project Schedule: Schedule duration is 36 months
   h. Schedule used for Estimate is based on commencing construction 1/2/14.

5. **Option E – Reduced Shadow** - Total Building 418,441 GSF
   i. Project Schedule: Schedule duration is 33 months
   j. Schedule used for Estimate is based on commencing construction 1/2/14.

C. SUMMARY OF COSTS

Costs for the Proposed Project and each Alternative Option vary according to the height, number of residential units, and program areas.

Generally, for all Options the costs for Divisions 2 (Earthwork & Sitework), 4 (Foundations), 7 (Roofing & Waterproofing), and 10 (Equipment) remain the same or

very similar, since these floors, areas of the building, and associated systems will be required in all cases, regardless of height or number of residential units. However, depending on the overall size in floor area of the Alternative Option the unit cost/GSF will differ as these costs are divided against the overall GSF of that Option; the larger the GSF of the Alternative Option, the lower the GSF unit cost for this work, and inversely the smaller the GSF of the Alternative Option the higher the GSF unit cost for this work. Across the Proposed Project and Alternative Options the costs for Divisions 5 (Structure), 6 (Exterior Skin), 8 (Interior Construction), 9 (Specialties), 12 (Conveying Systems), 14 (Fire Protection), 15 (Plumbing), 16 (HVAC), and 17 (Electrical) vary, since they are directly related to the number of floors in the tower, residential units, and associated duration of construction schedule. The higher the number of residential units and interior floor area, the higher the GSF unit cost for this work; the lower the number of residential units and interior floor area, the lower the GSF unit cost for this work. Division 3 (Landscape) costs will vary slightly for Option C, since the roof of the Aronson building would not be used as a common residential open space terrace.

When compared to the Proposed Project, Options C & D costs/GSF are similar, although slightly higher in Option D due to the increased number of residential units and associated systems and finishes. For Alternative Options B & E, costs/GSF are higher than the Proposed Project due to significantly reduced height and floor area and the associated reduction in efficiency for spreading costs across the overall project GSF; although there is less cost associated with fewer residential units and floor area in these Options, that reduction in costs does not offset the remaining costs associated with the lower floor levels and below grade costs that do not vary by Option. Unit costs/GSF for the office flex component and museum core and shell remain generally the same across the Proposed Project and all Alternative Options.

D. GENERAL INFORMATION:

Conceptual estimates for Alternative Options A, B, C, D, and E were developed as follows. A base estimate was developed using market pricing, subcontractor and vendor pricing, use of Webcor's extensive data base, along with construction professional's input in December 2012 and January 3012. To develop the series of Alternative Options on a GSF basis the base estimate was modified by adding to or deleting from the base estimate along with the input of construction professionals.

E. BUILDING QUALIFICATIONS:

Division 2: Building Pad, Earthwork & Sitework

a. **Pedestrian Protection:** includes chain link fencing and covered pedestrian walkways as required.
b. **Traffic control:** Includes costs for flagmen and barricades for Webcor related deliveries. Subcontractors will be required to include traffic control for their own deliveries. SF Police traffic control, if required, is an Owner provided item.

c. **Hazardous Material Abatement:** Hazardous material abatement is excluded, and is assumed to be covered by the Owner. Unforeseen underground conditions are excluded.
d. **Dewatering:** Based on previous experience in the "Jessie Square Parking Garage" a Budget has been provided for 9 temporary dewatering wells, rental of nine pumps, rental of a sand tank and rental of a flowmeter. Dewatering discharge fees are not included and are assumed to be by Owner.
e. **Shoring & Underpinning:** A secant pile wall and tiebacks to shore and underpin the existing Aronson Building will be installed. Tiebacks and a Whaler system to support the existing wall along Mission Street will be installed. Overlapping soil mixed columns for cut off wall along the Westin Hotel Property will be installed
f. **Earthwork:** Includes the costs to excavate, backfill, off-haul and dispose of all soil as determined from the best information available. Assumes that all soil is "clean" and can be disposed of at local landfills. No cost has been included in the budget to handle or dispose of any contaminated soil. Assumes soil is rippable, and can be excavated without the use of hoe-rams if rock is encountered. Materials excavated on site are assumed to be adequate to backfill as required. Import of soils is not included.
g. **Grading & Paving, Site Concrete:** The cost to install new public sidewalks and curb & gutter has been included. An allowance of $45/sf. for concrete paving has been included to match "Jessie Square."
h. **Underground Utilities:** An allowance has been included to tie into existing, sewer, storm drain, and water services. No utility company connection fees or joint trench costs have been included (Owner cost). This budget excludes the reclaimed gray water system beyond the curb line that may be installed by the City in the future.
i. **Bicycle Racks and Lockers:** A budget for bicycle lockers has been included.
j. **Traffic signals and other offsite utility work:** excluded unless qualified as being included elsewhere.
k. **Note:** For all Alternative Options for Division 2: Building Pad, Earthwork and Sitework costs remained the same. However, depending on the GSF of the Alternative Option the GSF unit price will differ as these costs are amortized against the GSF of the Alternative Option. The larger the GSF of the project the lower the GSF unit cost for this work and inversely the smaller the GSF of the project the higher the GSF unit cost for this work.

Division 3: Landscape

a. The landscape and irrigation budget is included in the Budget. An allowance of $45/sf. for landscaping and hardscape on grade.
b. **Note:** For all Alternative Options for Division 3: Landscape costs remained the same with the exception of Alternative Option C. Separate Building which is lower as the Aronson building roof does not include Division 3 Landscape work. However, depending on the GSF of the Alternative Option the GSF unit price will differ as these costs are amortized against the GSF of the Alternative Option. The larger the GSF of the project the lower the GSF unit cost for this work and inversely the smaller the GSF of the project the higher the GSF unit cost for this work.

Division 4: Foundations

a. Mat Foundation – 280#/cy Rebar Density.
b. Form, supply, place, and finish mat slab, walls, columns, and suspended slabs.
c. Furnish and install Cast in Place perimeter walls and pilasters. Provide up to 2" average over break on walls installed against shoring.
d. **Note:** For all Alternative Options Division 4: Foundations costs remained the same. However, depending on the GSF of the Alternative Option the GSF price will differ as these costs are amortized against the GSF of the Alternative Option. The larger the GSF of the project the lower the GSF unit cost for this work and inversely the smaller the GSF of the project the higher the GSF unit cost for this work. The foundation for Option C. Separate Buildings is slightly different and these differences were offset with the structural considerations.

Division 5: Structure

a. Approval for form re-use shall not be subject to approval by Owner's inspector or the Architect. Formwork may be patched and repaired, providing concrete complies with Class B Concrete and as stated above.
b. Post tensioning system shall be stressed once suspended deck concrete reaches the compressive strength of 3,000 psi. No minimum time limit is observed.
c. For Post-Tensioned Slabs, two Cylinder Breaks for PT stressing (approx. 3 day), 7, and 28 day breaks shall be provided by Owner's testing agency. Early morning breaks for PT stressing (data available at 7AM) shall be provided for PT Slabs at no cost to Webcor.
d. MEPS Pads: Included 2,500 sf for an allowance.
e. Curbs: For Alternative Options A, C, & D included 2,000 lf has been included as an allowance, for Alternative Option B 800 lf has been included as an allowance, and for Alternative Option E 1,200 lf has been included as and allowance.
f. MEPS deck Penetrations: Included is 160 lf or 16 ea 2'x3' blockouts per typical floor.
g. Intentional roughening of Construction Joints is excluded.
h. Bentonite waterstop at all Wall & Slab joints below grade.
i. We have assumed 20,800ea drill and epoxy dowels for the Aronson building and 2,000ea drill and epoxy dowels for the Tower.
j. Protection and Rat Slab are included in estimate.
k. Below grade perimeter shoring shall be designed to accept concrete truck, pump and cranes staged at the building perimeter.
l. Vertical formwork not supporting the weight of concrete may be removed 12 hours after concrete placement, provided the concrete is hard enough to not be damaged. Forms below suspended decks may be removed once the slabs reach 3,000 psi. Requirements to keep formwork in place longer are excluded.
m. We have included installation of structural steel link beams at the core-wall opening in the base bid. The FOB purchase of the link beams itself is not included separately. The core-wall rebar density is currently at 625 lbs./cy and the link beam rebar is 850#/cy and in our experience the savings in rebar if the link beams were converted to structural steel should offset the cost of purchase of these link beams.
n. Concrete Institute (ACI). All concrete shall be formed as Class B concrete as defined by ACI 117, which limits offsets to no more than 1/4 inch. Fins shall be removed and tie-holes and structural voids patched. Corners not exposed in the finish work may

be square or chamfered at Webcor's option. Finish tolerances of floors shall achieve average values of FF 20 and FL15 as defined by ACI 117. Please note that concrete tolerances for floors in particular cannot be guaranteed to be ¼" in 10ft, or any other such standard that is not feasible for post-tensioned high-rise construction. Any trades requiring stricter tolerances must include any costs to shim, float, grind, etc... any structural elements that fall within the ranges of ACI tolerances for this type of construction. Particular attention must be taken with any surfacing's (hardwood, laminate or carpet), furring, and attachments of exterior skin systems to accommodate the anticipated tolerances.

o. Basement perimeter walls are assumed to be cast in place.

p. Rebar Densities assumed (per MKA's 1/9/13 pricing package)
   1. Mat Foundation – 280#/cy
   2. Core & Shear Walls – 625#/cy
   3. Coupling Beams/Link beams – 850#/cy
   4. Columns – 550#/cy
   5. Basement Walls – 180#/cy
   6. Below Grade Slabs – 6#/sf
   7. Diaphragm Slab 16" – 8#/sf
   8. Museum Slabs 12" – 6.5#/sf
   9. PT slabs – 1#/sf for PT and 2.5#/sf for rebar
   10. Core Slabs – 180#/sf for beams and 5#/sf for the slab
   11. Tower Roof 12" – 6.5#/sf
   12. Tower Roof 10" – 5.5#/sf
   13. Aronson Perimeter Shotcrete – 200#/cy
   14. Aronson Shear Wall – 500#/cy – Note: does not apply to Alternative Option C. Separate Buildings
   15. Assumed 160LF lf of blockouts per typical floor for MEPS.

q. **Note:** For Alternative Option C. Separate Building and structurally speaking independent Seismic Design on Aronson and Tower: When considering the structure costs for this option, we looked at what the base design and costs were for the two structures to work together. The base design Level 11 of the tower was the diaphragm floor with a 16" deck that tied the two buildings. Also the core wall did significant work to accommodate the shear from the Aronson building. For Option C the two structures work independently and Level 11 and core in the main tower would be less expensive as the structure will be efficient. The savings realized from the Tower are offset by the costs of adding additional shear walls in the Aronson Building.

r. **Note:** For Alternative Option B. Existing Zoning: The structure is 13 levels tall. The cost per GSF for this option is higher because the costs of the mild steel floors on the Mexican Museum floors do not get amortized over a higher GSF.

s. **Note:** For Alternative Option E. Reduced Shadow: Similar to Option B, the 27 level building does not amortize the Mexican museum floors over a higher GSF compared to the 47 level building. Although this option is better than Option B it is not as efficient in terms of $/GSF as the 47 level towers.

Division 6: Exterior Skin

The exterior skin of the project has been priced according to the mockup created on site, the façade types described in the Handel Architects exterior elevations, 706 Mission Preliminary Visual mockup exterior cladding 2012-12-07, and details with clarifications made in the renderings which include.

a. (Type #1) Tower Unitized Curtainwall with Spandrel Glass.
b. (Type #2) Tower Unitized Curtainwall with IGU and Stone (Cherokee White Marble).
c. Curtainwall and Channel Glass @ Mexican Museum.
d. Operable Fins at the Mexican Museum.
e. Replacement Storefront and windows at the Aronson Building.
f. New Windows @ the North Elevation of the Aronson Building.
g. Solarium Window Wall, Solarium Skylight, Solarium Canopy, and Solarium Glass Rails/Screens at the roof/terrace of the Aronson Building.
a. **Note:** The most expensive skin systems (especially at the Mexican Museum) occur at the lower floors of all the Alternative Options. Therefore the taller the building the lower the GSF unit cost for this work and inversely the shorter the project the higher the GSF unit cost for this work.

Division 7: Roofing & Waterproofing

a. Waterproofing systems for the project have been budgeted using previous experience in the area of "Jessie Square." The garage level is assumed to have a 15 mil. Vapor barrier below the slab on grade and Cetco Coreflex has been budgeted at the tower mat foundation and the new separation wall between the Tower and the Aronson building.
b. Hot-fluid waterproofing membrane is included at the podium and tower terrace levels, along with pedestal pavers.
c. Insulation: Spray-on insulation is included between heated and unheated spaces as required. Hard coat for the spray on insulation is excluded. Slab edge fire-stopping is included at the perimeter of all floors.
d. An allowance has been included for all general sheet metal items such as reglets, flashing, counter-flashing, coping, and louvers. The allowance is based on galvanized sheet metal.
e. Sarnafil G410 has been budgeted for Roofing on the Solarium and Tower.
f. **Note:** For all Alternative Options for Division 7: Roofing & Waterproofing costs remain the same. However, depending on the GSF of the Alternative Option the GSF unit price will differ as these costs are amortized against the GSF of the Alternative Option. The larger the GSF of the project the lower the GSF unit cost for this work and inversely the smaller the GSF of the project the higher the GSF unit cost for this work.

Division 8: Interior Construction

Residential units are assumed to be finished with the following using the typical two bedroom three and one half bath plan as a base for the Appliances, fixtures, and finishes:

a. MDF base and casing throughout units, no crown molding.
b. Junckers Hardwood (Pearl Collection) floors for the kitchen, dining, and living room areas have been budgeted. Stone Marble flooring ($15/sf Allowance) is included in the foyer and bathrooms. Carpet has been included for the Bedrooms ($50/sy Allowance).

c. Calcutta Marble counter tops are included at kitchen counters, Islands, and bath vanities.
d. Euro-style (Studio Becker) kitchen and bath cabinets. Cabinet finishes assumed to be a wood veneer for typical units with upgrades for Penthouse units. This quote is based on an exchange rate of $1.35 Dollars per Euro.
e. We have included an allowance for Wolf & Subzero appliances. Kitchen includes Islands with vegetable sinks.
f. Euro-style (Studio Becker) Wardrobes with sliding Doors in the Master Closets. These units include U–shaped shelves above hanging rods, aluminum framed sliding doors. This quote is based on an exchange rate of 1.35 Dollar per Euro.
g. Entry Doors FSC certified hardwood veneers. The door lock covered would be a Grade 1 mortise lockset. Unit entry doors on hollow metal frames with molded hardboard hollow.
h. Core unit interior doors. Unit interior doors shall be pre-hung on wood frames.
i. Units will have tub, shower, and tub/shower units. Glass shower surrounds are included with Low-Iron Starfire Glass.
j. All drywall partitions are assumed to be level 4 finishes. A suspended drywall ceiling has been budgeted in the units per specification at unit entry, bath, and kitchen cabinet locations.
k. Units will be painted with a single color, flat latex paint.
l. Doors and millwork item will be painted with semi-gloss latex paint.
m. Corridor areas will be finished with paint grade MDF Base, paint, and carpet.
n. The Master bathtub is priced as a drop in without a skirt.
o. The Guest bathtub is priced with a skirt.
p. Garage area – exposed concrete/CMU walls and ceilings will be left unpainted. Drywall partitions, doors, and frames will be painted.
b. **Note:** The higher the (number of/density of) interior residential units per sf the higher the GSF unit cost for this work and inversely the lower the (number of/density of) units per sf the lower the GSF unit cost for this work. Non-built-out core & shell space will have the lowest GSF unit cost for this project.

Division 9: Specialties

a. Code required signage, is included as an allowance. Fire Extinguishers are included.
b. A budget has been included for Kohler-Purist Series-Polished Chrome toilet accessories.
c. Bathroom mirrors are included.
d. Closet shelf & rod is included for the second bedroom and has shingle shelf and rod running length of closet.
e. **Note:** The higher the number of interior residential units the higher the GSF unit cost for this work and inversely the lower the number of residential units the lower the GSF unit cost for this work. Non-built-out core & shell space will have the lowest GSF unit cost for this project.

Division 10: Equipment

a. An allowance for exterior skin maintenance system has been included.
b. Design Build Custom Fixed in Place, Parallel Luffing, Telescoping Boom Arm Type window washing unit a reach of at least 80'-0".

c. Sockets, Davit and Self-Powered Platform at level 13.
d. Parking control equipment is not required. There are two Hydraulic Auto Lifts. Two roll-up doors with automatic opener and access controls are included to control access to the garage.
e. Trash compactor is assumed to be an Owner provided item.
f. Trash chutes have been included, per drawings.
f. Household appliances: Allowances have been provided for Wolf and Sub Zero appliances.
g. **Note:** For Household appliances the higher the number of interior residential units the higher the GSF unit cost for this work and inversely the lower the number of residential units the lower the GSF unit cost for this work. Non-built-out core & shell space will have the lowest GSF unit cost for this project.

Division 11: Furnishings

Window coverings are not included in the budget.

Division 12: Conveying Systems

a. Includes (3) 3000 lb., 1200 fpm gearless traction passenger elevators and (1) 4500 lb., 1200 fpm Passenger/service "Fireman's" elevator, at the tower.
b. Includes (2) 8000# 200 fpm Auto lifts. Auto Lift estimate assumes minimum 9'-0" floor-to-floor height at all serviced floors in order to comply with manufacturers recommended minimum for a 7'-0" hoistway entrance.
c. Includes (2) 3500#, 200 fpm, (1) 4500# 150 fpm elevators at the Museum.
d. Elevator cab finish allowance is included in budget is $40,000/passenger car.
e. For Alternative Option C. Separate Buildings only (2) 3500#, 200 fpm, (1) 4500# 150 fpm elevators at the Aronson building. Note this increases the GSF unit price for this option.
f. **Note:** Economy of scale applies to Division 12 Conveying Systems. The more stops per elevator equates to a lower GSF unit cost of the Alternative Options and inversely the fewer stops per elevator in the shorter building options the higher the GSF unit cost.

Division 13: Special Construction

Swimming Pool, Fire Pits and Site Furnishings: No allowance has been included for site furnishings, pool, and spa construction.

Division 14: Fire Protection

a. SFWD connection fees are excluded. Two electric vertical fire pumps rated at 1000 GPM and 350 HP are provided, both with transfer switches (ATS) connected to emergency power.
b. Work will start with underground connections at the curb of Mission and Third Streets, including trenching and backfill. CFC 914.3.1.2, states fire pumps shall be connected to a minimum of two water mains located in different Streets.
c. Standpipes will be located and exposed in stairways.
d. One of the permanent standpipes will be used for temporary Fire Protection.
e. Two (2) FDC's will be provided as required by code on each street.
f. Garage will be fully sprinklered.
g. Residential Units will be fully sprinklered with pendant sprinklers at furred ceilings and sidewall sprinklers at non-furred areas.

h. Public areas will be fully sprinklers will be fully sprinklered with concealed type sprinklers.
i. Head locations will be coordinated with architectural drawings, but sprinkler design will take priority.
j. **Note:** There are two main factors affecting the GSF unit cost of the different options building size and density of the residential units. The large the building option equates to a lower GSF unit price and inversely the smaller the building option equates to a higher GSF unit cost. Second, the denser the residential units are the higher the GSF unit cost and inversely the lower the density of the residential units the lower the GSF unit cost.

Division 15: Plumbing

Plumbing Clarifications:

a. Plumbing is to be pre-fabricated.
b. Recycled water "purple piping" has been included to the curb for connection to a future City Installed recycled water system.
c. An independent grey water system with on site treatment is included.
d. Reclaimed water from grey water system to lavatories including booster pumps is included.
e. Two-(2) Emergency drains will be provided at each parking level. Sump pit and pump will be at lowest level. Pit and cover shall be provided by others.
f. One (1) trench drain will be provided at garage entry.
g. Fire sprinkler express drain shall discharge into a gravity drain on the ground floor. A drain for residual water and fire pump cooling line will be provided at the lower parking level.
h. Euro-style Kohler Sterling Sinks and Grohe Concerto New fixtures in the Kitchens, Toto Lavatories and water closets with the Grohe Concerto New fixtures in restrooms.
i. **Note:** There are two main factors affecting the GSF unit cost of the different options building size and density of the residential units. The large the building option equates to a lower GSF unit price and inversely the smaller the building option equates to a higher GSF unit cost. Second, the denser the residential units are the higher the GSF unit cost and inversely the lower the density of the residential units the lower the GSF unit cost.

Plumbing Scope of work:

a. Soil, waste and vent systems.
b. Complete gravity system of drainage and vent piping shall be provided for all floors, including gravity drainage for fire sprinkler systems.
c. Underground connections to 5'-0" outside the building.
d. Provide acoustical pipe isolation for water, waste and storm.
e. Hot water system: gas-fired hot water boilers with recirculation pumps and piping.
f. Cold water systems, including backflow preventers, shutoff valves and pressure booster pumping system.
g. Reclaimed water from grey water filtration system to water closets, including booster pumps.

h. Natural Gas shall be from the meter location to all gas fired Mechanical equipment and gas ranges.
i. Roof and overflow drainage system. Drainage shall discharge to street main by gravity.
j. Provide floor drains in mechanical rooms, trash rooms, and other locations as required by code.
k. Provide shut-off valves to isolate each piece of equipment.
l. Provide drainage connection for fire protection system. Gravity Drainage only.
m. Provide pipe insulation on hot water piping per Title 24. Cold Water and storm piping Insulation are not included.

Division 16: HVAC

The HVAC scope is included as follows:

a. A vertical heat pump system is included as instructed in the bid documents. A cooling tower will be located on the roof. Two standard boilers will be located in a mechanical room on the roof to provide supplemental heating to the heat pumps. For Alternative Option A. Proposed Project, Alternative Option C. Separate Buildings, and Alterative Option D. Increased Residential Density a heat exchanger will be located on the 20th floor to reduce the pressure rating of the upper floor devices.
b. Scavenger fans will be located on the roof for the toilet exhaust, dryer exhaust, and kitchen exhaust. The building is considered life-safety and will comply with code requirements.
c. The garage will be exhausted which will require shafts and fan rooms to be constructed similar to what is shown on the architectural drawing.
d. The ground floor lobby and retail spaces will be conditioned to meet code requirements which will require store-front louvers .
e. The amenity spaces will be conditioned to meet code requirements which will require store-front louvers. All public terraces are assumed to have no heating or ventilation requirement.
f. The lower level trash collection room and loading dock will be exhausted. The loads for the typical floor electrical rooms are assumed to be negligible.
g. The mechanical plant will be controlled by a DDC system. All other equipment will be controlled locally.
h. Energy modeling will be required by others. 3D modeling is included (assistant role during design, lead role during pre-construction) should the owner, architect and structural engineer agree to provide accurate and complete models
i. Energy modeling is not included.
j. A life-safety smoke control report has not been issued and possible additional provisions are not included.
k. **Note:** There are two main factors affecting the GSF unit cost of the different options building size and density of the residential units. The large the building option equates to a lower GSF unit price and inversely the smaller the building option equates to a higher GSF unit cost. Second, the denser the residential units are the higher the GSF unit cost and inversely the lower the density of the residential units the lower the GSF unit cost.

Division 17: Electrical

a. Normal and emergency power distribution with separate metering for the "house" and individual residence units are included. Feeders from the meter stacks to individual unit load centers are budgeted as aluminum metal clad cable embedded in the concrete slab.
b. Budget is based on the generator being located on the roof. We include an integral base tank only per current code requirements.
c. Convenience power receptacles as required by code and power feeders with typical single point connection to mechanical, vertical transportation, etc. as required.
d. An allowance has been included for the building core lighting scheme fixtures. An allowance has been included for the Residential unit lighting scheme fixtures. Telecommunications/cable TV service entrance conduits extended from Fremont Street property line to MPOE room located on Level B1. Includes Telecom and Security systems.
e. Code compliant high rise fire life safety system.
f. Building security, ground floor access control system allowance is included per the bid documents.
g. Power and data service requirements for health club equipment to be determined.
h. Entry door chime system for the residential units is included.
i. Low voltage wiring system interlocking typical floor trash chute doors are included.
j. **Note:** There are two main factors affecting the GSF unit cost of the different options building size and density of the residential units. The large the building option equates to a lower GSF unit price and inversely the smaller the building option equates to a higher GSF unit cost. Second, the denser the residential units are the higher the GSF unit cost and inversely the lower the density of the residential units the lower the GSF unit cost.

