



# SAN FRANCISCO PLANNING DEPARTMENT

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## Memo to the Planning Commission

HEARING DATE: APRIL 4, 2013

Continued from the February 28, 2013 Hearing

*Date:* March 28, 2013  
*Case No.:* 2011.0038 CEKVX!  
*Project Address:* 250 – 4<sup>th</sup> STREET  
*Zoning:* C-3-S (Downtown Support)  
SOMA Youth and Family Special Use District  
130-L Height and Bulk District  
*Block/Lot:* 3733/008  
*Project Sponsor:* Mr. Jay Singh  
250 Fourth Street Development, LLC  
275 South Airport Blvd.  
South San Francisco, CA 94080  
*Staff Contact:* Elizabeth Watty – (415) 558-6620  
[Elizabeth.Watty@sfgov.org](mailto:Elizabeth.Watty@sfgov.org)  
*Recommendation:* *Approval with Conditions*

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### BACKGROUND

The proposed project includes the demolition of the existing two-story, approximately 30-foot tall, office/educational building, occupied by Olivet Theological University, and the construction of a new, 220-room tourist hotel in an 11-story, 78,000 gsf building with no off-street parking.

The project included a 4,265 sq. ft. ground floor restaurant/bar which was subject to a Conditional Use Authorization due to the property's location within the SOMA Youth and Family SUD.

The project has been continued several times in order to allow for discussions between the Sponsor and several South of Market neighborhood organizations who are concerned about the Project's compatibility with the SOMA Youth and Family SUD.

### CURRENT PROPOSAL

Since the previously scheduled hearing on February 28<sup>th</sup>, the Sponsor or his representatives met on five separate occasions with representatives of the South of Market Community Action Network ("SOMCAN"), Supervisor Kim, and other SOMA organizations. According to the Project Sponsor, SOMCAN has requested that the Sponsor make financial contributions to fund community benefits, in addition to payment of required impact fees and exactions. The Sponsor offered to make a contribution, but, as of the date of this memorandum, the parties have not agreed on an amount.

The Sponsor has also requested a modification to his Project, to include a bar/restaurant at the rooftop terrace. The intent is for the roof top terrace to remain an open air terrace surrounded by glass wind

screens. Food and bar service would be banquet style, set up and broken down as needed. The Sponsor has discussed this modification with TODCO (Tenants and Owners Development Corporation). They have no objection provided the rooftop lounge abides by the same good neighbor conditions agreed to for the ground-floor courtyard, particularly the requirement that amplified music be shut off no later than 10 p.m. The sponsor has agreed to this condition.

### **REQUIRED COMMISSION ACTION**

In order for the Project to proceed, the Commission must grant Conditional Use Authorization to allow a 220 bed tourist hotel, and for a restaurant and bar at the ground floor and roof terrace within the SOMA Youth and Family SUD. The Project also requires that the Commission make a Determination of Compliance with Planning Code Section 309, including the granting of exceptions for "Reduction of Ground-Level Wind Currents in C-3 Districts", and "Tour-Bus Loading"; and the Zoning Administrator must grant Variances from Planning Code Section 145.1 for Code deficiencies associated with active uses, lobby width, and the percentage of transparent frontage.

### **BASIS FOR RECOMMENDATION**

- The Project will add tourist hotel rooms to the City's hotel stock, which is currently at capacity.
- The Project would contribute to the City's economic well-being by providing significant amounts of Hotel Tax and other annual tax revenues.
- Employees and visitors would be able to walk or utilize transit 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 requested Variances.

<b>RECOMMENDATION:</b> <b>Approve with Conditions</b>
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# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- First Source Hiring (Admin. Code)
- Jobs Housing Linkage Program (Sec. 413)
- Child Care Requirement (Sec. 414)
- Downtown Park Fee (Sec. 412)
- Other

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## Planning Commission Draft Motion Section 309

HEARING DATE: ~~JANUARY 31, 2013~~ APRIL 04, 2013

Date: ~~January 3, 2013~~ March 28, 2013  
Case No.: **2011.0038 CEKVX!**  
Project Address: **250 – 4<sup>th</sup> STREET**  
Zoning: C-3-S (Downtown Support)  
SOMA Youth and Family Special Use District  
130-L Height and Bulk District