General Qualifications:

a. This Conceptual Estimate does not include any costs from Potential Market Force Impacts at this time.
b. San Francisco Sales Taxes in included at 8.75%. San Francisco Labor Tax is included at 1.75%.
c. It is presumed there will be a minimum of three acceptable manufacturers listed in the specifications for any products to be used to ensure competition in the marketplace.
d. Escalations, the numbers within this estimate are based on a January 2014 construction start. We have not included any costs at this time for significant material increases.

Standard Exclusions:

a. Preconstruction Services
b. OCIP
c. Building Permit
d. Cost of Webcor's Performance and Payment Bond

e. City of San Francisco, California and/or San Francisco County, assessments, impact, easement, and encroachment fees, meters, school taxes or any other governmental fees not normally the General Contractor's responsibility
f. Builders' Risk Insurance, including earthquake/flood deductibles
g. Governmental agency special inspections
h. Testing and Inspections (i.e.: soils, concrete, structural steel, roofing, shoring and lagging, contaminated soil monitoring, glass mock-ups testing, asbestos survey or removal, etc.)
i. Provisions for latent soil conditions
j. Removal and/or relocation of any unforeseen underground obstructions and utilities
k. Handling and/or removal of any hazardous waste materials
l. Architect, Engineer, and Consultant fees
m. Owners' design and construction contingency
n. Financing costs
o. Land costs
p. Cost of site survey, soil report, or subsurface investigation
q. Blasting or drilling for bedrock excavation
r. Utility Company Impact Fees and Sewer/Storm Water/Fire Service Plant Investment Fees, or Hookup Fees of any sort
s. Artwork
t. Window treatments
u. Water Features
v. Furniture/Furnishings and Equipment
w. Acoustical Consultant or Wind Consultant Impacts
x. This estimate does not include any designated funds for LEED consideration other than San Francisco Code Requirements

706 Mission Street Project

4/17/2013

		[redacted]		[redacted]		[redacted]		[redacted]		[redacted]	
Cross-Section Location In EIR				(page 17 of 119)		(page 42 of 119)		(page 68 of 119)		(page 94 of 119)	
Gross Square Footage			710,525		275,590		704,280		710,525		418,441
		Residential	Office	Residential	Office	Residential	Office	Residential	Office	Residential	Office
Residential		580,630	519,310	175,340	122,780	487,630		580,630	519,310	318,191	265,631
Amenity		22,199	22,199	2,000	2,000	19,215		22,199	22,199	2,000	2,000
Museum C&S		52,285	52,285	45,000	45,000	46,635		52,285	52,285	45,000	45,000
Office		-	61,320	-	52,560	78,840		-	61,320	-	52,560
Retail		4,800	4,800	4,800	4,800	4,800		4,800	4,800	4,800	4,800
Other		50,611	50,611	48,450	48,450	67,140		50,611	50,611	48,450	48,450
Total Residential sqft For Comparison		636,041		228,590		559,570		636,041		371,441	318,881
Residential - Finished Units	Total Cost	$276,185,779	$249,428,914	$146,984,945	$113,187,290	$247,372,251		$317,116,797	$286,785,779	$217,861,045	$187,097,097
	$/sf	$434	$434	$643	$643	$442		$499	$499	$587	$587
Museum - Core & Shell	Total Cost	$13,669,578	$13,669,578	$11,760,473	$11,760,473	$12,176,955		$13,672,856	$13,672,856	$11,725,796	$11,725,796
	$/sf	$261	$261	$261	$261	$261		$261	$261	$261	$261
Office - No TI Finishes	Total Cost	$0	$17,414,880	$0	$14,310,553	$22,390,560		$0	$17,414,880		$14,927,040
	$/sf		$284		$284	$284			$284		$284
Amenity - Residential	Total Cost	$6,024,816	$6,024,816	$1,047,682	$1,047,682	$6,298,353		$6,024,799	$6,024,799	$1,047,682	$1,047,682
	$/sf	$271	$271	$524	$524	$328		$271	$271	$524	$524
Total Cost		**$295,880,173**	**$286,538,188**	**$159,793,100**	**$140,305,998**	**$288,238,119**		**$336,814,452**	**$323,898,314**	**$230,634,523**	**$214,797,615**
Total GSF Cost		**$416**	**$403**	**$580**	**$509**	**$409**		**$474**	**$456**	**$551**	**$513**
Notes		47 Story Tower		13 Story Tower		47 Story Tower		47 Story Tower		27 Story Tower	

706 Mission Street Project

5/3/2013

Systems	Description	Option A. Proposed Project				Option E. Reduced Shadow				Notes
		Residential Division Cost	Residential GSF Cost	Division Cost Amenity	Amenity GSF Cost	Residential Division Cost	Residential GSF Cost	Amenity Division Cost	Amenity GSF Cost	
	Gross Square Foot		636,041		22,199		371,441		2,000	
1	General Conditions	$15,807,400	$24.85	$344,486	$15.52	$13,035,365	$35.09	$62,609	$31.30	These costs are in part a function of time, where a shorter construction schedule duration will result in lower costs. However, depending on the GSF of the Alternative Option the GSF unit price will differ as these costs are amortized against the GSF of the Alternative Option. The larger the GSF of the project the lower the GSF unit cost for this work and inversely the smaller the GSF of the project the higher the GSF unit cost for this work.
2	Building Pad, Earthwork, Sitework	$9,807,752	$15.42	$342,309	$15.42	$8,012,726	$21.57	$43,140	$21.57	Alternative Options A – Proposed Project and Alternative Option E – Reduced Shadow for Division 2: Building Pad, Earthwork and Sitework costs remain the same. However, depending on the GSF of the Alternative Option the GSF unit price will differ as these costs are amortized against the GSF of the Alternative Option. The larger the GSF of the project the lower the GSF unit cost for this work and inversely the smaller the GSF of the project the higher the GSF unit cost for this work.
3	Landscape & Irrigation	$313,441	$0.49	$10,878	$0.49	$258,475	$0.70	$1,400	$0.70	Alternative Options A – Proposed Project and Alternative Option E – Reduced Shadow for Division 3: Landscape costs remained the same. However, depending on the GSF of the Alternative Option the GSF unit price will differ as these costs are amortized against the GSF of the Alternative Option. The larger the GSF of the project the lower the GSF unit cost for this work and inversely the smaller the GSF of the project the higher the GSF unit cost for this work.
5	Building Structure	$45,737,708	$71.91	$827,936	$37.30	$36,503,722	$98.28	$173,258	$86.63	Alternative Options A – Proposed Project and Alternative Option E – Reduced Shadow for Division 4 & 5: Foundations costs remained the same. However, depending on the GSF of the Alternative Option the GSF price will differ as these costs are amortized against the GSF of the Alternative Option. The larger the GSF of the project the lower the GSF unit cost for this work and inversely the smaller the GSF of the project the higher the GSF unit cost for this work. For Alternative Option E the structure is 27 levels tall. The cost per GSF for this Option E is higher because the costs of the mild steel floors on the Mexican Museum floors do not get amortized over a higher GSF of a 47 Level structure. Alternative Option E Reduced Shadow is not as efficient in terms of $/GSF.
6	Exterior Envelope	$44,987,180	$70.73	$988,100	$44.51	$36,608,370	$98.56	$173,118	$86.56	The most expensive skin systems (especially at the Mexican Museum) occur at the lower floors of all the Alternative Options. Therefore the taller the building the lower the GSF unit cost for this work and inversely the shorter the project the higher the GSF unit cost for this work.
7	Waterproofing, Insulation, Roofing	$2,635,754	$4.14	$91,904	$4.14	$2,173,540	$5.85	$11,700	$5.85	Alternative Options A – Proposed Project and Alternative Option E – Reduced Shadow for Division 7: Roofing & Waterproofing costs remain the same. However, depending on the GSF of the Alternative Option the GSF unit price will differ as these costs are amortized against the GSF of the Alternative Option. The larger the GSF of the project the lower the GSF unit cost for this work and inversely the smaller the GSF of the project the higher the GSF unit cost for this work
8	Interior Construction	$45,260,678	$71.16	$986,353	$44.43	$35,193,724	$94.75	$169,036	$84.52	The higher the (number of/density of) interior residential units per sf the higher the GSF unit cost for this work and inversely the lower the (number of/density of) units per sf the lower the GSF unit cost for this work. Non-built-out core & shell space will have the lowest GSF unit cost for this project.
9	Specialties	$2,108,603	$3.32	$45,952	$2.07	$1,738,832	$4.68	$8,352	$4.18	The higher the (number of/density of) interior residential units per sf the higher the GSF unit cost for this work and inversely the lower the (number of/density of) units per sf the lower the GSF unit cost for this work. Non-built-out core & shell space will have the lowest GSF unit cost for this project.
10	Building Equipment	$5,654,404	$8.89	$123,225	$5.55	$3,465,915	$9.33	$16,647	$8.32	The higher the (number of/density of) interior residential units per sf the higher the GSF unit cost for this work and inversely the lower the (number of/density of) units per sf the lower the GSF unit cost for this work. Non-built-out core & shell space will have the lowest GSF unit cost for this project.

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706 Mission Street Project

5/3/2013

Systems	Description	Option A. Proposed Project				Option E. Reduced Shadow				Notes
		Residential Division Cost	Residential GSF Cost	Division Cost Amenity	Amenity GSF Cost	Residential Division Cost	Residential GSF Cost	Amenity Division Cost	Amenity GSF Cost	
11	Furnishings	$0	$0.00	$0	$0.00	$0	$0.00	$0	$0.00	
12	Special Construction	$0	$0.00	$0	$0.00	$0	$0.00	$0	$0.00	
13	Conveying Systems	$6,874,331	$10.81	$149,810	$6.75	$5,668,827	$15.26	$27,227	$13.61	Economy of scale applies to Division 13 Conveying Systems. The more stops per elevator equates to a lower GSF unit cost of the Alternative Options and inversely the fewer stops per elevator in the shorter building options the higher the GSF unit cost.
14	Fire Protection	$3,533,335	$5.56	$77,001	$3.47	$2,913,718	$7.84	$13,995	$7.00	There are two main factors affecting the GSF unit cost of the different options building size and density of the residential units. The large the building option equates to a lower GSF unit price and inversely the smaller the building option equates to a higher GSF unit cost. Second, the denser the residential units are the higher the GSF unit cost and inversely the lower the density of the residential units the lower the GSF unit cost.
15	Plumbing	$18,828,830	$29.60	$410,331	$18.48	$13,417,203	$36.12	$64,443	$32.22	There are two main factors affecting the GSF unit cost of the different options building size and density of the residential units. The large the building option equates to a lower GSF unit price and inversely the smaller the building option equates to a higher GSF unit cost. Second, the denser the residential units are the higher the GSF unit cost and inversely the lower the density of the residential units the lower the GSF unit cost
16	HVAC	$11,874,885	$18.67	$258,786	$11.66	$9,269,854	$24.96	$44,523	$22.26	There are two main factors affecting the GSF unit cost of the different options building size and density of the residential units. The large the building option equates to a lower GSF unit price and inversely the smaller the building option equates to a higher GSF unit cost. Second, the denser the residential units are the higher the GSF unit cost and inversely the lower the density of the residential units the lower the GSF unit cost.
17	Electrical	$23,527,157	$36.99	$512,720	$23.10	$17,247,333	$46.43	$82,839	$41.42	There are two main factors affecting the GSF unit cost of the different options building size and density of the residential units. The large the building option equates to a lower GSF unit price and inversely the smaller the building option equates to a higher GSF unit cost. Second, the denser the residential units are the higher the GSF unit cost and inversely the lower the density of the residential units the lower the GSF unit cost.
18	Miscellaneous Expenses	$698,119	$1.10	$15,214	$0.69	$575,694	$1.55	$2,765	$1.38	Depending on the GSF of the Alternative Option the GSF unit price will differ as these costs are amortized against the GSF of the Alternative Option. The larger the GSF of the project the lower the GSF unit cost for this work and inversely the smaller the GSF of the project the higher the GSF unit cost for this work.
20	Job Equipment	$8,199,332	$12.89	$178,686	$8.05	$6,761,472	$18.20	$32,475	$16.24	To an extent economy of scale applies and items such as vertical transportation, similar to the conveying systems Division 13, the more stops per vertical transportation system the lower the GSF unit cost and inversely the fewer the stops in the shorter building the higher the GSF unit cost.
22	Distributed Subcontractor Costs	$5,514,475	$8.67	$120,175	$5.41	$4,546,811	$12.24	$21,838	$10.92	
	Sub Guard on Subs & Materials	$2,513,939	$3.95	$54,786	$2.47	$2,073,087	$5.58	$9,957	$4.98	
	SF Labor Tax	$42,030	$0.07	$916	$0.04	$34,659	$0.09	$166	$0.08	
	General Liability Insurance	$2,328,012	$3.66	$50,734	$2.29	$1,919,764	$5.17	$9,221	$4.61	
	Fee	$7,339,510	$11.54	$159,951	$7.21	$6,052,432	$16.29	$29,070	$14.53	
	Construction Contingency	$12,598,904	$19.81	$274,564	$12.37	$10,389,521	$27.97	$49,901	$24.95	
	Total Gross Square Foot Cost	**$276,185,779**	**$434.23**	**$6,024,816**	**$271.40**	**$217,861,045**	**$586.53**	**$1,047,682**	**$523.84**	

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APPENDIX F:

Jessie Square Garage Net Operating Income

DRAFT - For Discussion Purposes Only

Jessie Square
Actual Performance FY 2012-13

CityPark
Unit No. 77

GROSS REVENUE:	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Jan-13	Feb-13
Revenues:								
Taxable								
Transient	$ 121,385	$ 128,713	$ 116,235	$ 122,610	$ 125,974	$ 125,244	$ 132,247	$ 122,647
Monthly	43,020	49,364	29,503	43,052	32,702	44,584	27,928	32,111
Validations								
Other								
Total Taxable Revenue	164,405	178,077	145,738	165,662	158,676	169,828	160,175	154,758
Less 25% Parking Tax	(32,881)	(35,615)	(29,148)	(33,132)	(31,735)	(33,966)	(32,035)	(30,952)
Net Taxable Revenue	131,524	142,462	116,590	132,529	126,941	135,862	128,140	123,806
Non-taxable								
NT Monthly				75	50		25	
NT Hotel/Restaurant/Short	14,112	24,858	23,760	25,830	19,764	16,110	14,346	20,520
Other		162		96			123	
Total Non-taxable Revenue	14,112	25,020	23,760	26,001	19,814	16,110	14,494	20,520
Net Total Revenue	145,636	167,482	140,350	158,530	146,755	151,972	142,634	144,326
Operating Expenses								
Payroll billed							182	
PTO billed								
Payroll Taxes billed							29	1
Workers Comp billed							18	
Benefits billed							22	
Management fee	5,002	5,002	5,002	5,002	5,002	5,002	5,002	5,002
Accounting	800	800	800	800	800	800	800	800
Insurance	1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300
Supervisory	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500
Other services	11,849	11,755	11,778	11,755	11,747	12,477	21,262	11,767
License							9,420	
Supplies	224	892		103	231	241	289	247
Bottled water	28	25	15		30	7	-42	26
Uniforms					148			
Signs			345					
Ticket printing			1,292			899		
Utilities	8,744	6,827	6,774	8,245	7,046	4,128	4,763	4,939
Telephone	313	307	315	310	887	610	613	615
Garbage/cleanup	2,712	762	2,712	262	262	3,462	1,557	3,012
Maintenance/Rep	5,868	110	7,056	2,086	503	5,994	2,620	5,629
Total Operating Expenses	39,340	30,279	39,888	32,363	30,455	37,419	50,418	35,837
Net Operating Income	$ 106,296	$ 137,202	$ 100,462	$ 126,167	$ 116,299	$ 114,553	$ 92,216	$ 108,490

Average Monthly NOI (through February)	$	112,711
Revenue Generating Spaces		350
Average Monthly Revenue per Space	$	322.03
Rounded	$	322.00

APPENDIX G:

Predevelopment EIR and Entitlement Costs



Appendix G, Table 1
Predevelopment EIR and Entitlement Costs as of 12/31/12
706 Mission Street; EPS #121084

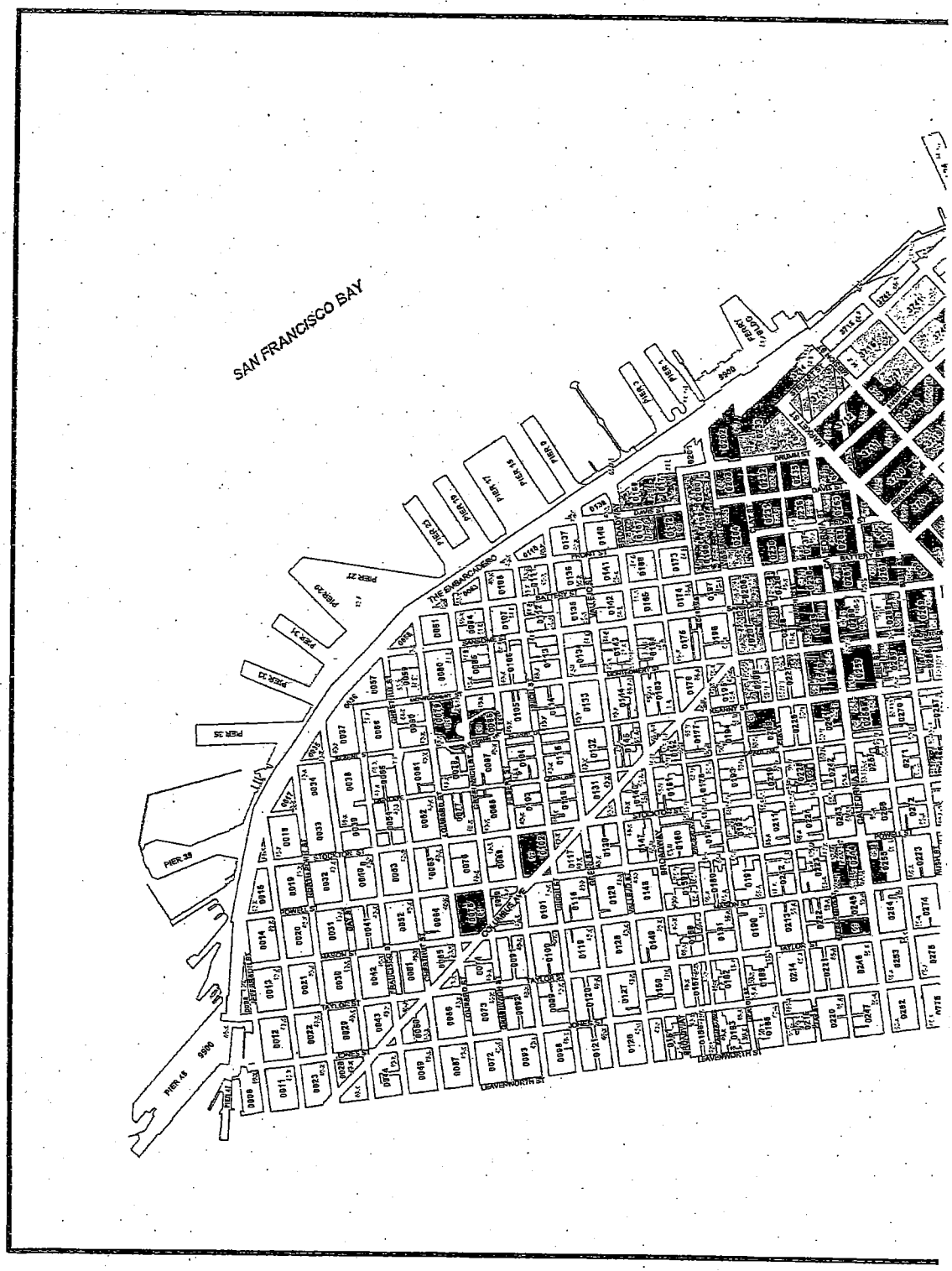
DRAFT - For Discussion Purposes Only

Cost Items	706 Mission Street	The Mexican Museum [1]	Total Project
Architecture & Engineering	**$2,095,190**	**$173,073**	**$2,268,263**
Architects - Conceptual Design, EIR & Entitlement Support	*$2,086,953*	*$173,073*	*$2,260,026*
Structural Engineer - Conceptual Design, EIR & Entitlement Support	*$8,237*	-	*$8,237*
Architecture & Engineering (Reimbursables)	**$47,431**	**$9,250**	**$56,681**
Printing, Renderings, Travel Expenses - Conceptual Design, EIR & Entitlement Support	*$47,431*	*$9,250*	*$56,681*
Land Use Consultants	**$2,566,983**		**$2,566,983**
EIR Consultant and Technical Sub-Consultants - Environmental Impact Report	*$2,438,070*	-	*$2,438,070*
Environmental Consultants - Soil & Site Precharacterization Reports, Air Quality, & EIR Support	*$11,119*	-	*$11,119*
Traffic Consultant - Conceptual Design, EIR & Entitlement Support	*$76,571*	-	*$76,571*
Economic Impact Consultant - EIR & Entitlement Support.	*$41,223*	-	*$41,223*
Design Consultants	**$196,188**	-	**$196,188**
Programming and Interiors - Conceptual Design	*$110,000*	-	*$110,000*
Acoustical Consultant - EIR & Entitlement Support	*$3,053*	-	*$3,053*
Exterior Curtain Wall - Conceptual Design & Mock-Up for Entitlement Support	*$15,000*	-	*$15,000*
Geotechnical Consultant - Preliminary Geotechnical Report, EIR Support, Conceptual Design	*$8,156*	-	*$8,156*
Preservation Consultant - Conceptual Design, Historic Report, EIR & Entitlement Support	*$59,979*	-	*$59,979*
Other Consultants - Gov't Relations	**$1,160,000**	**$20,000**	**$1,180,000**
Public Relations and Political Consultant - EIR & Entitlement Support	*$1,160,000*	*$20,000*	*$1,180,000*
Other Consultants - Miscellaneous	**$72,302**	-	**$72,302**
Pre-Construction, Cost Consultants - EIR & Entitlement Support	*$30,105*	-	*$30,105*
Code Consultant and Permit Expediter - EIR & Entitlement Support	*$4,675*	-	*$4,675*
Surveyor - Site and As-Built Surveys	*$37,522*	-	*$37,522*
Permits & Other Fees	**$77,887**	-	**$77,887**
Permitting, Environmental, & Entitlement Fees [shown and included in Appendix B, Table 1]	-	-	-
Legal Entity Fees	*$4,075*	-	*$4,075*
San Francisco Redevelopment Agency Consultant Fees	*$73,812*	-	*$73,812*
Advertising & Promotion	**$160,000**	-	**$160,000**
Public Relations - Entitlements Support	*$20,000*	-	*$20,000*
Residential Marketing Consultant - Conceptual Design	*$140,000*	-	*$140,000*
Legal Fees - Site Purchase	**$16,517**	-	**$16,517**
Transactional Legal Fees	*$16,517*	-	*$16,517*
Legal Fees - Other Legal	**$2,464,164**	-	**$2,464,164**
Bank Transaction Legal Fees	*$104,317*	-	*$104,317*
Land Use & Contracting Legal Fees - EIR & Entitlement Support	*$2,359,847*	-	*$2,359,847*
Other Costs - Contributions	**$124,250**	**$205,000**	**$329,250**
Local Event and Organization Contributions	*$124,250*	-	*$124,250*
The Mexican Museum Fundraising Event & Contributions		*$205,000*	*$205,000*
Total, as of 12/31/12	**$8,980,912**	**$407,323**	**$9,388,235**

[1] The Mexican Museum costs through 12/31/12 reflect invoiced amounts specifically denoting work done for The Mexican Museum, such as work done by Handel Architects, TEN Arquitectos and HMS Associates, as well as contributions and sponsorships toward The Mexican Museum events.

Sources: 706 Mission Street Co, LLC; Economic & Planning Systems, Inc.

EXHIBIT 3


SAN FRANCISCO BAY
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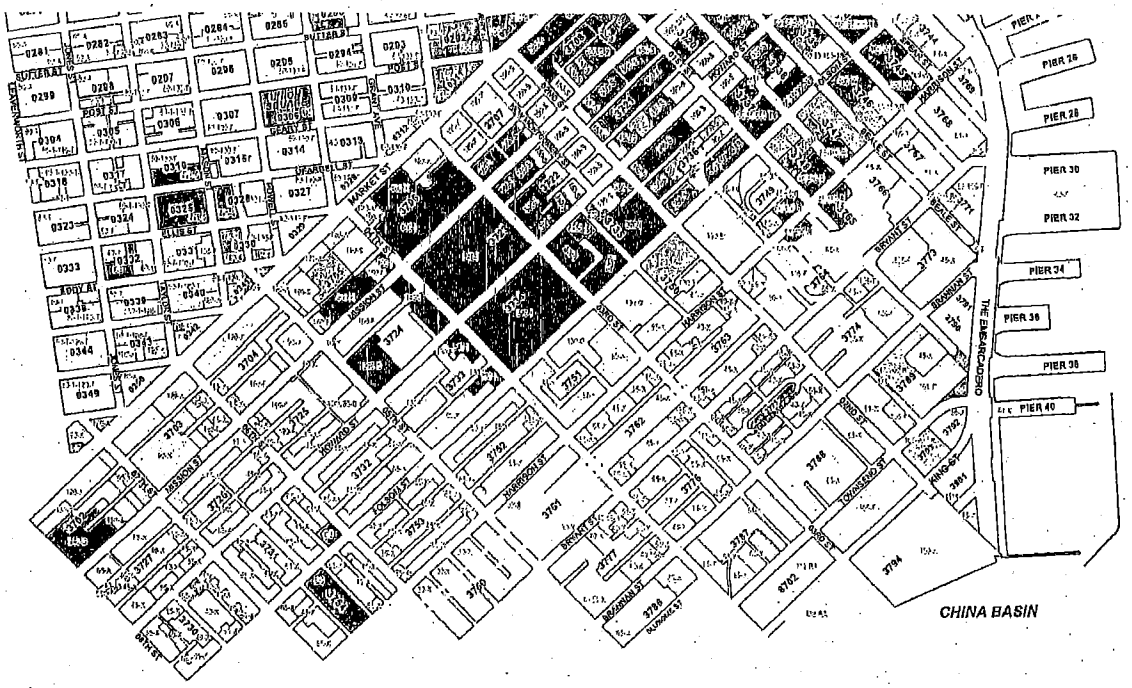

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HEIGHT AND BULK DISTRICTS

OS ← *"Open Space"* District

"Numbers" are Height Limits in feet. See Planning Code Section 250 and following.

"Letters" refer to Bulk Limits. See Planning Code Section 270.

00-Z-1 ← *"Suffix Numbers"* identify districts in which special regulations apply. See Planning Code Sections 263 and following.

N

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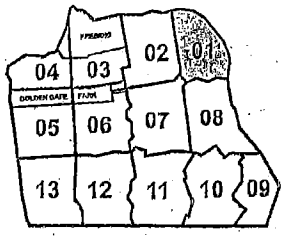

MAP SHEET KEY

THE ZONING MAP OF THE CITY AND COUNTY OF SAN FRANCISCO IS ESTABLISHED BY SECTIONS 105 AND 106 OF THE PLANNING CODE, A PART OF THE SAN FRANCISCO MUNICIPAL CODE. ZONING USE DISTRICTS ARE ESTABLISHED BY SECTIONS 201, 702, 802 AND 802 OF THE PLANNING CODE.

MAP INCORPORATES BOARD OF SUPERVISORS' ORDINANCES ENACTED THROUGH APRIL 2013.

SHEET **HT01**

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ZONING MAP OF THE CITY AND COUNTY OF SAN FRANCISCO • PLANNING DEPARTMENT

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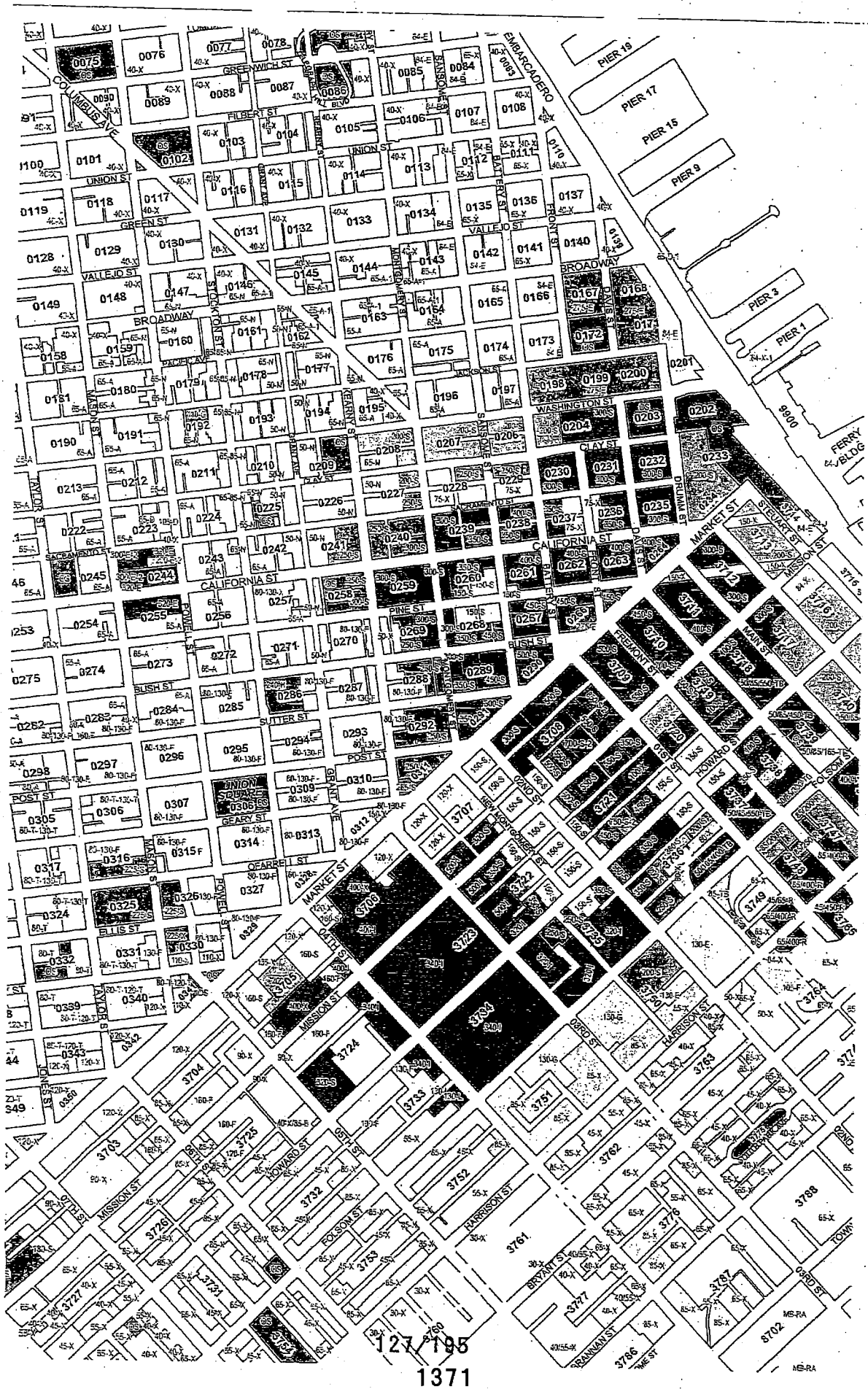

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SACRAMENTO ST
CALIFORNIA ST
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Lippe Gaffney Wagner LLP www.lgwlawyers.com

SAN FRANCISCO • 329 Bryant St., Ste. 3D, San Francisco, CA 94107 • T 415.777.5600 • F 415.777.9809
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July 12, 2013 (2 of 3)

Board President David Chiu and Members of the Board of Supervisors
Board of Supervisors
City of San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Re: July 15, 2013, Land Use and Economic Development Committee Hearing Re 706 Mission Street - Residential Tower and Mexican Museum Project (Case No. 2008-1084H) - **Mitigation Fees**

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

This office represents the 765 Market Street Residential Owner's Association ("ROA"), Friends of Yerba Buena ("FYB"), Paul Sedway, Ron Wornick, Matthew Schoenberg, Joe Fang, and Margaret Collins, regarding the 706 Mission Street - Residential Tower and Mexican Museum Project ("the Project").

In my first of three letters dated today (as well as in my July 1, 2013 letter in support of my clients' appeal of the Historic Preservation Commission's May 15, 2013 approval a Major Permit to Alter for this Project), I point out that, because the Project EIR finds the Project's cumulative shadow impacts on Union Square are "significant," CEQA requires this Board to adopt all feasible mitigation measures that will "substantially lessen" that impact or find that there is no feasible mitigation available, and that the Board cannot make this finding on the current record.

It has now come to my attention that the Project Sponsor is proposing to pay fees to solve this legal problem. Unfortunately for the Sponsor, this Board's legal obligations on this point cannot be discharged by the payment of money.

It is well settled under CEQA that certain types of significant impacts (usually traffic impacts) may be mitigated by the project sponsor contributing to a fund that will be used to implement mitigation measures. (See e.g., *City of Marina v. Bd. of Trustees of the Cal. State Univ.* (2006) 39 Cal.4th 341, 349-355 (*City of Marina*); *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1188-1189; *Save Our Peninsula Com. v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 140; CEQA Guidelines, § 15130, subd. (a)(3).)

However, it is equally well settled by these Court of Appeal decisions that in order for the payment of money to be recognized under CEQA as a mitigation measure, the money must be paid into a fund that is established for the specific purpose of implementing actual mitigation measures, the fund must be part of an established program by which the agency has committed to actually

spending the funds collected on the implementation of actual mitigation measures, and the Project EIR must have evaluated the actual mitigation measures and concluded that they will be effective in substantially reducing the particular significant impact that must be mitigated.

None of these prerequisite conditions are satisfied here. Indeed, it is difficult to imagine how any money could be spent to effectively reduce the Project's significant cumulative shadow impacts on Union Square. Therefore, the payment of monies, at this late date, without recirculating a revised EIR to assess the effectiveness of this approach to mitigating the impact, does not comply with CEQA.

Further, the Project Sponsor cannot avoid the Board's legal obligation to adopt all feasible mitigation measures that will substantially reduce the Project's shadow impacts on Union Square or find that there is no feasible mitigation measure available to do so on the theory that paying monies will provide overriding benefits to the City. This is because "CEQA does not authorize an agency to proceed with a project that will have significant, unmitigated effects on the environment, based simply on a weighing of those effects against the project's benefits, unless the measures necessary to mitigate those effects are truly infeasible." *City of Marina, supra*, 39 Cal.4th at pp. 368-369 ["A statement of overriding considerations is required, and offers a proper basis for approving a project despite the existence of unmitigated environmental effects, only when the measures necessary to mitigate or avoid those effects have properly been found to be infeasible."].)

It may be that the Project Sponsor's intent is to reduce the "significance" of the Project's shadow impacts on Union Square, as the term "significance" is used in subdivision (b) of Planing Code § 295, on the theory that such monies will provide "public benefits." Even if this theory were legally correct for purposes of Planning Code § 295, it would not resolve the CEQA legal problem discussed above, which arises from the City's separate legal obligations under CEQA.

Further, this theory of how Planning Code § 295 works is not legally correct. It is true that in October of 2012, by Resolution 18717, the Planning Commission increased the absolute cumulative shadow limit ("ACL") for Union Square (and many other parks) for buildings in the Transit District Center Plan ("TDCP") area based in part on finding that it can, did, and will consider the public benefits of the proposed buildings when adopting criteria to implement section 295 (i.e. ACLs) and making findings under section 295(b) on the significance of shadows cast by new proposed buildings in TDCP area. But this decision violates the will of the voters as expressed in Proposition K, which specifies that the only criterion for making these determinations is the significance of impacts on the use of parks subject to section 295.

Thank you for your attention to this matter.

Very Truly Yours,

Tom Lippe

Thomas N. Lippe

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Lippe Gaffney Wagner LLP www.lgwlawyers.com

SAN FRANCISCO • 329 Bryant St., Ste. 3D, San Francisco, CA 94107 • T 415.777.5600 • F 415.777.9809
SACRAMENTO • 9333 Sparks Way, Sacramento, CA 95827 • T 916.361.3887 • F 916.361.3897

Thomas N. Lippe
Brian Gaffney
Keith G. Wagner
Kelly A. Franger
Henry A. Steinberg

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BOARD OF SUPERVISORS
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July 12, 2013 (3 of 3)

Board President David Chiu and Members of the Board of Supervisors
Board of Supervisors
City of San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Re: July 15, 2013, Land Use and Economic Development Committee Hearing Re 706 Mission Street - Residential Tower and Mexican Museum Project (Case No. 2008-1084H) - **Successor Agency Power to Accept Project Changes**

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

This office represents the 765 Market Street Residential Owner's Association ("ROA"), Friends of Yerba Buena ("FYB"), Paul Sedway, Ron Wornick, Matthew Schoenberg, Joe Fang, and Margaret Collins, regarding the 706 Mission Street - Residential Tower and Mexican Museum Project ("the Project").

It has come to my attention that the Project Sponsor now contends that the Successor Agency to the Redevelopment Agency does not have legal authority to approve the real estate conveyances contemplated by the May 4, 2010 Amended and Restated Exclusive Negotiation Agreement (the "ENA," copy attached) if the height of this Project is reduced below the current proposal for 480/510 feet or if the space allocated for the Mexican Museum is reduced below the currently proposed 52,000 square feet.

This contention is demonstrably false, for many reasons. First, the ENA references the Project's height in paragraph A.3 of the Term Sheet (See ENA, Appendix D, p. D-1 of 4), which references a Project height of 550 feet.[1] The ENA describes this as merely the parties' "preliminary consensus on the scope of the original project." (ENA, Section 4, p. 9 of 35.) In short, the reference to 550 feet it is not legally binding in on either the Successor Agency or the Project Sponsor.

Second, the ENA contains numerous references to the fact that the Regulatory Approvals, including the need to comply with CEQA, will determine the final form of the Project. (See e.g., ENA, Recital N, p. 4 of 35; section 4, p. 9 of 35 ["The parties acknowledge that, in addition to the reduction in scope from the original Project, the Project may be subject to future changes that result

[1] See also, Recital M: "The Agency and the Developer currently anticipate that the development will consist ofthe following components: (a) approximately 390,000 net square feet of residential, office andlor hospitality uses in a tower of approximately 550 feet in height (excluding penthouse)."

from the entitlement process"]; section 14.C, pp. 19-20 of 35 [the Project may require changes due to CEQA review and the requirement to select a "feasible alternative to avoid significant environmental impacts"].)

Third, the ENA specifically contemplates that the Project may change in ways that require changing the Term Sheet, and it provides a specific procedure for the Successor Agency to approve such changes. In this regard, Section 4 provides that:

> The parties acknowledge that, in addition to the reduction in scope from the original Project, the Project may be subject to future changes that result from the entitlement process. Such changes in the Project may result in changes to the Term Sheet if the parties agree that the changes are necessary to support Project feasibility and/or financibility, subject to the completion of an economic analysis by the Agency.

(ENA, p. 9 of 35.) The phrase "Project feasibility" includes "legal feasibility." If the Project cannot secure a required Regulatory Approval due to noncompliance with CEQA, it is legally infeasible. As noted above, section 14.C specifically recognizes that the Project may changes due to CEQA review and the requirement to select a "feasible alternative to avoid significant environmental impacts."-(ENA, pp. 19-20 of 35.)

The procedure specified for the Successor Agency to approve such changes is:

> In the event that the Agency's Executive Director determines, in his or her sole and absolute discretion, that the Developer's Proposed Changes would (i) materially alter the Project described in the Term Sheet, or (ii) materially increase the Agency's liability, then, the Agency shall present the Developer's Proposed Changes to the Agency Commission for consideration and approval.

(ENA, section 6, p. 10 of 35.)

Fourth, the proof is in the pudding. The Sponsor already reduced the height below 550 feet, apparently without any concern that the Successor Agency would no longer have the power to complete the necessary real estate transactions for the Project to proceed.

Finally, with respect to the space allocated for the Museum, the ENA Term Sheet (which can be changed by the parties to that contract) provides, in the portion of the Term Sheet entitled "Terms Related to the Project:" "(b) a cultural component between 35,000 and 40,000 net square feet fronting Jessie Square (the 'Cultural Component')." (ENA, Appendix D, p. D-1 of 4) Further, in the portion of the Term Sheet entitled "Terms Related to the Cultural Component," the ENA provides: "1. Developer Builds Core and Shell. Developer shall be responsible, in consultation with the Agency, for constructing the base, core and shell of the Cultural Component, which shall (a) be not less than 35,000 net square feet." (ENA, Appendix D, p. D-2 of 4) Again, these provisions state the contracting parties' " preliminary consensus on the scope of the original project" (ENA, Section 4, p. 9 of 35), which can be changed as described above.

Thank you for your attention to this matter.

Very Truly Yours,

Tom Lippe

Thomas N. Lippe

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EXHIBIT 1

ORIGINAL

AMENDED AND RESTATED EXCLUSIVE NEGOTIATION AGREEMENT

THIS AMENDED AND RESTATED EXCLUSIVE NEGOTIATION AGREEMENT (the "Agreement" or the "ENA"), dated as of May 4, 2010, is entered into by and between the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic, exercising its functions and powers and organized and existing under the Community Redevelopment Law of the State of California (the "Agency"), and 706 Mission Street Co LLC, a Delaware limited liability company (the "Developer"). This Agreement is deemed to be effective as of January 1, 2010 and is entered into based upon the following facts, intentions and understandings of the parties:

RECITALS

A. In furtherance of the objectives of the Community Redevelopment Law of the State of California, the Agency has undertaken a program to redevelop and revitalize blighted areas in the City and County of San Francisco (the "City"), and in connection therewith has adopted a redevelopment project area known as the Yerba Buena Center Approved Redevelopment Project Area D-1 (the "Project Area").

B. The Agency, acting through the Board of Supervisors of the City, has by Ordinance No. 98-66 adopted April 25, 1966, approved a Redevelopment Plan for the Project Area, as amended by: (i) Ordinance No. 201-71, adopted on July 26, 1971; (ii) Ordinance No. 393-73, adopted on October 9, 1973; (iii) Ordinance No. 386-76, adopted on September 13, 1976; (iv) Ordinance No. 367-77, adopted on August 8, 1977; (v) Ordinance No. 420-79, adopted on August 13, 1979; (vi) Ordinance No. 538-81, adopted on November 2, 1981; (vii) Ordinance No. 477-86, adopted on December 1, 1986; (viii) Ordinance No. 404-94, adopted on November 21, 1994; (ix) Ordinance No. 33-97, adopted on January 27, 1997; and (x) Ordinance No. 263-00, adopted on October 10, 2000; (xi) Ordinance No. 211-03, adopted on August 12, 2003; (xii) Ordinance No. 1-05, adopted on January 4, 2005; and (xiii) Ordinance No. 256-09, adopted on December 8, 2009 (as amended, the "Redevelopment Plan"), providing for the clearance and redevelopment or rehabilitation of certain lands in the Project Area and the future uses of such land. Said Redevelopment Plan has been filed in the Office of the Recorder of the City and County of San Francisco (the "Official Records").

C. On December 13, 1966, and in furtherance of the Redevelopment Plan, the Agency caused a Declaration of Restrictions affecting all of the Project Area to be recorded in the Official Records, in Book B-103 of Official Records at page 210, as Document No. P-30087 ("Project Area Declaration of Restrictions").

D. The Redevelopment Plan provides for property owners to participate in the redevelopment of their property in the Project Area, and for the Agency to sell its property in the Project Area for purposes of furthering the goals of the Redevelopment Plan.

E. Pursuant to Section 33333 of the California Health and Safety Code, the Redevelopment Plan establishes, and the Agency administers, the Land Use Plan, Land Use Provisions and Development Standards, as well as the land use district and height and bulk district regulations applicable to Project Area properties. Such Redevelopment Plan

requirements may be different from the provisions of the San Francisco Planning Code and related requirements of the City ("City Land Use Regulations"). The effectiveness of the Redevelopment Plan which this Agreement implements, currently terminates on January 1, 2011 (the "Plan Termination Date"), because the Redevelopment Plan was adopted before December 31, 1993, and is therefore subject to the limitations in Section 33333.6(a) of the California Health and Safety Code ("Section 33333.6(a)"). Section 33333.6(a) also states that after the Plan Termination Date, the Agency shall thereafter "have no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness, to comply with Section 33333.8 [affordable housing obligations] and to enforce existing covenants, contracts, or other obligations."

F. On and after the Plan Termination Date, the Site, as defined below (and other Project Area properties), will become subject to the City Land Use Regulations, which are implemented by the San Francisco Planning Department ("Planning Department") and other City agencies. The City, acting through the City Planning Department's Major Environmental Analysis division ("MEA"), will act as the lead agency for review of the Project, as defined below, and will prepare an Environmental Impact Report ("EIR") pursuant to the California Environmental Quality Act ("CEQA"). The Agency will act as a responsible agency.

G. MEA and the Agency contemplate that the EIR process will be a collaborative effort between the Agency and MEA, and their respective staff shall work in close coordination, respecting one another's roles in the CEQA process and considering each other's input in good faith and in the spirit of cooperation. The Agency and MEA have agreed to treat the Project as a priority project for both the City and the Agency, and to act with diligence and devote the staff and consultant time needed to complete their respective review and consideration of the EIR in accordance with an agreed upon schedule for the Project. MEA and the Agency have further agreed that the Agency has undertaken substantial work on the EIR and retains a significant interest in the approval and implementation of the Project, because of both its ownership of the Agency Property and Jessie Square Garage and its desire to complete the implementation of the Redevelopment Plan.

H. The Agency and the Developer previously negotiated that certain Exclusive Negotiation Agreement (the "Original ENA") dated on or about July 15, 2008 regarding the parties' mutual understanding of the terms under which the parties would negotiate an Owner Participation and Disposition and Development Agreement for the redevelopment of the Site. The Agency Commission approved the Original ENA on July 15, 2008. At that time, it was anticipated that the Project would be subject to Redevelopment Plan requirements, rather than City Land Use Regulations.

I. The parties now anticipate that the Redevelopment Plan will expire prior to the execution of the contemplated Owner Participation and Disposition and Development Agreement, and the Project will be subject to City Land Use Regulations. Therefore, in place of the Owner Participation and Disposition and Development Agreement, the Agency and the Developer are now contemplating entering into an Agreement for the Purchase and Sale (the "Purchase Agreement") of Agency Property (described below) for the purposes of redeveloping three properties in the Project Area in an integrated development: (1) property owned by the Developer (Assessor's Block 3706, Lot 93), as more particularly described on the attached

Exhibit A-1 and depicted on the attached Exhibit A-2 (the "Developer Property"), (2) property owned by the Agency, also known as Agency disposition parcel CB-1-MM (Assessor's Block 3706, a portion of Lot 277) located at the north side of Mission Street between Third and Fourth Streets, as more particularly described on the attached Exhibit B-1 and depicted on the attached Exhibit B-2 (the "Agency Property"), and (3) property owned by the Agency, also known as the Jessie Square Garage (Assessor's Block 3706, Lot 275 and portions of Lot 277), an existing 460-space public parking garage and an additional parking area on the garage's mezzanine level, as more particularly described in the attached Exhibit C-1 and depicted in the attached Exhibit C-2 (the "Jessie Square Garage"). The Developer Property and the Agency Property together are defined as the "Site."

J. The Developer Property is currently improved in part with an existing 10-story building of approximately 100,000 square feet of office and retail space (the "Mercantile Building"), which has been identified as an important historic resource and has been informally determined to be eligible for placement on the National Register of Historic Places.

K. The Agency Property is currently encumbered with an Agreement for Disposition of Land for Private Development that was entered into on July 30, 1993, with the Mexican Museum, a California nonprofit corporation (the "Mexican Museum") (as amended, the "LDA") which contemplated the development of a stand-alone museum for the Mexican Museum on the Agency Property. The LDA has been amended eight times, most recently on December 7, 2004. Under the Eighth Amendment, the Agency and the Mexican Museum agreed to work cooperatively to explore alternatives for the museum facility, including the inclusion of the Mexican Museum as a cultural component in a larger development. The Agency has informed the Developer that the Agency and the Mexican Museum have agreed that the Project contemplated under this Agreement is the best opportunity to develop a new museum facility for the Mexican Museum. The Agency has also informed the Developer that the Agency and the Mexican Museum anticipate that the LDA will be amended or replaced to conform to the Transaction Documents (defined below).