Block/Lot: 3733/008  
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ADOPTING FINDINGS RELATED TO THE APPROVAL OF A SECTION 309 DETERMINATION OF COMPLIANCE AND REQUEST FOR EXCEPTIONS FOR REDUCTION OF GROUND-LEVEL WIND CURRENTS IN C-3 DISTRICTS UNDER PLANNING CODE SECTION 148, AND FROM THE TOUR-BUS LOADING REQUIREMENT OF PLANNING CODE SECTION 162 IN ORDER TO PROVIDE ON-STREET, RATHER THAN OFF-STREET, LOADING, IN ORDER TO DEMOLISH THE EXISTING TWO-STORY-OVER-BASEMENT OFFICE BUILDING AND TO CONSTRUCT AN 11-STORY, TOURIST HOTEL CONTAINING APPROXIMATELY 220 GUEST ROOMS COMPRISING APPROXIMATELY 78,000 SQUARE FEET ~~OVER-WITH~~ APPROXIMATELY 4,265 SQUARE FEET OF GROUND-FLOOR RESTAURANT/BAR/RETAIL SPACE, AND APPROXIMATELY 1,600 SQUARE FEET OF ROOFTOP RESTAURANT/BAR SPACE AT 250 – 4<sup>TH</sup> STREET WITHIN THE C-3-S (DOWNTOWN SUPPORT) DISTRICT, SOMA YOUTH AND FAMILY SPECIAL USE DISTRICT, AND THE 130-L HEIGHT AND BULK

DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On January 14, 2011, Jay Singh of 250 Fourth Street Development, LLC (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Environmental Review, to allow the demolition of an existing two-story-over-basement office building and construction of a 78,000 gsf tourist hotel building with 220-guest rooms over 4,265 gsf of ground floor commercial space that would be approximately 120-feet tall.

On March 21, 2012, the Project Sponsor filed an application with the Department for a Determination of Compliance with Planning Code Section 309, with exceptions to the requirements for Reduction of Ground-Level Wind Currents in C-3 Districts (Section 148) and Tour-Bus Loading (Section 162), within the C-3-S (Downtown Support) District, SOMA Youth and Family Special Use District, and a 130-L Height and Bulk District.

On March 21, 2012, the Project Sponsor also filed an application with the Department for a Conditional Use Authorization under Planning Code Sections 216(b)(ii), 249.40A(c)(1)(A)(5), and 303, to allow a tourist hotel with 220 rooms ~~above-with~~ ground-floor ~~and rooftop~~ restaurant/bar/retail space within the C-3-S (Downtown Support) District, the SOMA Youth and Family Special Use District, and a 130-L Height and Bulk District.

On October 29, 2012, the Project Sponsor filed a variance application with the Zoning Administrator under Planning Code Sections 145.1(c)(3) and 145.1(c)(6) for a building lobby exceeding 25% of the building frontage at the ground level and to provide less than the required transparent building frontage on Clementina Street within the C-3-S (Downtown Support) District, SOMA Youth and Family Special Use District, and a 130-L Height and Bulk District.

On ~~January 31, 2013~~ April 4, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Determination of Compliance Application No. 2011.0038CEKVX!.

On December 12, 2012, the Preliminary Mitigated Negative Declaration (PMND) for the Project was prepared and published for public review; and

The PMND was available for public comment and appeal until January 3, 2013; and

On January 8, 2013, the Planning Department reviewed and considered the Final Mitigated Negative Declaration (FMND) and found that the contents of said report and the procedures through which the FMND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), Title 14 California Code of Regulations Sections 15000 et seq. (the “CEQA Guidelines”) and Chapter 31 of the San Francisco Administrative Code (“Chapter 31”); and

The Planning Department/Planning Commission found the FMND was adequate, accurate and objective, reflected the independent analysis and judgment of the Planning Department/Planning Commission, [and that the summary of comments and responses contained no significant revisions to the Draft IS/MND], and approved the FMND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2011.0038CEKVX!, at 1650 Mission Street, Fourth Floor, San Francisco, California.