L. The Jessie Square Garage was built as part of a larger construction project to build the garage and surrounding public improvements. These improvements were financed with approximately $43.1 million in tax increment bonds authorized by the Board of Supervisors. Jessie Square Garage was completed and opened to the public in February 2005. The garage is owned by the Agency and operated by a parking operator, with net revenues passed back to the City to offset tax increment provided by the City to pay the debt service on the bonds. Foundation work for the Mexican Museum and the Contemporary Jewish Museum was integrated into the subterranean garage construction and has been completed as well.

M. The Agency and the Developer wish to enter into this Agreement for the purposes of negotiating and entering into the Purchase Agreement to facilitate development of an integrated mixed-use development on the Site. The Agency and the Developer currently anticipate that the development will consist of the following components: (a) approximately 390,000 net square feet of residential, office and/or hospitality uses in a tower of approximately 550 feet in height (excluding penthouse), (b) a cultural component between 35,000 and 40,000 net square feet fronting Jessie Square (the "Cultural Component"), (c) a rehabilitated historically important Mercantile Building, (d) additional retail and/or cultural uses on the ground floor of

the Mercantile Building, and (e) the purchase of the Jessie Square Garage (collectively, the "Project"). The Jessie Square Garage shall be dedicated to both Project-related uses and the public, as detailed in this Agreement.

N. The parties anticipate that various regulatory approvals and permits are required for the development of the Project, which may include without limitation, environmental review pursuant to CEQA, an amendment to the City's General Plan, an amendment to the City's height map, an amendment to the City's bulk map, the adoption of a Special Use District, a Section 309 determination, Section 309 exceptions, a Conditional Use Approval, an amendment to the criteria adopted by the City's Planning Commission and the City's Recreation and Park Commission for determinations of significant shadows on protected parks, a development agreement, and City and bondholder trustee review of the Jessie Square Garage bond redemption (such regulatory approvals and permits and any other permits, authorizations, approvals, entitlements, agreements, or similar actions necessary to construct the Project from all public agencies with land use jurisdiction over the Project approvals shall collectively be referred to as the "Regulatory Approvals"). The Transaction Documents (defined below) shall provide that the sale of the Agency Property and the Jessie Square Garage to the Developer shall be contingent on receipt of final approval of all Regulatory Approvals required for the Project upon terms and conditions reasonably acceptable to Developer and the Agency.

O. This Agreement contemplates a sole source sale of the Agency Property and the Jessie Square Garage to the Developer. The Agency believes the sale is consistent with the Redevelopment Plan and the California Community Redevelopment Law because: (i) the Project, as an integrated development, will have a greater value than if the individual components were developed separately, (ii) the Project satisfies the Agency's long-term redevelopment goals for the Agency Property, (iii) the Agency is unable to finance the redevelopment of the Agency Property on its own and believes a stand-alone project would pose insurmountable design and financial problems, and (iv) the Project allows the Developer, who is an adjacent property owner, to redevelop its property into a substantially better project. Furthermore, as a sale without a public bid, the Agency will follow the procedural requirements for notice and public hearing in compliance with Section 33431 of the Health and Safety Code.

P. Agency authorization of this Agreement is statutorily exempt from CEQA as a feasibility and planning study, pursuant to CEQA Guidelines Section 15262. This Agreement will facilitate completion of the design of the proposed mixed-use Project and will not independently result in significant physical effects on the environment.

Q. This Agreement is entered into with the understanding that the final terms and conditions of the Transaction Documents negotiated during the term of this Agreement will be subject to approval by the Agency Commission.

R. The parties now desire to enter into this Agreement to set forth the terms and conditions upon which the Agency and the Developer will enter into negotiations for the development of the Project and seek to complete the Transaction Documents for the Agency Commission approval.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereby agree as follows:

AGREEMENT

1. Exclusive Negotiations

Subject to the terms and conditions of this Agreement, the Agency and the Developer, acknowledging that time is of the essence, agree to negotiate diligently and in good faith with each other to enter into the Purchase Agreement and any necessary associated agreements leading to the conveyance of the Agency Property and the Jessie Square Garage to the Developer, and the redevelopment and management of the Site and the Jessie Square Garage by the Developer (collectively, the "Transaction Documents"). The Agency grants to the Developer the exclusive right to negotiate the Transaction Documents (the "Exclusive Right") during the term of this Agreement subject to the rights and obligations under the LDA. The Agency agrees not to solicit or consider any other proposals or negotiate with any other developers with respect to the subject of the negotiations set forth herein without the consent of Developer, which consent may be granted or withheld by Developer in its sole and absolute discretion; provided, however, that nothing in this Agreement shall preclude the Agency, with or without the consent of the Developer, from negotiating with the Mexican Museum regarding the LDA or with another cultural-institution tenant for the Cultural Component in the event of the LDA's termination.

The Developer acknowledges and agrees that under this Agreement the Agency is not committing itself or agreeing to enter into the Transaction Documents or undertake (i) any exchange or transfer of real property, (ii) any disposition of any real property interests to the Developer, (iii) approval of any land use Regulatory Approvals, or (iv) any other acts or activities relating to the subsequent independent exercise of discretion by the Agency or any agency, commission or department of the City. This Agreement does not constitute the disposition of property or exercise of control by the Agency or the City over property.

2. Term, Termination and Developer's Risk

A. Term

The initial term of the Original ENA commenced on July 15, 2008 (the "Commencement Date") and expired on December 31, 2009. This Agreement, which shall be deemed to have commenced as of January 1, 2010, extends the initial term to July 15, 2012 (the "Term"), unless earlier terminated pursuant to Section 2.B below. Notwithstanding the foregoing, the Term may be extended without further Agency Commission action as follows: (i) for two additional six (6) month periods, subject to the discretion of the Agency's Executive Director, and (ii) if needed, one automatic one hundred and twenty (120) day extension from the date of final approval of all Regulatory Approvals by all Regulatory Bodies (defined below) with jurisdiction over the Project (the "Final Approval Date") to allow for the expiration of all administrative, judicial or referenda challenge periods with respect to the Transaction Documents.

B. Termination

This Agreement shall automatically terminate upon the later of (i) the Final Approval Date; (ii) the expiration of all administrative, judicial or referenda challenge periods with respect to the Transaction Documents without challenge, or, if challenged, the final resolution of such challenge upon terms and conditions reasonably acceptable to Developer and the Agency; and (iii) the execution of the Transaction Documents by Developer and the Agency.

This Agreement may terminate upon the occurrence of either of the following events:

(i) In the event of an impasse on material terms during the Term of this Agreement, either party may provide written notice to the other party of the impasse. After written notice is given, the parties agree to work diligently and in good faith to resolve the impasse. If the parties are unable to resolve the impasse sixty (60) days after written notice, either party may, in its sole discretion, terminate this Agreement upon written notice to the other party and neither party shall have any further rights or obligations to the other under this Agreement except as provided herein; or

(ii) In the event the Developer fails to perform or abide by any material provision of this Agreement, and such failure is not cured within sixty (60) days after the Agency has given written notice to the Developer (which the Agency shall specify in reasonable detail the basis for the determination of the default) ("Developer Event of Default"), the Agency may terminate this Agreement upon written notice to the Developer and neither party shall have any further rights or obligations to the other under this Agreement except as provided herein; provided, however, that if the Developer Event of Default cannot reasonably be cured within sixty (60) days, the Developer shall not be in default of this Agreement (and therefore the Agency cannot exercise its right to terminate) if the Developer commences to cure the Developer Event of Default within the sixty (60) day period and diligently and in good faith continues to seek to cure the Developer Event of Default; or

(iii) In the event the Agency fails to perform or abide by any material provision of this Agreement, and such failure is not cured within sixty (60) days after the Developer has given written notice to the Agency (which the Developer shall specify in reasonable detail the basis for the determination of the default) ("Agency Event of Default"), the Developer may terminate this Agreement upon written notice to the Agency and neither party shall have any further rights or obligations to the other under this Agreement except as provided herein; provided, however, that if the Agency Event of Default cannot reasonably be cured within sixty (60) days, the Agency shall not be in default of this Agreement (and therefore the Developer cannot exercise its right to terminate) if the Agency commences to cure the Agency Event of Default within the sixty (60) day period and diligently and in good faith continues to seek to cure the Agency Event of Default.

C. Developer's Risk

The Developer acknowledges and agrees that it is proceeding at its own risk and expense until the Final Approval Date and without any assurance that the Transaction Documents will be approved by the Regulatory Bodies.

3. **Developer Payments**

A. Payment for the Exclusive Right

During the Term, Developer shall pay to the Agency a total of Three Hundred Thousand Dollars ($300,000), made in three (3) payments (the "Payments"), each in the sum of One Hundred Thousand Dollars ($100,000) in cash, in consideration of the Agency's grant of the Exclusive Right to Developer during the Term.

The first payment (the "First Payment") in the sum of One Hundred Thousand Dollars ($100,000) in cash shall be due and payable by Developer on the date of the final approval by the Agency of this Agreement. Notwithstanding the foregoing, the Agency acknowledges receipt from Developer the sum of One Hundred Thousand Dollars ($100,000) in cash as a performance deposit under the Original ENA, which the Agency agrees to treat as the First Payment and which the Agency acknowledges satisfies Developer's First Payment obligation.

The second payment (the "Second Payment") in the sum of One Hundred Thousand Dollars ($100,000) in cash shall be due and payable by Developer on or before January 15, 2011 (the "Second Payment Date").

The third payment (the "Third Payment") in the sum of One Hundred Thousand Dollars ($100,000) in cash shall be due and payable by Developer on or before September 15, 2011 (the "Third Payment Date").

Except as set forth in this Section 3, the Payments shall be non-refundable and may be used by the Agency in its reasonable discretion for any legal purpose in support of the Project, including without limitation providing assistance to the Mexican Museum.

In the event that this Agreement is terminated for any reason prior to the Second Payment Date, then Developer shall have no obligation to pay to the Agency either the Second Payment or the Third Payment. In the event that this Agreement is terminated for any reason after the Second Payment Date but prior to the Third Payment Date, then Developer shall have no obligation to pay to the Agency the Third Payment.

Retention of Payments by Agency. The Agency shall retain any Payments actually paid by Developer, in the event this Agreement is terminated for any reason.

B. Deposit for Agency Costs

The Developer shall pay all the Agency's actual, reasonable costs associated with the Regulatory Approvals and approvals process for the Project, including, but not limited to, all staff time, all associated benefits and actual distributed overhead, and any consultants retained by the Agency in connection with the Agency's obligations under this Agreement and the Regulatory Approvals and approvals for the Project ("Agency Transaction Costs").

At this time, the Agency has hired one outside consultant to assist it in fulfilling its obligations under this Agreement. That outside consultant is an economic feasibility consultant, Economic Planning Systems ("EPS"). The Agency anticipates hiring additional consultants to assist it in fulfilling its obligations under this Agreement, including, but not limited to, outside legal counsel, design review, and planning services, and the Developer agrees to pay for additional such consultants other than EPS. In the event that the Agency reasonably determines that additional such consultants will be required, the Agency shall provide to the Developer for review copies of any contracts including both scope and budget no later than ten (10) days prior to execution thereof.

The Agency will provide an estimate of anticipated staff costs no later than July 2, 2010. The Agency shall submit invoices for staff time the Agency incurs on a quarterly basis to the Developer at its address specified in Section 25.

At the time that the Agency submits such invoices, it shall also include reasonably detailed backup documentation verifying the actual costs reflected in the invoice. The Developer shall promptly pay all invoices submitted by the Agency to cover Agency Transaction Costs within sixty (60) days of submittal by the Agency to Developer.

No advance deposit shall be required. If, however, the Developer fails to pay such invoices within such sixty (60) day period, then the Agency may require that the Developer pay to the Agency the sum of Fifty Thousand Dollars ($50,000) in cash (the "Deposit for Agency Costs") as a deposit to secure future payments of the Agency Transaction Costs. The Agency shall keep and account for separately the Deposit for Agency Costs. The Agency shall not use any portion of the Deposit for Agency Costs unless the Developer fails to pay subsequent invoices within the applicable sixty (60) day period. The Agency shall notify the Developer promptly of the use of any funds from this account. If the Agency uses funds from this account, the Developer shall, within sixty (60) days of a written notice from the Agency, replenish the Deposit for Agency Costs. If the Developer does not replenish the Deposit for Agency Costs within such sixty (60) day period, then such event will be considered an Event of Default under this Agreement.

Unless otherwise provided for in the Purchase Agreement, the Agency shall return the Deposit for Agency Costs, including any and all accrued interest, if any, within thirty (30) days of the Termination of this Agreement.

4. **Term Sheet**

Attached hereto as Exhibit D is a term sheet (the "Term Sheet") developed for the original project described in the Original ENA, which represented the results of discussions between the Agency and Developer and their preliminary consensus on the scope of the original project and the responsibilities of each party to be more fully described in the Purchase Agreement. The Term Sheet shall serve as a guide in the negotiation of the Purchase Agreement, although the parties acknowledge that review of additional information and further discussion, including without limitation the reduction in the scope of the original project, may lead to refinement and revision of the Term Sheet. The parties acknowledge that, in addition to the reduction in scope from the original Project, the Project may be subject to future changes that result from the entitlement process. Such changes in the Project may result in changes to the Term Sheet if the parties agree that the changes are necessary to support Project feasibility and/or financibility, subject to the completion of an economic analysis by the Agency.

The Agency and the Developer have each retained or will retain consultants to prepare an economic analysis of the financial feasibility of the Project. Without limitation of the foregoing, the parties acknowledge that the conclusions of these analyses may result in revision of the provisions of the Term Sheet as necessary to maintain the financial feasibility and/or financibility of the Project. Further without limitation of the foregoing, the Parties acknowledge that changes to the Project description, including without limitation changes approved in accordance with Section 6 below, also may result in revision of the provisions of the Term Sheet as necessary to maintain the financial feasibility and/or financibility of the Project. In the event that the Agency's Executive Director determines, in his or her sole and absolute discretion, that any revision to the provisions of the Term Sheet would (i) materially alter the Project described in the Term Sheet, or (ii) materially increase the Agency's liability, then, the Agency shall present the proposed revision(s) to the Agency Commission for consideration and approval.

5. **Performance Benchmarks**

A. Satisfaction of Performance Benchmarks

During the Term of this Agreement, the Developer and the Agency shall, in good faith, work expeditiously on, and diligently pursue to completion, the performance benchmarks set forth in the attached Exhibit E (the "Performance Benchmarks") in the manner and in the times set forth therein, and any additional Performance Benchmarks mutually agreed-upon by the parties. Developer shall consider in good faith during the Term of this Agreement, any feasible additional Performance Benchmarks proposed by the Agency that do not materially increase Developer's obligations, burdens or risks during the Term. Developer's compliance with the Performance Benchmarks shall not alter or reduce its obligations to comply with any other provision of this Agreement. Any failure of the Developer to meet the Performance Benchmarks for reasons beyond the Developer's control, as reasonably determined by the Agency, shall not be an Event of Default (as defined below).

B. Waiver or Extension of Performance Benchmarks

At the discretion of the Executive Director, Agency staff may waive or extend the date for the Developer's performance of any item set forth in the Performance Benchmarks, Exhibit E, from time to time, without the necessity for further Agency Commission action, so long as the cumulative extensions of a particular Performance Benchmark do not exceed a total aggregate of six (6) months from the date being extended in the Performance Benchmarks, Exhibit E; provided, however, that any such waiver or extension shall not release any of Developer's obligations nor constitute a waiver of the Agency's rights with respect to any other term, covenant or condition of this Agreement. Any proposed cumulative extension of a Performance Benchmark which totals more than six (6) months requires Agency Commission approval.

C. Quarterly Reporting

Developer shall submit to the Agency written reports no later than the first day of each full calendar quarter during the Term of this Agreement, setting forth a description of the status of Developer's compliance with the Performance Benchmarks (and with additional Performance Benchmarks, if any).

6. **Changes to Project**

Developer may propose modifications or changes to the Project ("Developer's Proposed Changes") from that described in the Term Sheet if such changes are in response to the request, guidance or requirements of Regulatory Bodies (including the Agency) or if Developer believes such changes to be necessary or in the best interests of the Project. In the event that the Agency's Executive Director determines, in his or her sole and absolute discretion, that the Developer's Proposed Changes would (i) materially alter the Project described in the Term Sheet, or (ii) materially increase the Agency's liability, then, the Agency shall present the Developer's Proposed Changes to the Agency Commission for consideration and approval. As part of any request for approval, Developer shall present a detailed description of each of Developer's Proposed Changes and provide documentation supporting such change.

7. **Negotiation of Transaction Documents**

A. Negotiation of Transaction Documents

The Agency and the Developer shall diligently meet, negotiate in good faith and seek to complete the Transaction Documents for the Site and the Jessie Square Garage, subject to the rights and obligations in the LDA, in a form that is approved by legal counsel for the Agency and Developer, incorporating specific terms, including without limitation the Agency's and Developer's responsibilities, the economic parameters, development standards and requirements and a performance schedule. Developer agrees and acknowledges that the obligation to "negotiate in good faith" is limited to the actions of the Executive Director of the Agency and Agency staff and that the foregoing obligation does not apply to, or bind, any other Regulatory Body other than the Agency. The Transaction Documents are subject to Agency Commission

approval in compliance with applicable law.. The Transaction Documents shall provide for mutually agreed-upon closing conditions, including without limitation, title insurance, receipt of final approval of all Regulatory Approvals required for the Project upon terms and conditions reasonably acceptable to Developer and the Agency, and Developer's ability to obtain financing on commercially reasonable terms and conditions.

B. Basis for Negotiations

Subject to Sections 4 and 6, above, the Agency and the Developer agree to the material terms set forth in the Term Sheet. By entering into this Agreement, the Developer and the Agency agree that they shall comply with the Term Sheet and that the terms of the Transaction Documents and any redesign of the Project shall be in accordance with the Term Sheet, provided, however, such terms are subject to change in accordance with Sections 4 and 6 hereof or otherwise by mutual agreement of the parties. The parties acknowledge that the Term Sheet sets forth general principles for negotiation, and that any binding Transaction Documents shall be subject to review and approval by the parties, their respective legal counsel and the Agency Commission.

8. Regulatory Approvals; No Representation or Warranty

A. Regulatory Approvals

The parties acknowledge that various Regulatory Approvals are required for the development of the Project. In the event that there is any conflict between any requirements imposed by the Agency as a seller in the Transaction Documents and any requirements imposed by the City as a regulatory body (whether based on existing City law or as a condition of approval for the Project), the City's requirements will prevail.

This Agreement does not constitute the disposition of property or exercise of control by the Agency or the City over property. Except for the obligation to negotiate exclusively with the Developer as provided in this Agreement and for the Agency obligations with respect to Sections 1, 3, 5, 7, 14, 15, and 22, this Agreement is not intended to be, and will not become, contractually binding on the Agency, and no legal obligation will exist unless and until the parties have negotiated, executed and delivered mutually acceptable Transaction Documents based upon information produced from the environmental review process and upon other public review and hearing processes and subject to all applicable governmental approvals, including without limitation, the approval of the Agency and the City in their respective sole and absolute discretion, subject to compliance with applicable laws.

Developer and the Agency have consulted on a regulatory approval strategy (the "Regulatory Approval Strategy") for securing the Regulatory Approvals for the Project. The Agency shall have the right to participate in any meetings relating to the processing of Regulatory Approvals for the Project with the City and review and approve Project related applications.

The work completed on the EIR to date has been done by Turnstone Consulting (the "CEQA Consultant"), with the transportation work being done by LDW Consulting (the "Transportation Consultant"), under contract to Developer but subject to direction by the Agency. MEA and the

Agency contemplate that they will continue to use the CEQA Consultant and the Transportation Consultant to prepare the EIR, subject to their respective satisfactory performance.

The Developer has prepared a preliminary schedule (the "Preliminary Schedule") for the processing of the EIR. The Agency shall consult with MEA, San Francisco Office of Economic and Workforce Development ("OEWD"), Developer, the CEQA Consultant and the Transportation Consultant, to reach an agreement on a schedule (the "Schedule") for processing of the EIR, which shall include (i) any refinements to the Preliminary Schedule; (ii) specified timeframes for CEQA Consultant preparation (or in the case of CEQA findings and resolutions, the Agency and/or MEA preparation), and the Agency, MEA and Developer review, of all documents required to complete the EIR, and (iii) any other tasks necessary for preparation of the EIR. The Agency will use good faith efforts to timely perform its obligations in accordance with the Schedule, will work collaboratively and cooperatively to expedite the processing of the EIR (subject to the requirements of CEQA and MEA) in an effort to achieve the Schedule, and will promptly notify Developer and OEWD in the event that circumstances beyond the Agency's control render the Schedule difficult or impossible to achieve, in which case the Agency shall meet and confer in good faith with the MEA, OEWD and Developer to identify the cause of any delay and the best feasible means to remain as close to the Schedule as possible.

B. No Representation or Warranty; Exculpation

Developer agrees and acknowledges that the Agency has made no representation or warranty that the necessary Regulatory Approvals for the Project can be obtained. Developer further agrees and acknowledges that there is no guarantee, nor a presumption, that any of the Regulatory Approvals required for the development of the Project will be issued by the Agency, the City Planning Commission or the Board of Supervisors (each a "Regulatory Body" and, collectively, the "Regulatory Bodies").

9. **Developer's Obligations**

During the Term of this Agreement, the Developer agrees that:

(a) It shall diligently and in good faith pursue obtaining all Regulatory Approvals for the Project in accordance with the previously approved Regulatory Approval Strategy, which may be modified by the parties without further action by the Agency Commission;

(b) It shall be solely responsible for applying for all Regulatory Approvals, and shall not seek any Regulatory Approvals for the Agency Property or the Jessie Square Garage without first obtaining the authorization of the Agency, which authorization may not be unreasonably withheld, conditioned or delayed, and Developer shall bear all costs associated with applying for and obtaining all such Regulatory Approvals;

(c) It shall be solely responsible for all costs and expenses (including, but not limited to, fees for its attorneys, architects, engineers, consultants and other professionals) related to or arising from this Agreement or the negotiation and execution of any of the Transaction Documents, incurred by Developer. Developer shall have no claims against the Agency or the City for reimbursement for any such costs and expenses irrespective of whether any of the Transaction

Documents are approved by the Agency Commission, or whether Regulatory Approvals are secured from the Regulatory Bodies;

(d) It shall bear all costs associated with or complying with all permit and processing fees related to the Project and any necessary Regulatory Approval;

(e) It shall pay and discharge any fines or penalties imposed as a result of the failure of Developer to comply with the terms and conditions of any Regulatory Approval, and the Agency shall have no liability, monetary or otherwise, for said fines and penalties;

(f) It shall pay all of the Agency Transaction Costs as provided in Section 3;

(g) It shall undertake and complete its "due diligence" review of the Agency Property and the Jessie Square Garage, and if requested by the Agency, provide copies of all non-privileged, non-proprietary reports regarding the Agency Property and the Jessie Square Garage to the Agency, prepare financial projections and complete concept plans and schematic design plans for the Project, including, but not limited to, floor plans, elevations and renderings, as set forth in the Performance Benchmarks, copies of which shall be provided to the Agency, without representation or warranty of any kind;

(h) It shall submit in a timely manner to the Agency and any other Regulatory Body having approval over the Project, all specifications, descriptive information, studies, reports, disclosures and any other information required to satisfy the application filing requirements of those agencies;

(i) It shall diligently pursue completion of all Performance Benchmarks and additional Performance Benchmarks, if any, in a timely fashion;

(j) It shall provide copies of all non-privileged, non-proprietary Project Materials (as defined in Section 13 below) to the Agency in accordance with Section 13(a)(2) below;

(k) It shall not pay, or agree to pay, any fee or commission, or any other thing of value contingent on the entering of this Agreement, any other Transaction Document, or any other agreement with the Agency related to the Project, to any Agency employee or official or to any contracting consultant hired by the Agency for purposes of the Project. By entering into this Agreement, Developer certifies to the Agency that the Developer has not paid, nor agreed to pay, any fee or commission, or any other thing of value contingent on the entering of this Agreement, any other Transaction Document, or any other agreement with the Agency related to the Project, to any Agency employee or official or to any contracting consultant hired by the Agency for purposes of the Project;

(l) During the term of this Agreement, the Developer shall comply with the requirements of all applicable City and Agency ordinances, resolutions, regulations or other Regulatory Approvals in all aspects (planning, design, construction, management and occupancy) of developing the Site, including, without limitation, the Agency's Small Business Enterprise Program (including the selection of consultants during the pre-development period); however,

notwithstanding the foregoing, in the event of a conflict between City rules and regulations and Agency rules and regulations, the City rules and regulations shall prevail;

(m) The Developer shall commit sufficient financial and personnel resources required to undertake and to fulfill the Developer's obligations under this Agreement in an expeditious fashion; and

(n) In making any entry onto Agency Property and the site of the Jessie Square Garage, the Developer shall not cause a Release of any Hazardous Substance and shall not cause the Incidental Migration of any Hazardous Substance.

For purposes of this Section, the term "Hazardous Substance" shall have the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date of this Agreement, 42 U.S.C. §9601(14), and in addition shall include, without limitation, petroleum (including crude oil or any fraction thereof) and petroleum products, asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs"), PCB-containing materials, all hazardous substances identified in the California Health & Safety Code §§25316 and 25281(d), all chemicals listed pursuant to the California Health & Safety Code §25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law. The foregoing definition shall not include substances which occur naturally on the Site or the Jessie Square Garage, or any portion thereof.

The term "Environmental Law" shall include all federal, state and local laws, regulations and ordinances governing hazardous waste, wastewater discharges, drinking water, air emissions, Hazardous Substance releases or reporting requirements, Hazardous Substance use or storage, and employee or community right-to-know requirements related to the work being performed under this Agreement.

For purposes of this Section, the term "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discharging of barrels, containers, and other closed receptacles containing any Hazardous Substance).

For purposes of this Section, the term "Incidental Migration" shall mean any non-negligent activation, migration, mobilization, movement, relocation, settlement, stirring, passive migration, passive movement, and/or other incidental transport of any Hazardous Substance existing at, on or under the Agency Property or the site of the Jessie Square Garage prior to the effective date of this Agreement.

10. **Indemnity**

Developer shall indemnify, defend, and hold harmless the Agency, the City and their respective members, officers, agents and employees from and against any and all losses, costs, claims, damages, liabilities and causes of action (including reasonable attorney's fees and court costs) arising out of this Agreement, including with respect to any challenge to the Regulatory

Approval of the Developer to undertake the program described in the Term Sheet, or any challenge or any filing of any kind related to the Regulatory Approvals, or in any way connected with the death of or injury to any person or damage to any property occurring on or adjacent to the Site and directly or indirectly caused by any acts done thereon or any acts or omissions of Developer, its agents, employees or contractors; provided, however, that the foregoing indemnity shall not apply to any losses, costs, claims, damages, liabilities or causes of action (including reasonable attorneys' fees and court costs) (i) due primarily to gross negligence or willful misconduct of the person or party seeking to be indemnified (Agency or the City, as the case may be), or its respective agents, employees or contractors, (ii) arising out of any default of the person or party seeking to be indemnified, or its respective agents, employees or contractors, or (iii) arising out of any breach of the LDA that is not related to the activities authorized under the Agreement (collectively "Indemnity Exclusions"); but further provided that the Agency may require that Developer defend the Agency against claims pursuant to this Section until it is established that such claims are Indemnity Exclusions. Developer's obligations under this Section shall survive the termination of this Agreement.

11. **[Intentionally Omitted]**

12. **Insurance**

A. Developer's Insurance

Without in any way limiting Developer's indemnification obligations under this Agreement, and subject to approval by the Agency's Risk Manager of the insurers and policy forms, the Developer shall obtain and maintain, at the Developer's expense, the following insurance and bonds throughout the Term of this Agreement, unless otherwise provided in this Agreement:

B. Minimum Scope of Insurance. Coverage shall be at least as broad as:

(a) Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 00 01).

(b) Insurance Services Office (form number CA 00 01) covering Automobile Liability, code 1 (any auto).

(c) Workers' Compensation insurance as required by the State of California and Employers' Liability insurance.

(d) Professional Liability insurance covering all negligent acts, errors and omissions in Developer's Architectural and Engineering Professional Design Services. As an alternative to Developer's providing said Professional Liability insurance, Developer shall require that all architectural and engineering professional consultants for the Project have liability insurance covering negligent acts, errors and omissions. Developer shall provide the Agency with copies of consultants' insurance certificates showing such coverage.

C. Minimum Limits of Insurance. Developer shall maintain limits no less than:

(a) General Liability: $1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project or the general aggregate limit shall be twice the required occurrence limit.

(b) Automobile Liability: $1,000,000 combined single limit per accident for bodily injury and property damage.

(c) Workers' Compensation and Employers' Liability: Workers' Compensation limits as required by the State of California and Employers' Liability limits of $1,000,000 per accident.

(d) Professional Liability: $1,000,000 each claim/$2,000,000 policy and $2,000,000 in the annual aggregate covering all negligent acts, errors and omissions of Developer's design team members, including all architects, engineers and surveyors. As a preferred alternative, Developer may provide Project specific Professional Liability coverage with limits of $5,000,000 per claim and in the policy aggregate. Insurance under this clause must be maintained and evidence of insurance must be provided. Developer will require its design team to maintain insurance required under this subsection for at least ten (10) years after completion of construction. Developer shall provide evidence of such required insurance for ten (10) years after completion of construction.

D. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions over $25,000 must be declared to and approved by the Agency's Risk Manager. At the option of the Agency's Risk Manager, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to the "San Francisco Redevelopment Agency, the City and their respective officers, agents, employees and Commissioners"; or Developer shall procure a bond guaranteeing payment of losses and related investigation, claim administration and defense expenses.

E. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

(a) The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions: The "San Francisco Redevelopment Agency, the City and their respective officers, agents, employees and Commissioners" are to be covered as additionally insureds as respects liability arising out of activities performed by or on behalf of Developer related to the Project; and liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Developer. The coverage shall contain no special limitations on the scope of protection afforded to the Agency, the City and their respective officers, agents, employees and commissioners.

(b) For any claims related to this Project, Developer's insurance coverage must be primary insurance as respects to the "San Francisco Redevelopment Agency, the City and their respective Commissioners, officers, agents, and employees". Any insurance or self-insurance maintained by the Agency, the City and their respective Commissioners, officers, agents or employees must be in excess of Developer's insurance and will not contribute with it.

(c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Agency, the City and their respective Commissioners, officers, agents or employees.

(d) Developer's insurance shall apply separately to each insured against whom claim is made or suit is brought in relation to this Project, except with respects to the limits of the insurers liability.

(e) Workers' Compensation and Employers Liability Coverage: The insurer shall agree to waive all rights of subrogation against the "San Francisco Redevelopment Agency, the City and their respective officers, agents, employees and Commissioners" for losses arising from or in connection with the Project.

(f) Each insurance policy required by this clause must be endorsed to state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency.

F. Acceptability of Insurers

Insurance is to be placed with insurers with a current A. M. Best's rating of no less than A:VII, unless otherwise approved by the Agency's Risk Manager.

G. Verification of Coverage

Developer must furnish the Agency with certificates of insurance and additional endorsements effecting coverage required by this Section 12 prior to any disbursement of funds. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the Agency before work commences. The Agency reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

H. Subcontractors and Consultants Insurance

Developer shall include all subcontractors and consultants as insureds under its policies or cause each subcontractor and consultant to furnish separate certificates and endorsements. All coverages for subcontractors and consultants shall be subject to all of the requirements stated herein, unless otherwise approved by the Agency's Risk Manager. Subcontractor's Professional

Liability limit as required by Sections 12.B(d) & 12.C(d) above may be reduced or eliminated upon the Agency's Risk Manager's written approval.

I. Review

The insurance coverage required under this Section shall be evaluated by the Agency for adequacy if and when the Term of this Agreement is extended. The Agency may require the Developer to increase the insurance limits and/or forms of coverage in the reasonable discretion of the Agency's Risk Manager.

13. **Project Materials**

As used herein, "Project Materials" means all studies, applications, reports, permits, plans, drawings and similar work product prepared for Developer regarding the Project by Developer's architects, engineers, and other consultants (collectively, "Project Consultants").

(a) In the event of (i) Developer's voluntary withdrawal from the Project, (ii) Developer's abandonment of the Project, (iii) any early termination of this Agreement by either party, pursuant to the provisions of the Agreement, or (iv) expiration of this Agreement occurring without the concurrent execution of the Purchase Agreement by the parties (each such event defined herein as a "Termination"), Developer shall, within thirty (30) days of written notice from the Agency and without cost to the Agency:

(1) Satisfy all outstanding fees relating to the Project Materials that are then due and payable or will become due and payable for services relating to the Project rendered by any of the Project Consultants up to the date of Termination and provide written evidence of such satisfaction to the Agency; and

(2) Deliver or have delivered from the appropriate parties copies of all non-privileged, non-proprietary Project Materials regarding the Agency Property and the Jessie Square Garage to the Agency, without representation or warranty of any kind (but not including any Project Materials pertaining to the Developer Property, the 706 Building or the new tower element). For the purposes of this Section, Developer's proprietary information shall be limited to information regarding Developer's financial information, market studies, appraisals or architectural plans and specifications (other than architectural plans and specifications that were submitted by Developer to the City or the Agency). The Project Materials shall be provided to the Agency for purposes of reference only and the Agency shall have no rights or interest in the Project Materials.

14. **Agency's Obligations and Rights**

A. Agency's Obligations

Agency agrees that, subject to Section 8 above, (i) it will reasonably cooperate with Developer in filing for, processing and obtaining all Regulatory Approvals, (ii) to the extent required by any Regulatory Body issuing a Regulatory Approval, it will not unreasonably withhold or delay its joining with Developer as co-applicant in filing, processing and obtaining all Regulatory

Approvals that are necessary for the development of the Project on the Site and the site of the Jessie Square Garage and that are consistent with this Agreement; (iii) it will respond promptly to requests for coordination, consultation and scheduling of meetings regarding the Project, including but not limited to matters relating to the processing and obtaining of Regulatory Approvals where the Agency is the co-applicant; and (iv) it will use its good faith efforts to meet its obligations under the Performance Benchmarks. Nothing contained herein shall be deemed to limit or otherwise constrain Agency's discretion, powers and duties as a regulatory agency with certain police powers.

The Agency shall also reasonably cooperate with the Developer in obtaining and providing access to the Agency Property and the Jessie Square Garage for the purpose of performing tests, surveys and inspections, and obtaining data necessary or appropriate to negotiate the Transaction Documents provided, however, the Developer shall give prior written notice to the Agency of any such entry and shall, if the Agency so requires, obtain a permit to enter from the Agency for such entry and comply with the insurance and indemnification requirements contained in Sections 10 and 12 of this Agreement; provided further, however, the Developer shall not be responsible or liable for any act or omission of the Agency or the Agency's agents, representatives, employees, contractors, subcontractors or consultants or for any adverse condition or defect on or affecting the Agency Property or the Jessie Square Garage not caused by the Developer, its employees, consultants, contractors or subcontractors, but discovered during such inspections (collectively, "Excluded Claims"), but further provided that the Agency may require that Developer defend the Agency against claims pursuant to Section 10 of this Agreement until it is established that such claims are Excluded Claims. In the case of invasive tests under any permit to enter granted by the Agency, the Agency may impose such insurance, indemnification, guaranty and other requirements as the Agency determines appropriate, in its reasonable discretion. Nothing herein shall limit or restrict the Developer's right and ability to access the Agency Property or the Jessie Square Garage to the extent that the general public may access the Agency Property or the Jessie Square Garage.

B. Rights Reserved

If negotiations with Developer under this Agreement are unsuccessful and do not lead to approval of the Purchase Agreement within the Term of this Agreement, the Agency reserves the right, after the expiration or termination of this Agreement and subject to the LDA, to negotiate with another developer for the long-term development of the Agency Property or to undertake other efforts including, but not limited to, issuing a request for proposals.

C. Final Action Subject to Environmental Review

The Agency shall not enter into any Transaction Documents for the Project that will allow for its development until there has been complete compliance with CEQA. Agency intends, through exclusive negotiations, to identify the actions and activities that would be necessary to develop the Project on the Site and the Jessie Square Garage and thereby facilitate meaningful environmental review. To the extent required to comply with CEQA and consistent with applicable law, the Agency retains the absolute discretion before action on the Project by the Agency Commission and/or any City commission or the Board of Supervisors to (i) subject to

the agreement of the parties, make such modifications to the Transaction Documents and the Project as may be necessary to mitigate significant environmental impacts or as may otherwise be necessary or appropriate, (ii) select other feasible alternatives to avoid significant environmental impacts, (iii) balance the benefits against any significant environmental impacts prior to taking final action if such significant impacts cannot otherwise be avoided, or (iv) determine not to proceed with the Project.

D. Disclosure of Confidential Information

The parties acknowledge that the Agency is subject to the California Public Records Act (the "CPRA") and the Agency Public Records Policy, as approved per Resolution No. 182-2005 (Nov. 1, 2005) ("Policy"). The CPRA and Policy generally provide that written documents retained by the Agency are subject to disclosure upon the request of any third party except for specific limited exceptions provided for in the CPRA and Policy.

15. **Collaboration with the Mexican Museum**

The Agency and Developer shall collaborate and cooperate in good faith with the Mexican Museum on all phases of the development process for the Cultural Component, including, but not limited to, negotiations with the Developer, museum design, operational and organizational planning, tenant improvement design and financing, and lease negotiations. The Agency and Developer shall provide the Mexican Museum with opportunities throughout the entitlement and development process for the Cultural Component to provide input and participate in the decision-making process.

16. **Non Assignment**

The parties acknowledge and agree that the Agency is entering into this Agreement and granting the Exclusive Right to the Developer on the basis of the particular experience, financial capacity, skills and capabilities of the Developer and its members. This Agreement is personal to the Developer and is non-assignable without the prior written consent of the Agency, which may be withheld in the Agency's sole and absolute discretion; provided, however, that Developer shall have the right, without the consent of the Agency, to assign this Agreement to an Affiliate (defined herein). For purposes of this Agreement, the term "Affiliate" shall mean any direct or indirect member of Developer as of the date of this Agreement, which includes 706 Mission Street Holding Co LLC, MCAF Development Holding Co LLC, Millennium Partners LLC, MDP DEVCO V LLC, and DEVCO V 706 Mission Street LLC; and provided further that Developer shall have the right, with Agency consent, which consent shall not be unreasonably withheld, conditioned or delayed, to assign this Agreement to any entity that is directly or indirectly controlled by or is under common control solely of (i) Developer, or (ii) Millennium Partners LLC, Christopher M. Jeffries, Philip E. Aarons and/or Philip H. Lovett. The term "control" shall mean the sole power to direct the day-to-day operation of such entity through voting rights and/or ownership.

17. **Default**

A. Developer's Event of Default

The occurrence of any of the following (each, a "Developer Event of Default") shall constitute a default by the Developer after the Agency gives notice of the default specifying in reasonable detail the basis for the determination of the default and after the expiration of the applicable cure period, if any:

(a) Failure to pay any sums due hereunder when due within sixty (60) days after written notice has been given to Developer in accordance with Section 3.B, above, or failure to replenish the Deposit for Agency Costs, if applicable, within sixty (60) days after the Agency has requested in writing that the Developer replenish such funds.

(b) Intentionally omitted.

(c) Failure to perform or abide by any material provision of this Agreement, including the Performance Benchmarks (other than any failures to meet the Performance Benchmarks that are outside the control of the Developer, as reasonably determined by the Agency), as such are waived or extended in accordance with Section 5 hereof, if such failure is not cured within sixty (60) days after notice has been given to Developer.

(d) Either (i) the filing by the Developer of a petition to have the Developer adjudicated insolvent and unable to pay its debts as they mature or a petition for reorganization or arrangement under any bankruptcy or insolvency law, or a general assignment by Developer for the benefit of creditors; or (ii) the filing by or against Developer of any action seeking reorganization, arrangement, liquidation, or other relief under any law relating to bankruptcy, insolvency, or reorganization or seeking appointment of a trustee, receiver, or liquidator of the Developer or any substantial part of the Developer's assets.

(e) Any material breach of any Developer representation and warranty contained in Section 20.A, or any other provision of this Agreement, unless Developer notifies the Agency within five (5) business days of the material breach and commences to cure such inaccuracy within sixty (60) days from the date on which the Developer was obligated to notify the Agency (or if such inaccuracy cannot reasonably be cured within such sixty (60) days, Developer shall not be in default of this Agreement if Developer commences to cure such inaccuracy within the sixty (60) day period and diligently and in good faith continues to seek to cure such inaccuracy).

(f) The debarment or prohibition of the Developer from doing business with any federal, state or local governmental agency, or any debarment or prohibition of any Affiliate of the Developer from doing business with any federal, state or local governmental agency to the extent such debarment or prohibition of the Affiliate could affect the redevelopment of the Site as contemplated hereby.

(g) Failure to procure or maintain any of the insurance coverage required hereunder so that there is a lapse in required coverage.

If a Developer Event of Default cannot reasonably be cured within the applicable time period set forth in this Section 17.A, Developer shall not be in default of this Agreement if Developer commences to cure the Developer Event of Default within the applicable time period and diligently and in good faith continues to seek to cure the Developer Event of Default.

B. Agency's Event of Default

(a) Failure to perform or abide by any material provision of this Agreement, if such failure is not cured within sixty (60) days after written notice (which shall specify in reasonable detail the basis for the determination of the default) has been given to the Agency, shall constitute an event of default by Agency ("Agency Event of Default"); provided, however, that if the Agency Event of Default cannot reasonably be cured within sixty (60) days, the Agency shall not be in default of this Agreement if Agency commences to cure the Agency Event of Default within the sixty (60) day period and diligently and in good faith continues to seek to cure the Agency Event of Default.

(b) Any material breach of any Agency representation and warranty contained in Section 20.B, or any other provision of this Agreement, unless Agency notifies the Developer within five (5) business days of the material breach and commences to cure such inaccuracy within sixty (60) days from the date on which Agency was obligated to notify Developer (or if such inaccuracy cannot reasonably be cured within such sixty (60) days, Agency shall not be in default of this Agreement if Agency commences to cure such inaccuracy within the sixty (60) day period and diligently and in good faith continues to seek to cure such inaccuracy).

18. **Remedies**

A. Agency's Remedies

If an Event of Default remains uncured or is deemed to be an incurable default, the Agency shall have the option, as its sole and exclusive remedy at law or in equity, to (i) terminate this Agreement upon written notice to the Developer, sent in accordance with Section 25, and retain any Payments previously paid by Developer to Agency as Liquidated Damages in accordance with Section 19 hereof, (ii) seek to recover from the Developer any funds due and owing to the Agency under this Agreement, (iii) seek to enforce the Developer's indemnity obligations and/or (iv) seek to obtain copies of the Project Materials the Agency is entitled to pursuant to Section 13(a)(2) above. The Agency hereby waives any and all rights it may now or hereafter have to pursue any other remedy or recover any other damages on account of any breach or default by Developer, including, without limitation, loss of bargain, special, punitive, compensatory or consequential damages.

B. Developer's Remedies

In the event of an Agency Event of Default, Developer shall have the right, as its sole and exclusive remedy at law or in equity, to terminate this Agreement by delivery of written notice of termination to Agency, whereupon Developer and Agency shall each be released from all

liability hereunder (except for those provisions which recite that they survive termination), and receive a refund of any unspent funds in the Deposit for Agency Costs, plus any and all accrued interest. The foregoing are the exclusive rights and remedies available to Developer at law or in equity in the event of Agency's default under or breach of this Agreement. Developer hereby waives any and all rights it may now or hereafter have to pursue any other remedy or recover any other damages on account of any such breach or default by Agency, including, without limitation, loss of bargain, special, punitive, compensatory or consequential damages.

C. Developer's Risk

Subject to the foregoing provisions of this Section 18, the Developer acknowledges and agrees that it is proceeding at its own risk and expense until such time as the Transaction Documents are approved and without any assurance that the Transaction Documents will be approved.

19. **Damages**

The parties have agreed that the Agency's actual damages in the event of a failure to approve, execute and deliver the Purchase Agreement due to a default by the Developer would be extremely difficult or impracticable to determine. After negotiation, the parties have agreed that, considering all the circumstances existing on the date of this Agreement, the amount of the any Payments previously paid by Developer to Agency, as herein provided, is a reasonable estimate of the damages that the Agency would incur in such event.

IF THE PARTIES DO NOT REACH AGREEMENT ON THE PURCHASE AGREEMENT OR THE PURCHASE AGREEMENT IS NOT APPROVED, EXECUTED AND DELIVERED AS CONTEMPLATED HEREBY DUE, IN EITHER INSTANCE, TO ANY DEFAULT BY THE DEVELOPER UNDER THIS AGREEMENT, THEN, WITHOUT LIMITING ANY OF ITS OTHER REMEDIES HEREUNDER, AT LAW OR IN EQUITY, THE AGENCY SHALL BE ENTITLED TO RETAIN THE ANY PAYMENTS PREVIOUSLY PAID BY DEVELOPER TO AGENCY AS LIQUIDATED DAMAGES. BY PLACING THEIR RESPECTIVE INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION.

INITIALS: Agency _____ Developer SMS

20. **Representations and Warranties**

A. Developer's Representations and Warranties

The Developer represents, warrants and covenants as of the Commencement Date as follows:

(a) Valid Existence; Good Standing; Joint Venture Relationships. The Developer and any Affiliate, if applicable, are duly organized and validly existing entities under the laws of the states of their incorporation. The member of the Developer is 706 Mission Street Holding Co LLC. Each of the members has made all filings and is in good standing in the jurisdiction of the

State of California and in the state of their respective incorporation. The Developer has all requisite power and authority to own its property and conduct its business as presently conducted. The Developer has made all filings and is in good standing in the jurisdiction of the State of California.

(b) Authority. The Developer has all requisite power and authority to execute and deliver this Agreement and the Purchase Agreement and to carry out and perform all of the terms and covenants of this Agreement.

(c) No Limitation on Ability to Perform. Neither the Developer's articles of organization or any other agreement or law in any way prohibits, limits or otherwise affects the right or power of the Developer to enter into and perform all of the terms and covenants of this Agreement. The Developer is not a party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument, which could prohibit, limit or otherwise affect the same. No consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other person or entity is required for the due execution, delivery and performance by the Developer of this Agreement or any of the terms and covenants contained in this Agreement. There are no pending or threatened suits or proceedings or undischarged judgments affecting the Developer before any court, governmental agency, or arbitrator which might materially adversely affect the enforceability of this Agreement, the ability of the Developer to perform the transactions contemplated by this Agreement or the business, operations, assets or condition of the Developer.

(d) Valid Execution. The execution and delivery of this Agreement by the Developer has been duly and validly authorized by all necessary action. This Agreement will be a legal, valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms.

(e) Defaults. The execution, delivery and performance of this Agreement do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default under (i) any agreement, document or instrument to which the Developer may be bound or affected, (ii) any law, statute, ordinance, regulation, or (iii) the articles of organization or the operating agreement of the Developer.

(f) Meeting Financial Obligations; Material Adverse Change. The Developer and each of its members are meeting their current liabilities as they mature; no federal or state tax liens have been filed against them; and the Developer and each of its members are not in default or claimed default under any agreement for borrowed money. The Developer shall during the Term of this Agreement immediately notify the Agency of any material adverse change in the financial condition of the Developer and its members and such material adverse change shall constitute a default under this Agreement, subject to the cure and remedy provisions of Section 17.A(e).

(g) Conflicts of Interest. The Developer is familiar with (i) Section 87100 et seq. of the California Government Code, which provides that no member, official or employee of the Agency, may have any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee participate in any decision relating to this Agreement which affects

her or his personal interest or the interests of any corporation, partnership or association in which she or he is interested directly or indirectly; (ii) the Agency's Personnel Policy, which prohibits former Agency employees and consultants from working on behalf of another party on a matter in which they have participated personally and substantially unless the Agency consents to such scope of work; and (iii) Section 1090 of the Government Code, which provides that no member, official or employee of the Agency shall be financially interested in any contract made by them in their official capacity. As to the provisions referred to in clause (i), the Developer does not know of any facts that constitute a violation of such provisions.

(h) Skill and Capacity. The Developer has the skill, resources and financial capacity to acquire, manage and fully redevelop the Site consistent with the provisions of this Agreement.

(i) Consultants. As of the date of this Agreement, the Developer has retained the following consultant(s) in connection with the proposed redevelopment of the Site: Enrique Norton (Ten Arquitectos) and Handel Architects, Jay Turnbull, and Turnstone Consulting. The Developer shall promptly notify the Agency of the termination of any consultant previously approved by the Agency, and the Developer shall, to the extent required to fulfill its obligations under this Agreement, replace such consultant with a new consultant reasonably approved by the Agency. In addition, the Developer shall promptly notify the Agency of the addition of any new consultant associated with the Project. Nothing herein shall limit the provisions of subsection (g) above regarding conflicts of interest.