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

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

**MOVED**, that the Commission hereby authorizes the Determination of Compliance requested in Application No. 2011.0038CEKVX!, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located on the northwest corner of Fourth Street and Clementina Street; Lot 008 in Assessor's Block 3733. The Site totals approximately 10,400 sq. ft. The site is located in the South of Market Neighborhood within the Downtown Area Plan and the Downtown Support (C-3-S) Zoning District and a 130-L Height and Bulk District. The site is currently improved with a 31,200-sq.-ft. building, which was constructed in 1946. The building is used as an office/educational building occupied by Olivet Theological University. On-site operations consist of office and classroom activities, along with site maintenance and housekeeping. The 30-foot tall existing building occupies the entire site.
3. **Surrounding Properties and Neighborhood.** The project site comprises a single parcel in the Downtown Area Plan and within the C-3-S Zoning District and the 130-L Height and Bulk District. The C-3-S District also includes Yerba Buena Gardens, which includes the Moscone Convention Center, hotels, museums and cultural facilities, housing, retail, and offices arranged around public gardens and plazas. The district has historically housed commercial support businesses, such as wholesaling, printing, building services, and secondary office space.

The Site is also within the SoMa Youth and Family Zone Special Use District (“SUD”). The SUD is intended to expand the provision of affordable housing the SoMa area, but does not preclude the expansion of hotel, office or other uses. In addition, this designation is intended to protect and enhance the health and environment of youth and families by adopting policies that focus on certain lower density areas of this district for the expansion of affordable housing opportunities. The SUD also requires a Conditional Use Authorization for restaurant and bar uses.

Land uses in the immediate area include residential, commercial, and community uses. The properties in the vicinity include: a nine-story, 112-unit apartment building with ground floor retail (230 Fourth Street/801-805 Howard Street) to the north; the Moscone Center (747 Howard Street) to the east on the other side of Fourth Street; a 76-brnaded gasoline service and smog service station (800 Folsom Street), which was recently closed for construction of the Central Subway’s new Moscone Station; a nine-story, 91-unit apartment building (317-321 Clementina Street) to the south on the other side of Clementina Street; and the Clementina Towers apartment complex (320 and 330 Clementina Street) with two, 13-story apartment buildings setback from the street with open spaces and surface parking lots to the west.

The closest public open space to the Site is Yerba Buena Gardens, across Fourth Street to the east. This park is owned by the successor entity to the San Francisco Redevelopment Agency and is generally bounded by Mission Street to the north, 3<sup>rd</sup> Street to the east, Folsom Street to the south, and Fourth Street to the west. The garden includes meadows, trees, vegetation, waterfalls, public art, small cafes, terraces, small gardens, a carousel, play structures, and an outdoor amphitheater. Yerba Buena Gardens also contains buildings such as the Center for the Arts Theater, Moscone Convention Center Ballroom, Moscone Center South, an ice skating rink, a bowling center, a childcare center, Zeum children’s museum, and the Metreon retail center.

In addition to residential, commercial and open spaces, other uses in the area include museums (San Francisco Museum of Modern Art), the Jewish Museum, the Museum of the African Diaspora, and the Museum of Craft and Design), large retail facilities (Target, Westfield San Francisco Center), and parking garages. Interstate 80 is approximately 1.5 blocks south of the Site. BART and MUNI Metro lines are two blocks to the north. The Central Subway, which is now under construction, will run under Fourth Street with a Moscone Station immediately adjacent to the Site.

4. **Project Description.** The proposed project includes the demolition of the existing two-story-over-basement, approximately 30-foot tall, 31,200-sf office/educational building, occupied by Olivet Theological University, and the construction of a new, 220-room tourist hotel in an 11-story, 78,000 gsf building, including 4,265 sq. ft. of restaurant and/or retail space, approximately 1,600 square feet of rooftop restaurant/bar space, and a 10,295 sq. ft. below-grade basement. The project would include no off-street parking, but would include approximately ten (10) off-street bicycle parking spaces.
5. **Public Comment.** To date, the Department has received written comments from the Yerba Buena Neighborhood Consortium. They expressed the desire for several additional conditions to be

met, and if met, they support the project. The conditions include: (1) the addition of privacy louvers for any room directly facing the residential units in the Ceatrice Polite building (40-feet to the south across Clementina Street) and in the Clementina Towers (approximately 65 feet north of the project); (2) no amplified sound within the ground floor public open space or rooftop lounge; (3) creation of a vegetated/beautified wall facing the adjacent Clementina Towers and Wolff House; (4) installation of safety street furniture on the northwest corner of Fourth and Clementina Streets; (5) restricted signage lightning; and (6) sidewalk tables and chairs installed in accordance with the pending Yerba Buena Sidewalk Management Plan.