(j) Not Prohibited from Doing Business. Neither the Developer nor any member or Affiliate of the Developer have been debarred or otherwise prohibited from doing business with any local, state or federal governmental agency.

(k) Business Licenses. The Developer has obtained all licenses required to conduct its business in San Francisco and is not in default of any fees or taxes due to the City and County of San Francisco.

(l) No Claims. The Developer does not have any claim, and shall not make any claim, against the Agency (other than potential claims arising from any default by the Agency), or against the Agency Property or the Jessie Square Garage, or any present or future interest of the Agency therein, directly or indirectly, by reason of: (i) the entry into this Agreement or the termination of this Agreement; (ii) any statements, representations, acts or omissions made by the Agency or any of its officers, commissioners, employees or agents with regard to the Site or any aspect of the negotiations under this Agreement; and (iii) the Agency's exercise of discretion, decision and judgment set forth in this Agreement.

B. Agency's Representations and Warranties

The Agency represents, warrants and covenants as follows:

(a) Authority. The Agency has all requisite power and authority to execute and deliver this Agreement and to carry out and perform all of the terms and covenants of this Agreement.

(b) Valid Execution. The execution and delivery of this Agreement by the Agency have been duly and validly authorized by all necessary action. This Agreement will be a legal, valid and binding obligation of the Agency, as described in Section 8 of the Agreement. The Agency has provided to the Developer a written resolution of the Agency authorizing the execution of this Agreement.

21. **Cooperation with Agency on Design**

Developer agrees to work collaboratively with the Agency with respect to the design of the Project, including, but not limited to, design of the Cultural Component.

22. **Press Releases; Press Conferences**

During the term of this Agreement, Developer and Agency each hereby covenant and agree that it shall not issue any press release or hold any press conference with respect to the Project or this Agreement, except to the extent required by applicable law, without the prior consent of the other, which approval shall not be unreasonably withheld, conditioned or delayed. If either Developer or Agency is required by applicable law to issue such a release, such party shall, at least two (2) business days prior to the issuance of the same, deliver a copy of the proposed release to the other party for its review.

23. **Ballot Measures**

Developer expressly agrees and acknowledges that Developer shall not initiate, promote, support or pursue, or authorize any other person or party to initiate, promote, support or pursue, any ballot measure relating to the Project without the prior consent of the Agency Commission by resolution.

24. **[Intentionally Omitted]**

25. **Notices**

Any notice given under this Agreement shall be in writing and given by delivering the notice in person, by commercial courier, or by sending it by registered or certified mail, or express mail, return receipt requested, with postage prepaid, to the mailing address listed below or any other address, notice of which is given. For the convenience of the parties, copies of notices may also be given by facsimile to the telephone number listed below, or such other numbers as may be provided from time to time, but such notice shall not be binding on either party.

Any mailing address or facsimile number may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt. A party may not give official or binding notice by facsimile. The effective time of a notice shall not be affected by the receipt of the original or facsimile copy of the notice.

Agency:	San Francisco Redevelopment Agency 1 South Van Ness Avenue, 5th Floor San Francisco, CA 94103 Attention: Executive Director Telephone: (415) 749-2400 Facsimile: (415) 749-2525
With a copy to:	San Francisco Redevelopment Agency 1 South Van Ness Avenue, 5th Floor San Francisco, CA 94103 Attention: Legal Division Telephone: (415) 749-2400 Facsimile: (415) 749-2575
Developer:	706 Mission Street Co LLC c/o Millennium Partners 735 Market Street, 4th Floor San Francisco, CA 94103 Attention: Sean Jeffries Telephone: (415) 593-1100 Facsimile: (415) 537-3895
With copies to:	Cox Castle & Nicholson 555 California Street, 10th Floor San Francisco, CA 94104 Attention: Margo Bradish Telephone: (415) 262-5100 Facsimile: (415) 392-4250

26. **Agency Requirements**

A. Non-Discrimination and Equal Benefits

(a) The Developer 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, sex, marital status, familial status, lawful source of income (as defined in Section 3304 of the San Francisco Police Code), sexual orientation or disability against any employee or applicant for employment with the Developer, in any of the Developer'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 Developer.

(b) The Developer shall include in all subcontracts relating to this Agreement a non-discrimination clause applicable to such subcontractor in substantially the form of Subsection (a) above.

(c) The Developer does not as of the date of this Agreement, nor will during the Term of this Agreement, in any of its operations or in San Francisco or with respect to its operations under this Agreement elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in the Agency's Non-Discrimination in Contracts and Benefits Policy, adopted September 9, 1997, as amended February 4, 1998.

B. Small Business Enterprise Program

The Agency has adopted a Small Business Enterprise ("SBE") Program, which provides for the Agency's certification of a small business enterprise as an SBE and first consideration of SBEs in the award of contracts in the following order: (1) SBEs located in a redevelopment project area located within San Francisco ("Project Area SBEs"), (2) Local SBEs (outside an Agency Project or Survey Area, but within San Francisco), and (3) Non-local SBEs (outside of San Francisco). Non-local SBEs should be used to satisfy participation goals only if Project Area SBEs or Local SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non-local SBEs. The Agency acknowledges that prior to the effective date of this Agreement, the Developer has retained various consultants including without limitation the following Project consultants: Enrique Norton (Ten Arquitectos) and Handel Architects, Jay Turnbull, and Turnstone Consulting, and Agency agrees that such prior-retained consultants shall not be considered in determining Developer's compliance with the SBE program. From and after the effective date of this Agreement, the Developer agrees to make good faith efforts to achieve the goals of the SBE Program, which are 50% SBE participation for professional, personal services, and construction contracts for consultants and contractors. SBEs must be certified with the Agency. The Developer has agreed that if the Developer intends to utilize consultants in the provision of services during the predevelopment phase, then from and after the effective date of this Agreement, it must make good faith efforts to comply with the provisions of the Small Business Enterprise Program Agreement, which is attached as Exhibit F.

27. **Miscellaneous Provisions**

A. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California. As part of the consideration for the Agency's entering into this Agreement, the Developer agrees that all actions or proceedings arising directly or indirectly under this Agreement may, at the sole option of the Agency, be litigated in courts located within the County of San Francisco, State of California, and the Developer expressly consents to the jurisdiction of any such local, state or federal court, and consents that any service of process in such action or proceeding may be made by personal service upon the Developer wherever the Developer may then be located, or by certified or registered mail directed to the Developer at the address set forth in this Agreement.

B. Interpretation of Agreement

(a) Exhibits. Whenever an "Exhibit" is referenced, it means an exhibit to this Agreement unless otherwise specifically identified.

(b) Captions. Whenever a section, article or paragraph is referenced, it refers to this Agreement unless otherwise specifically identified. The captions preceding the articles and sections of this Agreement have been inserted for convenience of reference only. Such captions shall not define or limit the scope or intent of any provision of this Agreement.

(c) Words of Inclusion. The use of the term "including," "such as", or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter.

(d) References. Wherever reference is made to any provision, term or matter "in this Agreement," "herein" or "hereof" or words of similar import, the reference shall be deemed to refer to any and all provisions of this Agreement reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered, section or paragraph of this Agreement or any specific subdivision thereof.

(e) Recitals. In the event of any conflict or inconsistency between the recitals and any of the remaining provisions of this Agreement, the remaining provisions of this Agreement shall prevail.

(f) No Presumption Against Drafter. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be construed as a whole according to their common meaning and not strictly for or against any party in order to achieve the objectives and purposes of the parties. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the parties and this Agreement.

C. Entire Agreement; Conflict

This Agreement contains all of the representations and the entire agreement between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to such subject matter are superseded in total by this Agreement. No prior drafts of this Agreement or changes from those drafts to the executed version of this Agreement shall be introduced as evidence in any litigation

or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this Agreement.

D. Non-Liability

No member, official, agent or employee of the Agency will be personally liable to the Developer, or any successor in interest (if and to the extent permitted under this Agreement), in an event of default by the Agency or for any amount that may become due to the Developer or successor or on any obligations under the terms of this Agreement. No director, officer, agent or employee of the Developer will be personally liable to the Agency in an event of default by the Developer or for any amount that may become due to the Agency or on any obligations under the terms of this Agreement.

E. Amendments

No amendment of this Agreement or any part thereof shall be valid unless it is in writing and signed by a person or persons having authority to do so, on behalf of both the Agency and the Developer.

F. Severability

If any provision of this Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Agreement. Without limiting the foregoing, in the event that any applicable federal or state law prevents or precludes compliance with any material term of this Agreement, the parties shall promptly modify, amend or suspend this Agreement, or any portion of this Agreement, to the extent necessary to comply with such provisions in a manner which preserves to the greatest extent possible the benefits to each of the parties to this Agreement and to the Developer before such conflict with federal or state law. However, if such amendment, modification or suspension would deprive the Agency or the Developer of the substantial benefits derived from this Agreement or make performance unreasonably difficult or expensive, then the affected party may terminate this Agreement upon written notice to the other party. In the event of such termination, neither party shall have any further rights or obligations under this Agreement except as otherwise provided herein.

G. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

H. Singular, Plural, Gender

Whenever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, and vice versa.

I. Authority

If Developer signs as a corporation, limited liability company or a partnership, each of the persons executing this Agreement on behalf of Developer does hereby covenant and warrant that Developer is a duly authorized and existing entity, that Developer has and is qualified to do business in California, that Developer has full right and authority to enter into this Agreement, and that each and all of the persons signing on behalf of Developer are authorized to do so. Upon Agency's request, Developer shall provide Agency with evidence reasonably satisfactory to Agency confirming the foregoing representations and warranties.

J. Approvals and Consents

Unless this Agreement otherwise expressly provides or unless the Community Redevelopment Law requires, all approvals, consents or determinations to be made by or on behalf of (i) the Agency under this Agreement shall be made by the Agency's Executive Director or his or her designee, which may include the Agency Commission, and (ii) the Developer under this Agreement shall be made by Sean Jeffries (the "Developer Representative") or such other employee or agent of the Developer as the Developer may designate to act as the Developer Representative for a particular matter. Unless otherwise herein provided, whenever approval, consent or satisfaction is required of a party pursuant to this Agreement, it shall not be unreasonably withheld, conditioned or delayed. The reasons for disapproval shall be stated in reasonable detail in writing. Approval by the Developer or the Agency to or of any act or request by the other in accordance with this Section 27.J shall not be deemed to waive or render unnecessary approval to or of any similar or subsequent acts or requests.

K. Waiver

No failure by either party to insist upon the strict performance of any obligation of the other party 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 any full or partial payment during the continuance of any such breach shall constitute a waiver of such breach or of such party's rights to demand strict compliance with such term, covenant or condition. Either party's consent to or approval of any act by the other party requiring the consenting party's consent or approval shall not be deemed to waive or render unnecessary the consenting party's consent to or approval of any subsequent act by the other party. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

L. Time for Performance

(a) Expiration. All performance dates, including cure dates, expire at 5:00 p.m., San Francisco, California time, on the performance or cure date.

(b) Weekends and Holidays. A performance date which falls on a Saturday, Sunday, or City holiday is deemed extended to the next working day.

(c) Days for Performance. All periods for performance specified in this Agreement in terms of days shall be calendar days, and not business days, unless otherwise expressly provided in this Agreement.

(d) Time of the Essence. Time is of the essence with respect to each provision of this Agreement, including, without limitation, each milestone set forth in the attached Schedule of Performance.

M. Successors and Assigns

This Agreement shall inure to the benefit of and bind the respective successors and assigns of the Agency and the Developer, subject to the limitations on assignment by the Developer set forth in Section 16 above. This Agreement is for the exclusive benefit of the parties hereto and not for the benefit of any other person and shall not be deemed to have conferred any rights, express or implied, upon any other person.

N. Force Majeure

Whenever performance is required of a party hereunder, that party shall use all due diligence and take all necessary measures in good faith to perform, but if completion of performance is delayed by reasons of floods, earthquakes or other acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, damage to work in progress by casualty, any administrative, judicial, or referenda challenges or proceedings, or by other cause without fault and beyond the reasonable control of the party, excepting Developer's inability to obtain financing, then the specified time for performance shall be extended by the amount of the delay actually so caused.

O. Broker

Agency will not pay a finder's or broker's fee in connection with this Agreement or upon execution of any of the Transaction Documents. Developer agrees to indemnify and hold Agency harmless from any claim and costs and expenses, including attorneys' fees, incurred by Agency in conjunction with any such claim or claims of any broker or brokers to a commission in connection with this Agreement or any of the Transaction Documents as a result of the actions of Developer.

P. Attorneys' Fees and Costs

If either party fails to perform any of its respective obligations under this Agreement or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party on account of such default or in enforcing or establishing its rights under this Agreement, including, without limitation, court costs and reasonable Attorneys' Fees and Costs (as defined below). Any such Attorneys' Fees and Costs incurred by either party in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such Attorneys' Fees and Costs obligation is intended to be severable from the other provisions of this Agreement and to survive and not be merged into any such judgment. For purposes of this Agreement, the reasonable fees of attorneys of the Agency's General Counsel or of the Developer's in-house counsel shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the Agency's General Counsel's or the Developer's in-house counsel services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office. "Attorneys' Fees and Costs" means any and all attorneys' fees, costs, expenses and disbursements, including, but not limited to, expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, attachment preparation, courier, postage, facsimile, long-distance and communications expenses, court costs and the costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, fees and costs associated with execution upon any judgment or order, and costs on appeal.

Q. Survival

Notwithstanding anything to the contrary in this Agreement, any indemnity or other obligation that arises and was not satisfied before termination shall survive any termination of this Agreement, except to the extent otherwise provided herein. In the event of any termination of this Agreement (other than a termination due to a default by the Agency), the Developer shall furnish Project Materials to the Agency as provided in Section 13. In addition, the representations and warranties in Section 20 shall survive any termination of this Agreement for a period of one (1) year.

R. Incorporation of Agency Requirements

Developer has reviewed, understands, and is ready, willing, and able to comply with the terms and conditions of Section 26 above. The terms and conditions of Section 26 above shall be incorporated into the Transaction Documents and will apply to all contractors and subcontractors, as applicable.

S. Relationship of the Parties

The subject of this Agreement is a private development with neither party acting as the agent of the other party in any respect. None of the provisions in this Agreement shall be deemed to render the Agency a partner in the Developer's business, or joint venture partner or member in any joint enterprise with the Developer.

T. Cooperation

In connection with this Agreement, the Developer and the Agency shall reasonably cooperate with one another to achieve the objectives and purposes of this Agreement. In so doing, the Developer and the Agency shall each refrain from doing anything that would render its performance under this Agreement impossible and shall each do everything that this Agreement contemplates that each party shall do to accomplish the objectives and purposes of this Agreement.

[*SIGNATURES BEGIN ON NEXT PAGE*]

WHEREFORE, this Agreement was executed by the parties on the date first above written.

AGENCY: Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic

By: _____
Amy Lee
Deputy Executive Director
Finance and Administration

Date Signed: December 16, 2010

DEVELOPER: 706 Mission Street Co LLC, a Delaware limited liability company

By: _____
Sean Jeffries
Vice President

Date Signed: May 4, 2010

APPROVED AS TO FORM:

By: _____
James B. Morales
Agency General Counsel

Authorized by Agency Resolution No. 47-2010

Date of Resolution: May 4, 2010

Exhibit A-1

Developer Property Legal Description

PARCEL ONE:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHWESTERLY LINE OF MISSION STREET AND THE SOUTHWESTERLY LINE OF THIRD STREET, AS SAID STREETS ARE SHOWN ON THAT CERTAIN MAP ENTITLED, "RECORD OF SURVEY MAP OF YERBA BUENA CENTER CENTRAL BLOCKS", RECORDED FEBRUARY 19, 1975, IN BOOK "V", AT PAGE 102 AND 103, OF MAPS, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA; RUNNING THENCE SOUTHWESTERLY ALONG SAID NORTHWESTERLY LINE OF MISSION STREET 147 FEET; THENCE AT A RIGHT ANGLE NORTHWESTERLY 105 FEET; THENCE AT A RIGHT ANGLE NORTHEASTERLY 147 FEET TO THE SOUTHWESTERLY LINE OF THIRD STREET; THENCE AT A RIGHT ANGLE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY LINE OF THIRD STREET 105 FEET TO THE POINT OF BEGINNING,

BEING A PORTION OF 100 VARA BLOCK NO. 362, AND A PORTION OF OPERA ALLEY, VACATED BY RESOLUTION NO. 106-75, ADOPTED FEBRUARY 3, 1975, BY THE BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

PARCEL TWO:

BEGINNING AT A POINT ON THE SOUTHWESTERLY LINE OF THIRD STREET, DISTANT THEREON 105 FEET NORTHWESTERLY FROM THE NORTHWESTERLY LINE OF MISSION STREET, AS SAID STREETS ARE SHOWN ON THAT CERTAIN MAP ENTITLED, "RECORD OF SURVEY MAP OF YERBA BUENA CENTER CENTRAL BLOCKS", RECORDED FEBRUARY 19, 1975, IN BOOK "V", AT PAGE 102 AND 103, OF MAPS, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA; RUNNING THENCE NORTHWESTERLY ALONG SAID LINE OF THIRD STREET 0.167 FEET; THENCE AT A RIGHT ANGLE SOUTHWESTERLY 147 FEET; THENCE AT A RIGHT ANGLE SOUTHEASTERLY 0.167 FEET; THENCE AT A RIGHT ANGLE NORTHEASTERLY 147 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF 100 VARA BLOCK NO. 362, AND A PORTION OF OPERA ALLEY, VACATED BY RESOLUTION NO. 106-75, ADOPTED FEBRUARY 3, 1975, BY THE BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

ASSESSOR'S PARCEL NUMBER: LOT 93, BLOCK 3706

Exhibit A-2

Developer Property Site Map

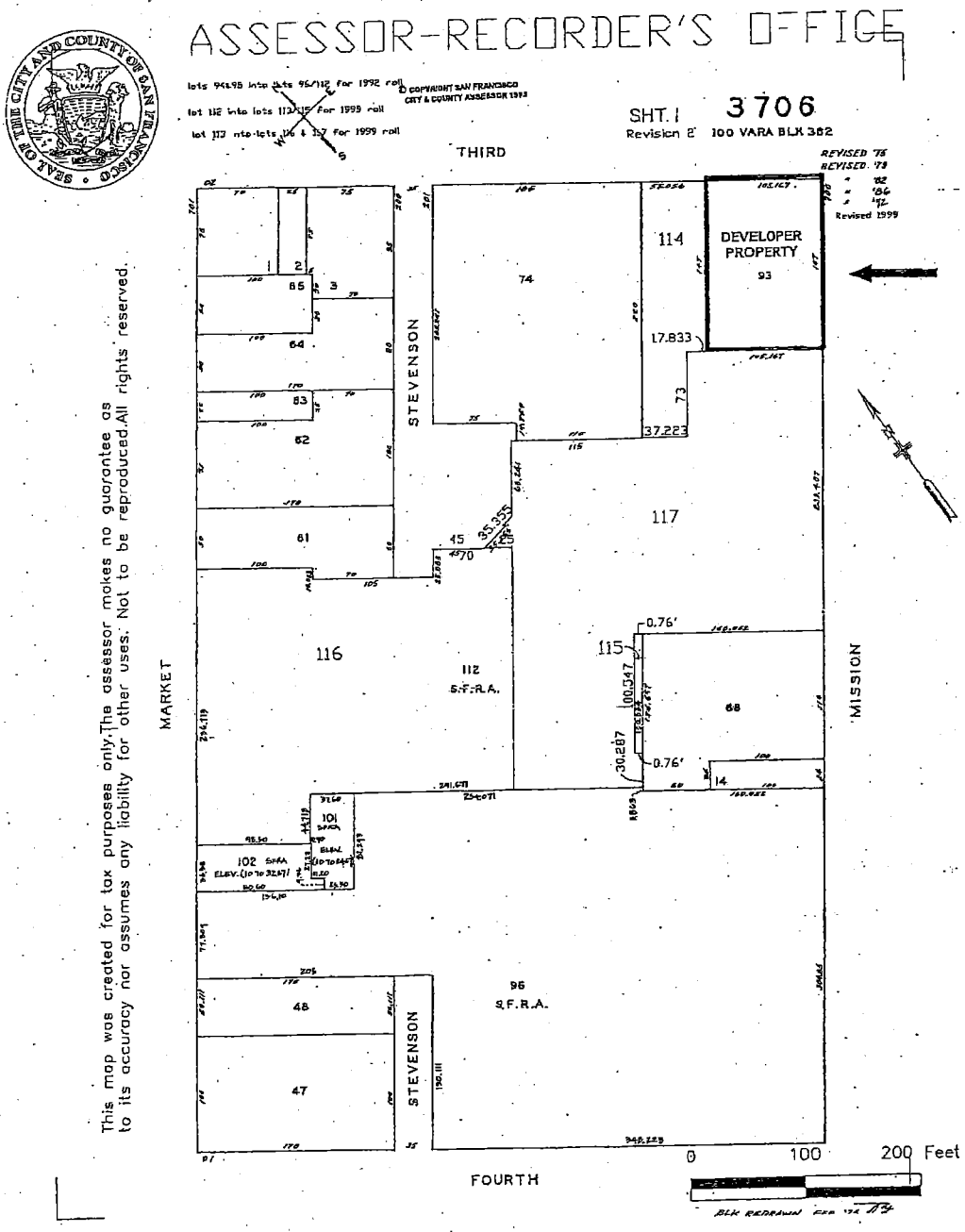


Exhibit B-1

Agency Property Legal Description

Real property situated in the City of SAN FRANCISCO, County of SAN FRANCISCO, State of CALIFORNIA, described as follows:

That certain portion of **PARCEL B, LOT 277,** of Assessor's **BLOCK 3706,** as shown on Parcel Map 4115 filed for record on June 27, 2006 in Book 46 of Parcel Maps, at Pages 167-169, inclusive, City and County of San Francisco Records, more particularly described as follows:

All that real property between two horizontal planes, the lower plane being at elevation minus 27.5 feet and the upper plane being at elevation plus 133.0 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows:

Beginning at the most easterly corner of said Parcel B, Lot 277, said point of beginning being on the northwesterly line of Mission Street; thence southwesterly along said line of Mission Street 79.50 feet to a point distant thereon 159.907 feet northeasterly from the most southerly corner of said Parcel B, Lot 277; thence northwesterly at a right angle to said line of Mission Street 123 feet to the southwesterly prolongation of the northwesterly line of said Parcel B, Lot 277; thence at a right angle northeasterly along said prolongation and along said northwesterly line 79.50 feet to the northeasterly line of said Parcel B, Lot 277; thence at a right angle southeasterly along said northeasterly line 123 feet to the point of beginning.