The Project Sponsor has agreed to implement these conditions with modifications and clarifications, including the following: (1) privacy louvers will be provided in rooms directly facing the Ceatrice Polite building; (2) louvers will not be provided at the rear of the building because no rooms directly face units in Clementina Towers and the distances involved are too great to create privacy impacts; and (3) amplified sound may be provided in the ground-floor public open space and rooftop lounge provided it is inaudible to residents of adjoining buildings.

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

- A. **Floor Area Ratio (Section 124).** The floor area ratio (FAR) limit as defined by Planning Code Section 124 for the Downtown Support District is 5.0 to 1, and can increase to 7.5 to 1 with the purchase of TDR, pursuant to Planning Code Section 123.

*The proposed project has a gross floor area, as defined under the Planning Code, of approximately 78,000 gsf and a lot size of 10,400 sq. ft., resulting in a FAR of approximately 7.5:1, which is permitted with the purchase of TDR. The project includes Conditions of Approval requiring the purchase of TDR in order to implement the construction of 26,000 gsf of floor area above the base FAR.*

- B. **Public Open Space (Section 138).** New buildings in the C-3-S Zoning District must provide public open space at a ratio of one sq. ft. per 50 gsf of all uses, except residential uses, institutional uses, and uses in a predominantly retail/personal services building.

*The project includes approximately 78,000 gsf. At a ratio of 1:50, 1,560 gsf of publically accessible open space is required. The Project includes 1,560 sq. ft. of publically accessible open space within an interior courtyard, designed in a manner that generally complies with the adopted Guidelines for Downtown Open Space, including the provision of outdoor seating. The design of the open space will be further refined throughout the building permit review process.*

- C. **Streetscape Improvements (Section 138.1).** Section 138.1(b) requires that when a new building is constructed in the C-3 District, street trees and sidewalk paving must be provided. Under Section 138.1(c), the Commission may also require the Project Sponsor to install additional sidewalk improvements such as lighting, special paving, seating and landscaping in accordance with the guidelines of the Downtown Streetscape Plan if it

finds that these improvements are necessary to meet the goals and objectives of the General Plan.

*The project will include streetscape elements along Fourth and Clementina Streets, consistent with Planning Code Section 138.1.*

- D. **Street Frontage in Commercial Districts: Active Uses (145.1(c)(3)).** Section 145.1(c)(3) of the Planning Code requires that within Downtown Commercial Districts, space for “active uses” shall be provided within the first 25 feet of building depth on the ground floor. Spaces such as lobbies are considered active uses only if they do not exceed 25% of the building’s frontage at the ground level, or 40 feet, whichever is greater, and spaces such as laundry and trash rooms are not considered “active uses”.

*Section 145.1(c)(3) requires that the first 25 feet of building depth at the Project’s ground floor, along any façade facing a street at least 30 feet in width, be occupied by active uses. Section 145.1(b)(2) provides that building lobbies can be considered active uses, so long as they do not exceed 40 feet or 25% of building frontage, whichever is larger. The Project is situated on the corner of Clementina and Fourth Streets, both of which exceed 30 feet in width, and proposes a ground-level design with hotel lobby frontage along both Streets. The building lobby fronting on Clementina would extend 57 feet, three inches, constituting approximately 44% of the Clementina Street frontage. The building lobby fronting on Fourth Street would extend 26 feet, 10 inches, constituting approximately 33% of the Project’s Fourth Street frontage. In total, the project would include 84 feet of lobby frontage along Clementina and Fourth Streets. Therefore, these ground-floor lobby frontages would exceed the requirements of Section 145.1(c)(3).*

*The large lobby is proposed in order to make the relatively small hotel visible to conventioners from Fourth Street, and to provide pick-up and drop-off street loading along Clementina frontage so to prevent any such interference with transit and traffic along Fourth Street. The proposed hotel lobby would provide a high activity level, with direct access to the hotel’s restaurant/bar space, which would in turn have direct access to the public open space at northwest corner of the building. The Project Sponsor is seeking a variance from Section 145.1(c)(3) to permit the proposed lobby frontage along Clementina and Fourth Streets.*

*Furthermore, Planning Code Section 145.1(c)(3) requires that the first 25 feet of building depth at the Project’s ground-floor, at any façade facing a street of at least 30 feet in width, be occupied by active uses.*

*The Project would include a permitted service entrance with street frontage along the Site’s southwest corner along Clementina Street. Behind this service entrance, the Project would provide a trash area, building laundry room, and an area connecting the permitted service entrance with a service elevator. A portion of these non-active spaces would fall within the first 25 feet of the Project’s ground-floor along Clementina Street, and would not comply with the requirements of Section 145.1(c)(3). The Project Sponsor is seeking a variance from Section 145.1(c)(3) to permit*



*the proposed non-active uses within the first 25 feet of the Project's ground-floor along Clementina Street.*

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

*The Project's Fourth Street frontage measures 80 feet and proposes approximately 63 feet or 79 percent of transparent frontage; the Project's Clementina Street frontage measures 125 feet and proposes approximately 69 feet or 55 percent of transparent frontage. Combined, the Project's two frontages exceed the 60 percent transparency requirement; however, individually, the Clementina Street frontage provides less than 60 percent transparency due to the presence of a large solid structural element at one side and service entries at the other. The Project Sponsor is seeking a variance from Section 145.1(c)(6) to permit the reduced transparency on the Clementina Street frontage.*

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

*Section 146(a) does not apply to construction on 4<sup>th</sup> Street or Clementina Streets, and therefore does not apply to this Project.*

*As it relates to Section 146(c), the project would replace a two story building with an 11-story structure. Although there would be new shadows on sidewalks and pedestrian areas adjacent to the site, the project's shadow effects would be limited in scope and would not increase the total amount of shading above levels that are commonly and generally accepted in urban areas. The Project is proposed at a height that is zoned for the subject property and cannot be further shaped to reduce substantial shadow impacts on public sidewalks without creating an unattractive design and without unduly restricting development potential. The Project is consistent with the predominantly low- and mid-rise character of the area, which will remain one of the downtown's sunniest locales after construction of the Project. Therefore, the Project will not create substantial shadow impacts to public sidewalks.*

- G. **Shadows on Public Open Spaces (Section 147).** Section 147 seeks to reduce substantial shadow impacts on public plazas and other publicly accessible open spaces other than those protected under Section 295. Consistent with the dictates of good design and without unduly restricting development potential, buildings taller than 50 feet should be

shaped to reduce substantial shadow impacts on open spaces subject to Section 147. In determining whether a shadow is substantial, the following factors shall be taken into account: the area shaded, the shadow's duration, and the importance of sunlight to the area in question.

*Shadow studies indicate that the Project would cast an insubstantial amount of new shadow on the mid-block Children's Garden across the street at Yerba Buena Gardens. On an annual basis, new shadow from the Project would eliminate roughly 0.2 percent of the annual sunlight theoretically available to the Garden. Net new shadow from the Project would be eliminated to late afternoon from late October through late February, when days are short, shadows are long, and shadows are present under existing conditions. The duration of net new shadows would range from 45 minutes on October 18<sup>th</sup> to 1.5 hours on December 22<sup>nd</sup>. Thereafter, the duration of new shadow would slowly decline before disappearing in late February. More specifically:*

- **October 18<sup>th</sup>:** *Net new shadow would have a total duration of approximately 45 minutes. At 4:15 p.m., the Project would shadow approximately 25 sq. ft. of the approximately two-acre Children's Garden. Net new shadow would peak at 4:30 p.m. when 335 sq. ft. of the Garden would be shaded.*
- **December 22<sup>nd</sup>:** *Net new shadow would have a total duration of approximately 1.5 hours. At 2:45 p.m. approximately 631 sq. ft. of additional shadow would be cast on the Garden's amphitheater. Net new shadow would peak at 3:45 p.m. when new shadow would cover approximately 17 percent of the Garden, including portions of the play circle, picnic area and lawn circle.*
- **February 18<sup>th</sup>:** *Conditions in mid-February would mirror those in mid-October.*

*The additional shadow from the Project would have little or no effect on the use of the park. Several buildings – the Zeum, Ice Skating Center, and Moscone South Convention Center building – enclose and partially shade the Garden. The incremental new shadow would occur at times of the day and year when the park is already shaded, and would effectively cause portions of the Garden to be shaded 15-30 minutes earlier than without the Project. The areas where the bulk of the Projects shadow would fall – the lawn circle, picnic area and amphitheater – area not heavily used during the late afternoon, particularly during winter months when clouds and rain are common. The play circle would also experience incrementally more shade with the Project. However, a minor amount of additional shade is unlikely to alter use patterns of the playground area.*