APN 3706, Lot 277 (portion)

Exhibit B-2

Agency Property Site Map

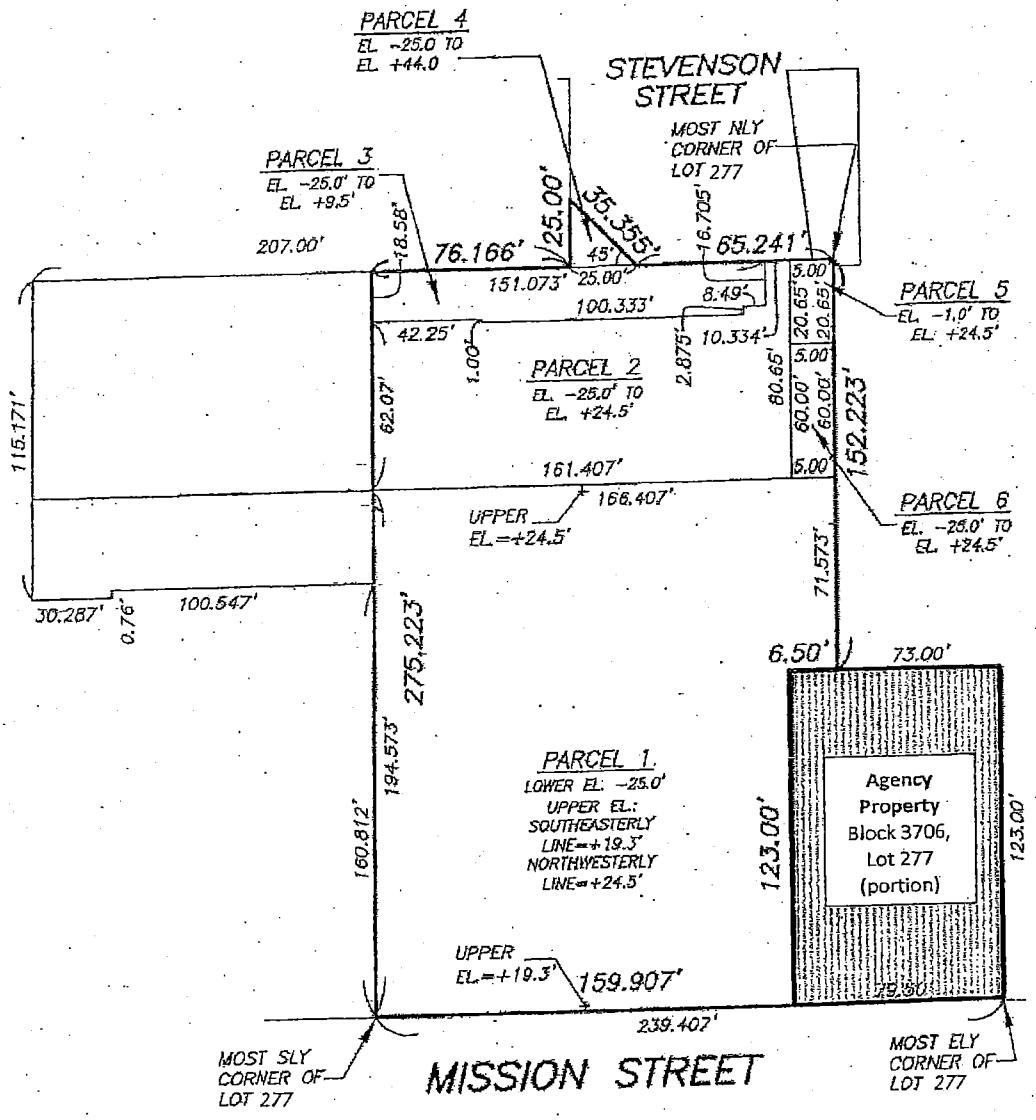


Exhibit C-1

Jessie Square Garage Legal Description

Real property situated in the City of SAN FRANCISCO, County of SAN FRANCISCO, State of CALIFORNIA, described as follows:

PARCEL ONE

Those certain portions of **PARCEL B, LOT 277,** of Assessor's **BLOCK 3706,** as shown on Parcel Map 4115 filed for record on June 27, 2006 in Book 46 of Parcel Maps, at Pages 167-169, inclusive, City and County of San Francisco Records, more particularly described as follows:

Parcel 1:

All that real property between a lower horizontal plane and an upper sloped plane, the lower horizontal plane being at elevation minus 25.0 feet, the southeasterly line (northwesterly line of Mission Street) of the upper sloped plane being at elevation plus 19.3 feet and the northwesterly line of the upper sloped plane being at elevation plus 24.5 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal and sloped planes, the limits of said vertical planes being more particularly described as follows:

Beginning at the most southerly corner of said Parcel B, Lot 277, said point of beginning being on the northwesterly line of Mission Street; thence northeasterly along said line of Mission Street 159.907 feet to a point distant thereon 79.50 feet southwesterly from the most easterly corner of said Parcel B, Lot 277; thence northwesterly at a right angle to said line of Mission Street 123 feet; thence at a right angle northeasterly 6.50 feet to the northeasterly line of said Parcel B, Lot 277; thence at a right angle northwesterly along said northeasterly line of said Parcel B, Lot 277, 71.573 feet; thence at a right angle southwesterly 166.407 feet to the northwesterly prolongation of the southwesterly line of said Parcel B, Lot 277; thence at a right angle southeasterly along said prolongation and along the southwesterly line of said Parcel B, Lot 277, 194.573 feet to the point of beginning.

Parcel 2:

All that real property between two horizontal planes, the lower plane being at elevation minus 25 feet and the upper plane being at elevation plus 24.5 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows:

Beginning at a point on the southeasterly line of Stevenson Street, distant thereon 5 feet southwesterly from the most northerly corner of said Parcel B, Lot 277; thence southwesterly along said southeasterly line of Stevenson Street 10.334 feet; thence at a right angle southeasterly 16.705 feet; thence at a right angle southwesterly 8.49 feet; thence at a right angle southeasterly 2.875 feet; thence at a right angle southwesterly 100.333 feet; thence at a right angle northwesterly 1foot; thence at a right angle southwesterly 42.25 feet; thence at a right angle southeasterly 62.07 feet to a point that is perpendicularly distant 194.573 feet northwesterly from the northwesterly line of Mission Street; thence at a right angle northeasterly parallel with said line of Mission Street 161.407 feet; thence at a right angle northwesterly 80.65 feet to the point of beginning.

Parcel 3:

All that real property between two horizontal planes, the lower plane being at elevation minus 25.0 feet and the upper plane being at elevation plus 9.5 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows:

Beginning at a point on the southeasterly line of Stevenson Street, distant thereon 15.334 feet southwesterly from the most northerly corner of said Parcel B, Lot 277; thence southwesterly along said southeasterly line of Stevenson Street and along its southwesterly prolongation 151.073 feet; thence at a right angle southeasterly 18.58 feet; thence at a right angle northeasterly 42.25 feet; thence at a right angle southeasterly 1 foot; thence at a right angle northeasterly100.333 feet; thence at a right angle northwesterly 2.875 feet; thence at a right angle northeasterly 8.49 feet; thence at a right angle northwesterly 16.705 feet to the point of beginning.

Parcel 4:

All that real property between two horizontal planes, the lower plane being at elevation minus 25.0 feet and the upper plane being at elevation plus 44.0 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows:

Beginning at a point on the northwesterly line of said Parcel B, Lot 277, distant thereon 65.241 feet southwesterly from the most northerly corner of said Parcel B, Lot 277, said point being on the southeasterly line of Stevenson Street; thence southwesterly along the southwesterly prolongation of said northwesterly line of Parcel B, Lot 277, 25 feet to an angle point in the northwesterly line of said Parcel B, Lot 277; thence at a right angle northwesterly along said northwesterly line 25 feet to an angle point therein, said point also being on the southerly line of Stevenson Street; thence easterly along said northwesterly line of Parcel B, Lot 277, also being the southerly line of Stevenson Street 35.355 feet to the point of beginning.

Parcel 5:

All that real property between two horizontal planes, the lower plane being at elevation minus 1.0 feet and the upper plane being at elevation plus 24.5 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows:

Beginning at the most northerly corner of said Parcel B, Lot 277; thence southeasterly along the northeasterly line of said Parcel B, Lot 277, 20.65 feet; thence at a right angle southwesterly 5 feet; thence at a right angle northwesterly 20.65 feet to the southeasterly line of Stevenson Street; thence at a right angle northeasterly along said line of Stevenson Street 5 feet to the point of beginning.

Parcel 6:

All that real property between two horizontal planes, the lower plane being at elevation minus 25.0 feet and the upper plane being at elevation plus 24.5 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows:

Beginning at a point on the northeasterly line of said Parcel B, Lot 277, distant thereon 20.65 feet

southeasterly from the most northerly corner of said Parcel B, Lot 277; thence continuing southeasterly along said northeasterly line of said Parcel B, Lot 277, 60 feet to a point that is perpendicularly distant 194.573 feet northwesterly from the northwesterly line of Mission Street; thence at a right angle southwesterly parallel with said line of Mission Street 5 feet; thence at a right angle northwesterly 60 feet; thence at a right angle northeasterly 5 feet to the point of beginning.

APN 3706, Lot 277 (portions)

PARCEL TWO

All that real property situated in the City and County of San Francisco, State of California, described as follows:

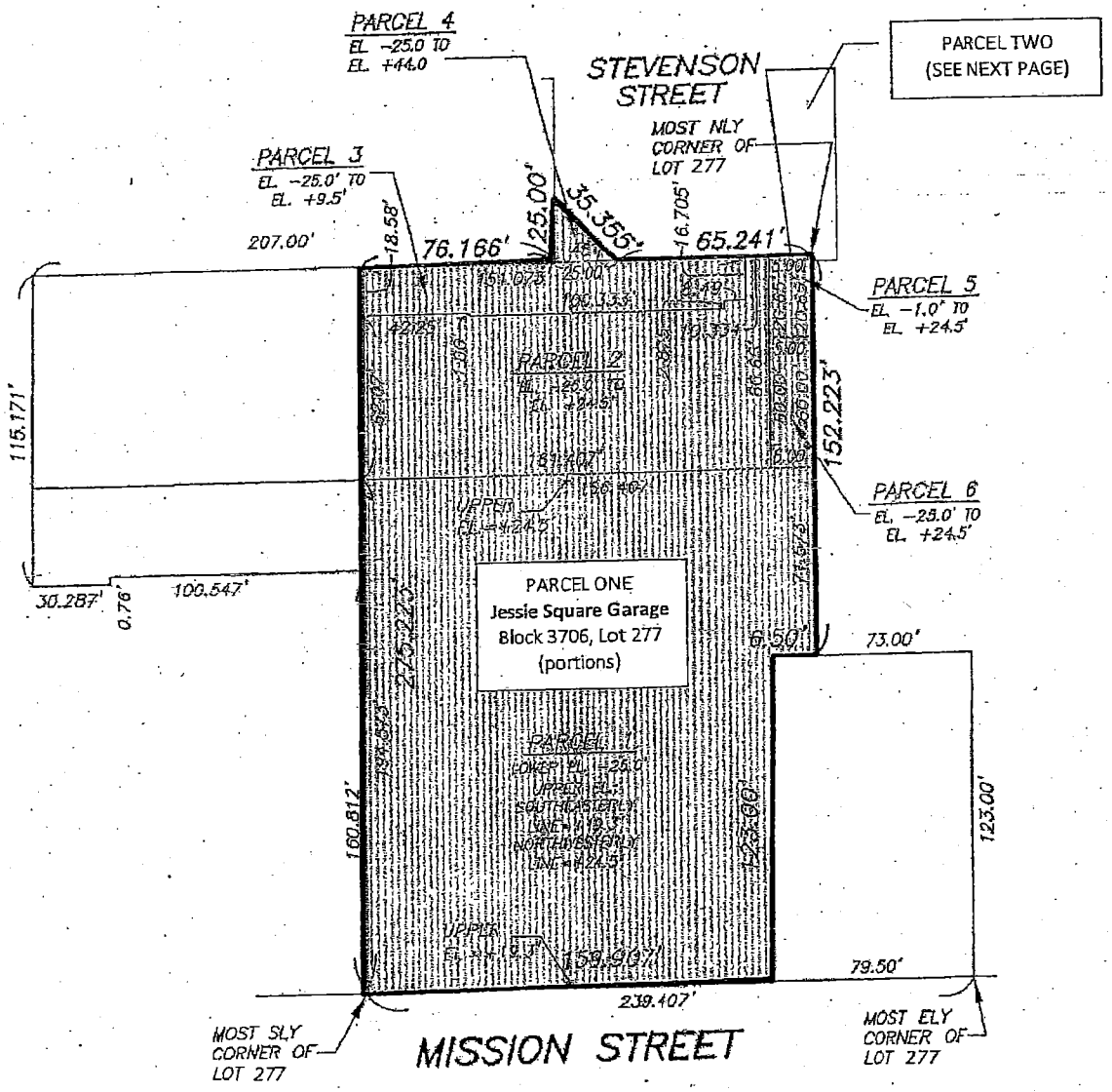
Beginning at the most northerly corner of Parcel B, Lot 277, as said lot is shown on that certain Parcel Map 4115 filed for record on June 27, 2006 in Book 46 of Parcel Maps, at Pages 167-169, inclusive, Official Records of the City and County of San Francisco, said point of beginning being on the southeasterly line of Stevenson Street as it existed prior to the vacation thereof; thence southwesterly along said line of Stevenson Street 2.869 feet; thence on a deflection angle of 82°22'27" to the right, a distance of 70.625 feet to the southwesterly prolongation of the southeasterly line of Stevenson Street; thence northeasterly along said prolongation 27.00 feet to the northeasterly line of Stevenson Street; thence at a right angle southeasterly along said northeasterly line 75 feet to the southeasterly line of Stevenson Street; thence at a right angle southwesterly along said southeasterly line of Stevenson Street 14.759 feet to an angle point therein; thence at a right angle northwesterly along said line of Stevenson Street 5 feet to the point of beginning.

Being a portion of Stevenson Street as it existed prior to the vacation thereof pursuant to City and County of San Francisco Ordinance No. 288-04, adopted by the Board of Supervisors on September 14, 2004 and approved by the Mayor on September 23, 2004 and recorded October 25, 2004 in reel I750, Image 59, Official Records of the City and County of San Francisco, Series No. H838574 and as conveyed to the Redevelopment Agency of the City and County of San Francisco by Quitclaim Deed recorded October 25, 2004 in Reel I750, Image 60 Official Records of the City and County of San Francisco, Series No. H838575.

APN 3706, Lot 275

Exhibit C-2

Jessie Square Garage Site Map



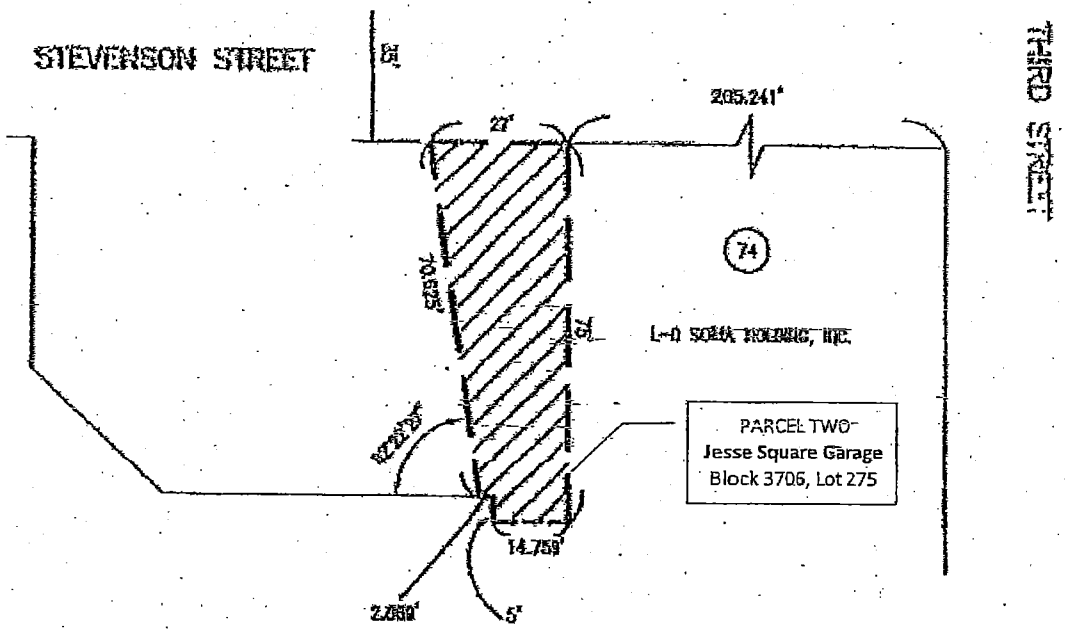

STEVENSON STREET
THIRD STREET
205.241'
27'
74
PARCEL TWO
Jesse Square Garage
Block 3706, Lot 275
14.759'
5'

Exhibit D

Term Sheet

A. **Terms Related to the Project**

1. The Site. The Site on which the Project will be built consists of two components: (a) the portion owned by the Developer, which is more particularly described on Exhibit A-1 and depicted in Exhibit A-2 to the Exclusive Negotiation Agreement (the "Agreement") (the "Developer Property"), and (b) the portion owned by the Agency, which is more particularly described on Exhibit B-1 and depicted in Exhibit B-2 to the Agreement (the "Agency Property") (together, the "Site"). In addition, the Project will include a second Agency-owned property, the Jessie Square Garage, defined below, and which is more particularly described on Exhibit C-1 and depicted in Exhibit C-2 to the Agreement.

2. Agency Property. The Agency shall convey the Agency Property to the Developer for nominal consideration (e.g., $1.00) in addition to the consideration provided by Developer's performance of its other obligations as described herein. Additionally, the Developer shall be responsible for paying any and all costs associated with this transaction, including, but not limited to, all escrow and title fees, and any environmental investigations and/or mitigations that may be required. The Agency is selling this Property on an "as-is" basis, with Developer to rely solely on the results of its investigations.

3. The Project. The Project, which the Developer shall construct on the Site, shall consist of the following: (a) approximately 390,000 net square feet of residential, office and/or hospitality uses in a tower of approximately 550 feet in height (excluding penthouse), (b) a cultural component between 35,000 and 40,000 net square feet fronting Jessie Square (the "Cultural Component"), (c) a rehabilitated historically important Mercantile Building (the "Mercantile Building"), (d) additional retail and/or cultural uses on the ground floor of the Mercantile Building, and (e) the purchase of the existing 460-space Jessie Square Garage and the additional parking area on the garage's mezzanine level (the "Jessie Square Garage") (collectively, the "Project").

4. Rehabilitation of the Historically Important Mercantile Building. Developer agrees to rehabilitate the historically important Mercantile Building in consultation with the Agency, San Francisco Heritage, and the San Francisco Historic Preservation Commission, and incorporate it into the overall design and development program of the Project.

5. Affordable Housing Requirement. Developer agrees to comply with the City's Residential Inclusionary Affordable Housing Program (the "Inclusionary Program"), as set forth in City Planning Code Sections 315 through 315.9, through the payment of an in-lieu fee per unit equal to the per unit fees established by the Inclusionary Affordable Housing Program. The amount of the fee required under the Inclusionary Program (the "City Fee") shall be calculated and paid in accordance with the Inclusionary Program. If the City Fee (currently 20%) is based on an affordable housing requirement of less than 28% of the units in the Project, Developer

agrees to pay to the Agency an additional fee equal to the total amount of fees that would be due under the Inclusionary Program for 28% of the units in the Project less the City Fee (the "Agency Fee"). In the event that the City adopts an alternative means of complying with an affordable housing percentage requirement under the Inclusionary Program, and Developer utilizes such alternative means of compliance, then, for the purposes of calculating the Agency Fee hereunder, the City Fee paid shall be deemed to be based upon the equivalent affordable housing percentage requirement under the Inclusionary Program. For example, if the City allows payment of a transfer tax instead of the current 20% inclusionary fee and Developer elects that option, Developer will be deemed to have paid a 20% City Fee and therefore will owe an 8% Agency Fee. The Agency Fee, if any, shall be calculated at the time that the City Fee is calculated and shall be paid as follows: (i) twenty percent (20%) of the Agency Fee shall be paid upon the issuance of the first building permit for the Project; (ii) forty percent (40%) of the Agency Fee shall be paid upon the issuance of the temporary certificate of occupancy for the Project, and (iii) the remaining forty percent (40%) of the Agency Fee shall be paid on the one year anniversary of the date of issuance of the temporary certificate of occupancy for the Project.

6. World-class Architect. Developer shall retain internationally known, Mexican architect Enrique Norton (Ten Arquitectos), Handel Architects, or other world-class architecture firms acceptable to the Agency, to design components of the Project.

7. Sustainable Design. Developer shall design and construct the Project to a minimum of Leadership in Energy and Environmental Design ("LEED") Silver standards (or such higher and additional requirements as adopted by the City and County of San Francisco), and shall secure U.S. Green Building Council certification of this standard.

8. Compliance with Agency Policies. The Transaction Documents will require the Developer to comply with applicable Agency policies and programs, including, but not limited to, policies regarding small business enterprises, construction workforce, equal benefits, minimum compensation, healthcare accountability, and prevailing wages. Notwithstanding the foregoing, in the event of a conflict between City policies, rules, or regulations and Agency policies, rules, or regulations, the City's policies, rules, or regulations, whether generally applicable or applied as a condition of approval to the Project, shall prevail.

B. Terms Related to the Cultural Component

1. Developer Builds Core and Shell. Developer shall be responsible, in consultation with the Agency, for constructing the base, core and shell of the Cultural Component, which shall (a) be not less than 35,000 net square feet, (b) front Jessie Square, and (c) be integrated into the Project in a thoughtful and efficient manner. The specifications for the base, core and shell of the Cultural Component shall be included in the Purchase Agreement and associated design documents.

2. Conveyed to Agency at no Cost. Developer agrees to convey the Cultural Component to the Agency at no cost once construction of the Cultural Component has been completed.

3. Endowment Contribution. Developer agrees to contribute $5.0 million to an operating endowment for the Cultural Component to help support its ongoing operations. Developer shall contribute (i) the first $2.5 million no later than six months after issuance of the first temporary certificate of occupancy for a residential unit(s) in the Project, and (ii) the second $2.5 million no later than closing of the sale of residential units representing 50% of the total number of residential units in the Project, but in no event later than 24 months after contribution of the first $2.5 million.

4. Use and Common Area Maintenance Charges. Use of the Cultural Component shall be determined by the Agency and the Cultural Component shall pay its pro-rata share of all common area maintenance charges associated with the Project, subject to the Agency's review of the overall operating budget for the Project.

5. Lease or Operating Agreement. The Agency shall enter into a lease or operating agreement with the Mexican Museum or similar institution for the use of the Cultural Component.

6. Tenant Improvements. The Agency and the Mexican Museum, or other cultural institution if applicable, shall be responsible for financing all the tenant improvements associated with the Cultural Component.

C. Terms Related to the Jessie Square Garage

1. Jessie Square Garage. For the purposes of this Project, the "Jessie Square Garage" is comprised of (a) the existing 460-space garage and (b) the area below the existing Jewish Museum and adjacent to the mezzanine level of the existing garage.

2. Purchase Price. Developer agrees to purchase the Jessie Square Garage from the Agency for the value of the full outstanding amount of the bond debt (approximately $43 million), through payoff or defeasance of the existing bonds. Developer shall also pay all costs associated with the payoff or defeasance, including any costs borne by the Agency and the City and County of San Francisco to complete the payoff or defeasance. To the extent the cost of payoff or defeasance of the existing bonds exceeds the fair market value of the Jessie Square Garage, such excess cost shall be considered part of the consideration paid by Developer for other rights being acquired from Agency by Developer.

3. Conveyance on an "as-is" Basis. The Jessie Square Garage shall be delivered to the Developer in an as-is condition, and the Developer shall pay for any costs associated with the Jessie Square Garage, including, but not limited to: (a) costs to determine the feasibility of any part of the Jessie Square Garage for parking, (b) costs to upgrade any part of the Jessie Square Garage to make it suitable for parking, and (c) costs related to any impacts to the above-ground Jewish Museum caused by any of Developer's upgrades or improvements to the Jessie Square Garage. Developer shall be responsible for obtaining all approvals required for any upgrades or improvements to the Jessie Square Garage. The Agency shall be released from any and all environmental, construction and other ongoing liabilities for the Jessie Square Garage.

4. Conveyance. The Developer shall purchase the Jessie Square Garage from the Agency, and the Agency shall convey the Jessie Square Garage to the Developer.

5. Number of Private Parking Spaces. Developer shall be entitled to dedicate the use of the lower two levels of the Jessie Square Garage to serve private Project-related uses, for a total of approximately 250 spaces.

6. Number of Public Parking Spaces. The Developer shall maintain the upper level and mezzanine of the Jessie Square Garage for public use, for a total of at least 210 spaces, subject to the terms of the Agency's existing agreements with the Jewish Museum and St. Patrick's Church. No monthly parking shall be allowed in the area of the Jessie Square Garage reserved for public parking. The rates charged to the public at the Jessie Square Garage shall be similar to those charged at other public parking garages in the City and County of San Francisco.

D. Other Terms

1. Gardens Management, Operations and Security. Developer shall contribute to the Gardens Management, Operations and Security ("GMOS") account on an ongoing annual basis, in the following amounts: (1) at the initial rate of $1.50 per square foot of the Project's above-grade net leasable building area devoted to commercial uses, exclusive of the Cultural Component, subject to annual increases based on the annual Consumer Price Index for the San Francisco-Oakland-San Jose Metropolitan Statistical Area (the "CPI") not to exceed 5% per annum and (2) at the initial rate of $1.25 per square foot of the Project's above-grade net residential saleable area, subject to annual increases based on the annual CPI not to exceed 3% per annum. The GMOS obligations relating to the residential area shall be disclosed in the DRE disclosure packages for the Project. Agency and Developer shall discuss what lien rights and requirements will be transferred to the homeowners to secure the GMOS payment obligations.