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

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

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

*A total of 34 test point locations along sidewalk areas adjacent to and near the project site were selected for the purpose of analyzing existing and proposed wind levels and wind near the Project Site pursuant to Planning Code Section 148. Under existing conditions – without the Project – eight test locations exceeded the Planning Code’s pedestrian comfort level of 11 mph (more than 10 percent of the time). There were no locations which exceeded the wind hazard criterion (speeds reaching or exceeding the hazard level of 26mph, as averaged for a single full hour of the year).*

*With the Project, the wind speeds would exceed the comfort criterion at only five locations. The Project would reduce wind speeds below the comfort criterion on all the nearest test points on Clementina Street and would reduce the amount of time wind speeds exceed the comfort criterion at other locations on both Clementina Street and at the northwest corner of Fourth and Folsom Street. Although the Project would create one new exceedance, this is in a parking lot adjacent to the northwest corner of the building and not an area of substantial pedestrian use. Exceeding the seating or pedestrian comfort criteria – and not eliminating all of the pre-existing comfort exceedances – requires a Planning Code Section 309 exception.*

- I. **Parking (Section 151.1).** Planning Code Section 151.1 does not require off-street parking for the project.

*Off-street parking would not be provided for either the proposed commercial or hotel use.*

- J. **Loading (Section 152.1).** Planning Code Section 152.1 requires off-street loading if the commercial space exceeds 10,000 sq. ft. or of the hotel space exceeds 100,000 sf.

*The project’s proposed commercial use does not exceed 10,000 sq. ft., and the hotel use does not exceed 100,000 sf. Therefore, the project would not be required to provide an off-street loading*

space per Planning Code Section 152.1. The project includes no off-street loading, but includes a dedicated on-street loading zone on Clementina Street.

- K. **Bicycle Parking (Section 155.4).** Planning Code Section 155.4 requires projects with a gross square footage of between 50,001 square feet and 100,000 square feet provide six (6) Class 1 bicycle parking spaces, along with adequate signs or notices to advertise the availability of bicycle parking

*The project requires a minimum of six (6) Class 1 bicycle parking spaces. The proposed basement would accommodate approximately 10 Class 1 bicycle parking spaces. Signage advertising the availability of bicycle parking is required as a Condition of Approval.*

- L. **Use (Sections 216(b), 218(b), 249.40A(c)(1)(A)(2), 249.40A(c)(1)(A)(5)).** The project site is located in a Downtown Support (C-3-S) District wherein hotel and commercial uses are permitted. Areas identified as Downtown Support include a variety of different uses, such as hotels, housing, museums and cultural facilities, retail and offices.

*The hotel and retail uses of the proposed project would be consistent with the Downtown Support uses, pursuant to Planning Code Sections 216(b) and 218(b); however, the hotel – proposed at 220 guestrooms – would require a Conditional Use Authorization. Though principally permitted in the C-3-S District, the restaurant/bar uses at the ground floor and rooftop require Conditional Use Authorization by virtue of the Project's location in the SoMa Youth and Family Special Use District.*

- M. **Height (Section 260).** The property is located in a 130-L Height and Bulk District, thus permitting structures up to a height of 130 feet.

*The Project would reach a height of approximately 120'-0" to the roof of the building, with various features such as elevator/stair penthouses, mechanical structures, and wind screens extending above the 130-foot height limit in accordance with Planning Code Section 260(b): features excluded from the height limit. Therefore, the proposed project would comply with the Planning Code's 130-L Height and Bulk District.*

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

*The Department conducted a shadow analysis and determined that the Project would not shade any properties under the jurisdiction of, or designated for acquisition by, the Recreation and Park Department.*

- O. **Bulk (Section 270).** The project falls under the “L” bulk limitations, as defined in Planning Code Section 270, which require a maximum length of 250 feet, and a maximum diagonal dimension of 300 feet, for portions of the building over 80’-0” tall.

*The proposed building would be 129 feet, 6 inches long, with a diagonal dimension of 149 feet, 1 inch. The proposed length meets the bulk allowances, and thus complies with Planning Code Section 270.*

- P. **Child Care Requirement.** Section 414.3 of the Planning Code requires projects creating 50,000 square feet or more of additional hotel space to meet a child-care requirement (to mitigate the impact on the availability of child-care facilities, which would be caused by the employees attracted to the proposed development project). Applicants shall elect one of the six following options to fulfill this requirements: (1) provide a child-care facility on the premises of the development project for the life of the project pursuant to Section 414.5, (2) in conjunction with the sponsors or one or more other development projects subject to Section 414.1 et seq. located within ½ mile of one another, provide a single child-care facility on the premises of one of their development projects for the life of the project as set forth in Section 414.6, (3) either singly or in conjunction with the sponsors or one or more other development projects subject to Section 414.1 et seq. located within ½ mile of one another, provide a single child-care facility to be located within one mile of the development project(s) pursuant to Section 414.7; (4) pay an in-lieu fee pursuant to Section 414.8, (5) combine payment of an in-lieu fee to the Child Care Capital Fund with construction of a child-care facility on the premises or providing child-care facilities near the premises, either singly or in conjunction with other sponsors pursuant to Section 414.9; or (6) enter into an arrangement pursuant to which a nonprofit organization shall provide a child-care facility at a site within the City pursuant to Section 414.10.

*The Project Sponsor will comply with this requirement, as outlined through the Conditions of Approval prior to issuance of the first construction document.*

- Q. **Jobs-Housing Linkage Program (Section 413).** Planning Code Section 413 requires large-scale development projects that contain entertainment, hotel, office, research and development, or retail uses to pay a fee to a designated housing developer or to the City in order to help offset the cost of building additional housing. The Section 413 housing requirement applies to hotel projects proposing at least 25,000 sq. ft. of new use with credits given for existing on-site uses.

*The Project would create approximately 78,000 sq. ft. of new hotel use and is subject to Section 413 requirements. Prior to issuance of a building or site permit, the sponsor shall elect one of the following three options to fulfill the requirements of this Section: (1) contribute of a sum or land of value at least equivalent to the in-lieu fee, to one or more housing developers who will use the funds or land to construct housing units pursuant to Section 413.5; (2) pay an in-lieu fee*

according to the formula set forth in Section 413.6; or, (3) combine the above options pursuant to Section 413.8.

- R. **Street Trees (Sections 138.1 and 428).** Section 138.1 requires the installation of street trees in the case of the construction of a new building. One 24-inch box tree is required for every 20 feet of property frontage along each street or alley, with any remaining fraction of ten feet or more of frontage requiring an additional tree. The species and locations of trees installed in the public right-of-way shall be subject to approval by the Department of Public Works (DPW). The requirements of Section 138.1 may be waived or modified by the Zoning Administrator, pursuant to Section 428, where DPW cannot grant approval due to practical difficulties.

*The Project includes a total of approximately 210 feet of street frontage, along the Fourth and Clementina Street frontages, which means that eleven (11) street trees are required. According to the Department of Public Works, only four of the required eleven street trees can feasibly be installed. When a pre-existing site constraint prevents the installation of the required street trees, the Zoning Administrator may allow payment of an in-lieu fee, to satisfy the requirements of Section 138.1(c)(1). The Department of Public Works has recommended payment of an in-lieu fee for seven of the eleven required street trees. Conditions of approval have to been added to require the project to pay an in-lieu fee for seven street trees pursuant to Planning Code Section 428.*

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

*The Project would comply by dedicating one percent of construction cost to works of art. The public art concept and location will be subsequently presented to the Planning Commission at an informational presentation.*

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

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

When preexisting ambient wind speeds exceed the comfort level, or when a proposed building or addition may cause ambient wind speeds to exceed the comfort level, the building shall be designed to reduce the ambient wind speeds to meet the requirements. An exception may be granted, in accordance with the provisions of Section 309, allowing

the building or addition to add to the amount of time that the comfort level is exceeded by the least practical amount if (1) it can be shown that a building or addition cannot be shaped and other wind-baffling measures cannot be adopted to meet the foregoing requirements without creating an unattractive and ungainly building form and without unduly restricting the development potential of the building site in question, and (2) it is concluded that, because of the limited amount by which the comfort level is exceeded, the limited location in which the comfort level is exceeded, or the limited time during which the comfort level is exceeded, the addition is insubstantial.