2. Exhibits. The following exhibits to the Agreement are incorporated into this Term Sheet:

Exhibit A-1:	Developer Property Legal Description
Exhibit A-2:	Developer Property Site Map
Exhibit B-1:	Agency Property Legal Description
Exhibit B-2:	Agency Property Site Map
Exhibit C-1:	Jessie Square Garage Legal Description
Exhibit C-2:	Jessie Square Garage Site Map
Exhibit E:	Performance Benchmarks
Exhibit F:	Small Business Enterprise Program Agreement

Exhibit E

Performance Benchmarks

[All capitalized terms shall have the meaning given to them in the Agreement]

Task	Target Date
EIR Process	
Draft EIR Published	February 2011
Final EIR Certified by Planning Commission	October 2011
Jessie Square Garage	
Developer to submit plan for defeasance/payoff of outstanding bonds	December 2010
City consideration of termination or amendment of "Cooperation and Tax Increment Reimbursement Agreement" dated January 13, 2003 between the City and the Agency, if required	December 2011
Transaction Documents	
Developer and Agency staff to prepare draft version of Transaction Documents	June 2011
Developer and Agency staff to prepare final version of Transaction Documents	November 2011
Project Approval Process	
Planning Commission to make recommendation on General Plan Amendment, Height Map amendment and Special Use District	October 2011
Joint Hearing of Planning Commission and Recreation & Parks Commission to consider amendment to Prop K Guidelines	December 2011
Board of Supervisors Hearing to consider General Plan Amendment, Height Map amendment, Special Use District and Transaction Documents	December 2011
Agency Commission Hearing to consider Transaction Documents	December 2011
Zoning Administrator or Planning Commission Hearing to consider Section 309 Permit	January 2012

Exhibit F

Small Business Enterprise Program Agreement

The company or entity executing this Small Business Enterprise Agreement, by and through its duly authorized representative, hereby agrees to use good faith efforts to comply with all of the following:

I. PURPOSE. The purpose of entering into this Small Business Enterprise Program agreement ("**SBE Program**") is to establish a set of Small Business Enterprise ("SBE") participation goals and good faith efforts designed to ensure that monies are spent in a manner which provides SBEs with an opportunity to compete for and participate in contracts by or at the behest of the San Francisco Redevelopment Agency ("**Agency**") and/or the Agency-Assisted Contractor. A genuine effort will be made to give First Consideration to Project Area SBEs and San Francisco-based SBEs before looking outside of San Francisco.

II. APPLICATION. The SBE Program applies to all Contractors and their subcontractors seeking work on Agency-Assisted Projects on or after November 17, 2004 and any Amendment to a Pre-existing Contract.

III. GOALS. The Agency's SBE Participation Goals are:

CONSTRUCTION	50%
PROFESSIONAL SERVICES	50%
SUPPLIERS	50%

A. Trainee Hiring Goal. In addition to the goals set forth above in Section III, there is a trainee hiring goal for architects, designers and other professional services consultants as follows:

Trainees	Design Professional Fees
0	$ 0 – $99,000
1	$ 100,000 – $249,999
2	$ 250,000 – $499,999
3	$ 500,000 – $999,999
4	$1,000,000 – $1,499,999
5	$1,500,000 – $1,999,999
6	$2,000,000 - $4,999,999
7	$5,000,000 - $7,999,999
8	$8,000,000 – or more

IV. TERM. The obligations of the Agency-Assisted Contractor and/or Contractor(s) with respect to SBE Program shall remain in effect until completion of all work to be performed by the Agency-Assisted Contractor in connection with the original construction of the site and any tenant improvements on the site performed by or at the behest of the Agency-Assisted Contractor unless another term is specified in the Agency-Assisted Contract or Contract.

V. **FIRST CONSIDERATION.** First consideration will be given by the Agency or Agency-Assisted Contractor in awarding contracts in the following order: (1) Project Area SBEs, (2) San Francisco-based SBEs (outside an Agency Project or Survey Area, but within San Francisco), and (3) Non-San Francisco-based SBEs. Non-San Francisco-based SBEs should be used to satisfy participation goals only if Project Area SBEs or San Francisco-based SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non-San Francisco-based SBEs.

VI. **CERTIFICATION.** Only businesses certified by the Agency as SBEs will be counted toward meeting the participation goals. The SBE Certification Criteria are set forth in the Policy (as defined in Section VII below).

VII. **INCORPORATION.** Each contract between the Agency, Agency-Assisted Contractor or Contractor on the one hand, and any subcontractor on the other hand, shall physically incorporate as an attachment or exhibit and make binding on the parties to that contract, a true and correct copy of this SBE Agreement.

VIII. **DEFINITIONS.** Capitalized terms not otherwise specifically defined in this SBE Agreement have the meaning set forth in the Agency's SBE Policy adopted on November 16, 2004 and amended on July 21, 2009 ("**Policy**") or as defined in the Agency-Assisted Contract or Contract. In the event of a conflict in the meaning of a defined term, the SBE Policy shall govern over the Agency- Assisted Contract or Contract which in turn shall govern over this SBE Agreement.

Affiliates means an affiliation with another business concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management and identity of interest (often found in members of the same family), among others, are indicators of affiliation. Power to control exists when a party or parties have 50 percent or more ownership. It may also exist with considerably less than 50 percent ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Affiliated business concerns need not be in the same line of business. The calculation of a concern's size includes the employees or receipts of all affiliates.

Agency-Assisted Contract means, as applicable, the Development and Disposition Agreement ("**DDA**"), Land Disposition Agreement ("**LDA**"), Lease, Loan and Grant Agreements, personal services contracts and other similar contracts, and Operations Agreement that the Agency executed with for-profit or non-profit entities.

Agency-Assisted Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed an Agency-Assisted Contract.

Amendment to a Pre-existing Contract means a material change to the terms of any contract, the term of which has not expired on or before the date that this Small Business Enterprise Policy ("SBE Policy") takes effect, but shall not include amendments to decrease the scope of work or decrease the amount to be paid under a contract.

Annual Receipts means "total income" (or in the case of a sole proprietorship, "gross income") plus "cost of goods sold" as these terms are defined and reported on Internal Revenue

Service tax return forms. The term does not include net capital gains or losses; taxes collected for and remitted to a taxing authority if included in gross or total income, such as sales or other taxes collected from customers and excluding taxes levied on the concern or its employees; proceeds from transactions between a concern and its domestic or foreign affiliates; and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker. For size determination purposes, the only exclusions from receipts are those specifically provided for in this paragraph. All other items, such as subcontractor costs, reimbursements for purchases a contractor makes at a customer's request, and employee-based costs such as payroll taxes, may not be excluded from receipts. Receipts are averaged over a concern's latest three (3) completed fiscal years to determine its average annual receipts. If a concern has not been in business for three (3) years, the average weekly revenue for the number of weeks the concern has been in business is multiplied by 52 to determine its average annual receipts.

Arbitration Party means all persons and entities who attend the arbitration hearing pursuant to Section XII, as well as those persons and entities who are subject to a default award provided that all of the requirements in Section XII.L. have been met.

Commercially Useful Function means that the business is directly responsible for providing the materials, equipment, supplies or services in the City and County of San Francisco ("City") as required by the solicitation or request for quotes, bids or proposals. Businesses that engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a "commercially useful function" unless the brokerage, referral or temporary employment services are required and sought by the Agency.

Contract means any agreement between the Agency and a person(s), firm, partnership, corporation, or combination thereof, to provide or procure labor, supplies or services to, for, or on behalf of the Agency.

Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed a Contract.

Non-San Francisco-based Small Business Enterprise means a SBE that has fixed offices located outside the geographical boundaries of the City.

Office" or "Offices means a fixed and established place(s) where work is performed of a clerical, administrative, professional or production nature directly pertinent to the business being certified. A temporary location or movable property or one that was established to oversee a project such as a construction project office does not qualify as an "office" under this SBE Policy. Work space provided in exchange for services (in lieu of monetary rent) does not constitute an "office." The office is not required to be the headquarters for the business but it must be capable of providing all the services to operate the business for which SBE certification is sought. An arrangement for the right to use office space on an "as needed" basis where there is no office exclusively reserved for the business does not qualify as an office. The prospective SBE must submit a rental agreement for the office space, rent receipt or cancelled checks for rent payments. If the office space is owned by the prospective SBE, the business must submit property tax or a deed documenting ownership of the office.

Project Area Small Business Enterprise means a business that meets the above-definition of Small Business Enterprise and that: (a) has fixed offices located within the geographical boundaries of a Redevelopment Project or Survey Area where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a Project Area or Survey Area business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in a Project Area or Survey Area for at least six months preceding its application for certification as a SBE; and (e) has a Project Area or Survey Area office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers of residential addresses alone shall not suffice to establish a firms' location in a Project Area or Survey Area.

Project Area means an area of San Francisco that meets the requirements under Community Redevelopment Law, Health and Safety Code Section 33320.1. These areas currently include the Bayview Industrial Triangle, Bayview Hunters Point (Area B), Federal Office Building, Hunters Point Shipyard, Mission Bay (North), Mission Bay (South), Rincon Point/South Beach, South of Market, Transbay Terminal, Yerba Buena Center and Visitacion Valley.

San Francisco-based Small Business Enterprise means a SBE that: (a) has fixed offices located within the geographical boundaries of the City where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a San Francisco business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in the City for at least six months preceding its application for certification as a SBE; and (e) has a San Francisco office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers or residential addresses alone shall not suffice to establish a firm's status as local.

Small Business Enterprise (SBE) means an economically disadvantaged business that: is an independent and continuing business for profit; performs a commercially useful function; is owned and controlled by persons residing in the United States or its territories; has average gross annual receipts in the three years immediately preceding its application for certification as a SBE that do not exceed the following limits: (a) construction--$14,000,000; (b) professional or personal services--$2,000,000 and (c) suppliers--$7,000,000; and is (or is in the process of being) certified by the Agency as a SBE and meets the other certification criteria described in the SBE application.

In order to determine whether or not a firm meets the above economic size definitions, the Agency will use the firm's three most recent business tax returns (i.e., 1040 with Schedule C for Sole Proprietorships, 1065s with K-1s for Partnerships, and 1120s for Corporations). Once a business reaches the 3-year average size threshold for the applicable industry the business ceases to be economically disadvantaged, it is not an eligible SBE and it will not be counted towards meeting SBE contracting requirements (or goals).

Survey Area means an area of San Francisco that meets the requirements of the Community Redevelopment Law, Health and Safety Code Section 33310. These areas currently include the Bayview Hunters Point Redevelopment Survey Area C.

IX. GOOD FAITH EFFORTS TO MEET SBE GOALS. Compliance with the following steps will be the basis for determining if the Agency-Assisted Contractor and/or Consultant has made good faith efforts to meet the goals for SBEs:

A. Outreach. Not less than 30 days prior to the opening of bids or the selection of contractors, the Agency-Assisted Contractor or Contractor shall:

1. Advertise. Advertise for SBEs interested in competing for the contract, in general circulation media, trade association publications, including timely use of the ***Bid and Contract Opportunities*** newsletter published by the City and County of San Francisco Purchasing Department and media focused specifically on SBE businesses such as the ***Small Business Exchange***, of the opportunity to submit bids or proposals and to attend a pre-bid meeting to learn about contracting opportunities.

2. Request List of SBEs. Request from the Agency's Contract Compliance Department a list of all known SBEs in the pertinent field(s), particularly those in the Project and Survey Areas and provide written notice to all of them of the opportunity to bid for contracts and to attend a pre-bid or pre-solicitation meeting to learn about contracting opportunities.

B. Pre-Solicitation Meeting. For construction contracts estimated to cost $5,000 or more, hold a pre-bid meeting for all interested contractors not less than 15 days prior to the opening of bids or the selection of contractors for the purpose answering questions about the selection process and the specifications and requirements. Representatives of the Contract Compliance Department will also participate.

C. Follow-up. Follow up initial solicitations of interest by contacting the SBEs to determine with certainty whether the enterprises are interested in performing specific items involved in work.

D. Subdivide Work. Divide, to the greatest extent feasible, the contract work into small units to facilitate SBE participation, including, where feasible, offering items of the contract work which the Contractor would normally perform itself.

E. Provide Timely and Complete Information. The Agency-Assisted Contractor or Contractor shall provide SBEs with complete, adequate and ongoing information about the plans, specifications and requirements of construction work, service work and material supply work. This paragraph does not require the Agency-Assisted Contractor or Contractor to give SBEs any information not provided to other contractors. This paragraph does require the Agency Assisted Contractor and Contractor to answer carefully and completely all reasonable questions asked by SBEs and to undertake every good faith effort to ensure that SBEs understand the nature and the scope of the work.

F. **Good Faith Negotiations.** Negotiate with SBEs in good faith and demonstrate that SBEs were not rejected as unqualified without sound reasons based on a thorough investigation of their capacities.

G. **Bid Shopping Prohibited.** Prohibit the shopping of the bids. Where the Agency-Assisted Contractor or Contractor learns that bid shopping has occurred, it shall treat such bid shopping as a material breach of contract.

H. **Other Assistance.** Assist SBEs in their efforts to obtain bonds, lines of credit and insurance. (Note that the Agency has a Surety Bond Program that may assist SBEs in obtaining necessary bonding.) The Agency-Assisted Contractor or Contractor(s) shall require no more stringent bond or insurance standards of SBEs than required of other business enterprises.

I. **Delivery Scheduling.** Establish delivery schedules which encourage participation of SBEs.

J. **Utilize SBEs as Lower Tier Subcontractors.** The Agency-Assisted Contractor and its Contractor(s) shall encourage and assist higher tier subcontractors in undertaking good faith efforts to utilize SBEs as lower tier subcontractors.

K. **Maximize Outreach Resources.** Use the services of SBE associations, federal, state and local SBE assistance offices and other organizations that provide assistance in the recruitment and placement of SBEs, including the Small Business Administration and the Business Development Agency of the Department of Commerce. However, only SBEs certified by the Agency shall count towards meeting the participation goal.

L. **Replacement of SBE.** If during the term of this SBE Agreement, it becomes necessary to replace any subcontractor or supplier, the Agency's Contract Compliance Specialist should be notified prior to replacement due to the failure or inability of the subcontractor or supplier to perform the required services or timely delivery the required supplies, then First Consideration should be given to a certified SBE, if available, as a replacement.

X. ADDITIONAL PROVISIONS

A. **No Retaliation.** No employee shall be discharged or in any other manner discriminated against by the Agency-Assisted Contractor or Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to enforcement of this Agreement.

B. **No Discrimination.** There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of an Agency-Assisted Contract or Contract. The Agency-Assisted Contractor or Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) or other protected class status. Such action shall include, but not be limited to the following: employment, upgrading,

demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations.

C. **Compliance with Prompt Payment Statute.** Construction contracts and subcontracts awarded for $5,000 or more shall contain the following provision:

> "Amounts for work performed by a subcontractor shall be paid within ten (10) days of receipt of funds by the contractor, pursuant to California Business and Professions Code Section 7108.5 *et seq*. Failure to include this provision in a subcontractor or failure to comply with this provision shall constitute an event of default which would permit the Agency to exercise any and all remedies available to it under contract, at law or in equity."

In addition to and not in contradiction to the Prompt Payment Statute (California Business and Professions Code Section 7108.5 *et seq*.), if a dispute arises which would allow a Contractor to withhold payment to a subcontractor due to a dispute, the Contractor shall only withhold that amount which directly relates to the dispute and shall promptly pay the remaining undisputed amount, if any.

D. **Submission Of Electronic Certified Payrolls.** For any Agency-Assisted Contract which requires the submission of certified payroll reports, the requirements of Section VII of the Agency's Small Business Enterprise Policy shall apply. Please see the Small Business Enterprise Policy for more details.

XI. PROCEDURES

A. **Notice to Agency**. The Agency-Assisted Contractor or Contractor(s) shall provide the Agency with the following information within 10 days of awarding a contract or selecting subconsultant:

1. the nature of the contract, e.g. type and scope of work to be performed;
2. the dollar amount of the contract;
3. the name, address, license number, gender and ethnicity of the person to whom the contract was awarded; And
4. SBE status of each subcontractor or subconsultant.

B. **Affidavit**. If the Agency-Assisted Contractor or Contractor(s) contend that the contract has been awarded to a SBE, the Agency-Assisted Contractor or Contractor(s) shall, at the same time also submit to the Agency a SBE Application for Certification and its accompanying Affidavit completed by the SBE owner. However, a SBE that was previously certified by the Agency shall submit only the short SBE Eligibility Statement.

C. **Good Faith Documentation**. If the 50% SBE Participation Goals are not met in each category (Construction, Professional Services and Suppliers), the Agency-Assisted Contractor or Contractor(s) shall meet and confer with the Agency at a date and time set by the

Agency. If the issue of the Agency-Assisted Contractor's or Contractor's good faith efforts is not resolved at this meeting, the Agency-Assisted Contractor or Contractor shall submit to the Agency within five (5) days, a declaration under penalty of perjury containing the following documentation with respect to the good faith efforts ("**Submission**"):

1. A report showing the responses, rejections, proposals and bids (including the amount of the bid) received from SBEs, including the date each response, proposal or bid was received. This report shall indicate the action taken by the Agency-Assisted Contractor or Contractor(s) in response to each proposal or bid received from SBEs, including the reasons(s) for any rejections.

2. A report showing the date that the bid was received, the amount bid by and the amount to be paid (if different) to the non-SBE contractor that was selected. If the non-SBE contractor who was selected submitted more than one bid, the amount of each bid and the date that each bid was received shall be shown in the report. If the bidder asserts that there were reasons other than the respective amounts bid for not awarding the contract to an SBE, the report shall also contain an explanation of these reasons.

3. Documentation of advertising for and contacts with SBEs, contractor associations or development centers, or any other agency which disseminates bid and contract information to small business enterprises.

4. Copies of initial and follow-up correspondence with SBEs, contractor associations and other agencies, which assist SBEs.

5. A description of the assistance provided SBE firms relative to obtaining and explaining plans, specifications and contract requirements.

6. A description of the assistance provided to SBEs with respect to bonding, lines of credit, etc.

7. A description of efforts to negotiate or a statement of the reasons for not negotiating with SBEs.

8. A description of any divisions of work undertaken to facilitate SBE participation.

9. Documentation of efforts undertaken to encourage subcontractors to obtain small business enterprise participation at a lower tier.

10. A report which shows for each private project and each public project (without a SBE program) undertaken by the bidder in the preceding 12 months, the total dollar amount of the contract and the percentage of the contract dollars awarded to SBEs and the percentage of contract dollars awarded to non-SBEs.

11. Documentation of any other efforts undertaken to encourage participation by small business enterprises.

D. **Presumption of Good Faith Efforts**. If the Agency-Assisted Contractor or Contractor(s) achieves the Participation Goals, it will not be required to submit Good Faith Effort documentation.

E. **Waiver**. Any of the SBE requirements may be waived if the Agency determines that a specific requirement is not relevant to the particular situation at issue, that SBEs were not available, or that SBEs were charging an unreasonable price.

F. **SBE Determination**. The Agency shall exercise its reasonable judgment in determining whether a business, whose name is submitted by the Agency-Assisted Contractor or Contractor(s) as a SBE, is owned and controlled by a SBE. A firm's appearance in any of the Agency's current directories will be considered by the Agency as prima facie evidence that the firm is a SBE. Where the Agency-Assisted Contractor or Contractor(s) makes a submission the Agency shall make a determination, as to whether or not a business which the Agency-Assisted Contractor or Contractor(s) claims is a SBE is in fact owned and controlled by San Francisco-based SBEs. If the Agency determines that the business is not a SBE, the Agency shall give the Agency-Assisted Contractor or Contractor a Notice of Non-Qualification and provide the Agency-Assisted Contractor or Contractor with a reasonable period (not to exceed 20 days) in which to meet with the Agency and if necessary make a Submission, concerning its good faith efforts. If the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to Section XII.

G. **Agency Investigation**. Where the Agency-Assisted Contractor or Contractor makes a Submission and, as a result, the Agency has cause to believe that the Agency-Assisted Contractor or Contractor has failed to undertake good faith efforts, the Agency shall conduct an investigation, and after affording the Agency-Assisted Contractor or Contractor notice and an opportunity to be heard, shall recommend such remedies and sanctions as it deems necessary to correct any alleged violation(s). The Agency shall give the Agency-Assisted Contractor or Contractor a written Notice of Non-Compliance setting forth its findings and recommendations. If the Agency-Assisted Contractor or Contractor disagree with the findings and recommendations of the Agency as set forth in the Notice of Non-Compliance, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to this SBE Agreement.

XII. ARBITRATION OF DISPUTES.

A. **Arbitration by AAA**. Any dispute regarding this SBE Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

B. **Demand for Arbitration**. Where the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Agency-Assisted Contractor or Contractor shall have seven (7) business days, in which to file a Demand for Arbitration,** unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this

provision and identifying any entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Agency-Assisted Contractor and Contractor fails to file a timely Demand for Arbitration, the Agency-Assisted Contractor and Contractor shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

C. **Parties' Participation**. The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Agency-Assisted Contractor or Contractor made an initial timely Demand for Arbitration pursuant to Section XII.B. above.

D. **Agency Request to AAA**. Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.

E. **Selection of Arbitrator**. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.

F. **Setting of Arbitration Hearing.** A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

G. **Discovery.** In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.

H. **Burden of Proof**. The burden of proof with respect to SBE status and/or Good Faith Efforts shall be on the Agency-Assisted Contractor and/or Contractor. The burden of proof as to all other alleged breaches by the Agency-Assisted Contractor and/or Contractor shall be on the Agency.

I. **California Law Applies.** Except where expressly stated to the contrary in this SBE Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.

J. **Arbitration Remedies and Sanctions.** The arbitrator may impose only the remedies and sanctions set forth below:

1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.

2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Agency-Assisted Contract or this SBE Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Agency-Assisted Contract or this SBE Agreement, other than those minor modifications or extensions necessary to enable compliance with this SBE Agreement.

3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the SBE Program requirements in the Agency-Assisted Contract or this SBE Agreement. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.

4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars ($50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this SBE Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

K. **Arbitrator's Decision.** The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

L. **Default Award; No Requirement to Seek an Order Compelling Arbitration.** The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

M. **Arbitrator Lacks Power to Modify.** Except as otherwise provided, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the

terms of the Agency-Assisted Contract, this SBE Agreement or any other agreement between the Agency, the Agency-Assisted Contractor or Contractor or to negotiate new agreements or provisions between the parties.

N. **Jurisdiction/Entry of Judgment.** The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

O. **Exculpatory Clause.** Agency-Assisted Contractor or Contractor (regardless of tier) expressly waive any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Agency-Assisted Contractor or Contractor (regardless of tier) acknowledge and agree that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this SBE Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.

P. **Severability**. The provisions of this SBE Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this SBE Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this SBE Agreement or the validity of their application to other persons or circumstances.

Q. **Arbitration Notice:** BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

Agency

Agency-Assisted Contractor

XIII. AGREEMENT EXECUTION

Note: If you are seeking Agency certification as a SBE, you should fill out the "Application for SBE Certification". If you are already an Agency certified SBE, you should execute the "SBE Eligibility Statement".

I, hereby certify that I have authority to execute this SBE Agreement on behalf of the business, organization or entity listed below and that it will use good faith efforts to comply with the Agency's 50% SBE Participation Goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

September 30th, 2010
Date

Sean Jeffries
Print Your Name

Authorized officer
Title

706 Mission Street Co LLC (415) 593-1100
Company Name and Phone Number c/o Millennium Partners.

BOARD of SUPERVISORS

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

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Economic Development Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: **Monday, July 15, 2013**

Time: **1:30 p.m.**

Location: **Committee Room 263, located at City Hall**
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subject: **File No. 130570.** Ordinance amending the Planning Code and Zoning Map, by adding Section 249.71, to create the Yerba Buena Center Mixed-Use Special Use District (SUD) located at 706 Mission Street, Assessor's Block No. 3706, Lot No. 093 and portions of Lot No. 277, to facilitate the development of the 706 Mission Street, The Mexican Museum and Residential Tower Project, by modifying specific Planning Code regulations related to permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations; amending the Zoning Map to add the SUD and increase the height of property in the SUD from 400 feet to 480 feet; and making environmental findings and findings of consistency with the General Plan.

In accordance with San Francisco Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, July 12, 2013.

for

Angela Calvillo, Clerk of the Board

DATED: June 28, 2013
PUBLISHED: July 5, 2013