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

*Independent consultants analyzed ground-level wind currents in the vicinity of the Project Site. A wind tunnel analysis, the results of which are included in a technical memorandum prepared by RWDI Consulting Engineers & Scientists was conducted using a scale model of the Project Site and its immediate vicinity.*

*Under existing conditions – without the Project – eight of the 34 test locations exceeded the Planning Code's pedestrian comfort level of 11 mph (more than 10 percent of the time).*

*With the Project, the wind speeds would exceed the comfort criterion at only five locations. The Project would reduce wind speeds below the comfort criterion on all the nearest test points on Clementina Street and would reduce the amount of time wind speeds exceed the comfort criterion at other locations on both Clementina Street and at the northwest corner of Fourth and Folsom Street. Although the Project would create one new exceedance, this is in a parking lot adjacent to the northwest corner of the building and not an area of substantial pedestrian use.*

*Because the Project would not eliminate the eight existing exceedances, an exception is required under Planning Code Section 309. An exception is justified under the circumstances since the sheltering effect of the Project would improve pedestrian wind conditions overall, particularly those nearby on Clementina Street. In areas of substantial pedestrian use, winds in excess of the comfort criterion would occur between 12 and 16 percent of the time, only slightly more than the 10 percent standard. The average wind speed exceeded more than ten percent of the time would range from 12-13 mpg, again, only slightly higher than the 11mpg standard. Winds over the comfort standard are expected to occur in a few discrete locations, rather than over lengthy stretches of sidewalks. It is unlikely that the Project could be designed in a manner that would affect wind conditions substantially enough to eliminate all eight of the existing comfort exceedances, without unduly restricting the site's development potential. Thus, the time, location, and speed of winds in excess of the comfort standard are so insubstantial as to warrant an exception under Section 309.*

- B. **Section 162: Tour Bus Loading.** In C-3 Districts, hotels with 201-250 rooms are required to provide one off-street tour bus loading space. Reductions or waivers may be granted under Planning Code Section 309, taking into consideration: (1) the size of the site; (2) the

impact of the space on desirable, pedestrian-oriented use of the ground floor; (3) and the ability to provide such spaces at adjacent curbs without adverse impacts on traffic, transit, or pedestrians.

*Due to the small size of the Site, provision of a 45'x9'x14' bus loading space would occupy an unreasonable percentage of the ground floor and dramatically diminish the quality of the lobby and retail space. It would also disrupt the pedestrian environment and contribute to an undesirable, auto-oriented character on Fourth Street. Furthermore, the Project Sponsor is seeking approval from the Municipal Transportation Agency (MTA) to create a tour-bus and passenger loading space along Clementina and Fourth Streets.*

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

## COMMERCE AND INDUSTRY ELEMENT

### Objectives and Policies

#### OBJECTIVE 1:

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

#### Policy 1.1:

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

#### Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

#### Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

*The proposed project would add approximately 220 tourist hotels rooms intended to serve visitors and business travelers of San Francisco's downtown area, and as a result would create new jobs in a location that is easily accessible by multiple transit services. The project would result in increased tax revenue for the City and an increase in retail activity in the immediate neighborhood.*

*A tourist hotel is permitted with a Conditional Use Authorization, and is thus consistent with activities in the commercial land use plan.*

#### OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.



**Policy 2.1:**

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

*Due to the Site's location to downtown and its proximity to Moscone Center, the Project is anticipated to easily attract hotel patrons. The Site is also centrally located, close to many jobs and services, as well as public transit.*

**OBJECTIVE 8:**

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL CENTER FOR CONVENTIONS AND VISITOR TRADE.

**Policy 8.1:**

Guide the location of additional tourist related activities to minimize their adverse impacts on existing residential, commercial, and industrial activities.

**Policy 8.3:**

Assure that areas of particular visitor attraction are provided with adequate public services for both residents and visitors.

*The Project has been conceived to complement investment San Francisco has made in Moscone Convention Center. It locates new tourist hotel rooms in a location that is geographically in close proximity to the attractions, conventions, entertainment, transit, retail and food services frequented by tourists and business travelers.*

**DOWNTOWN AREA PLAN**

**Objectives and Policies**

**OBJECTIVE 1:**

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

**Policy 1.1:**

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

*The proposed project would add approximately 220 tourist hotels rooms intended to serve visitors and business travelers of San Francisco's downtown area, and as a result would create new jobs in a location that is easily accessible by multiple transit services. The project would result in increased tax revenue for the City and an increase in retail activity in the immediate neighborhood.*

**OBJECTIVE 4:**

ENHANCE SAN FRANCISCO'S ROLE AS A TOURIST AND VISITOR CENTER.

**Policy 4.1:**

Guide the location of new hotels to minimize their adverse impacts on circulation, existing uses, and scale of development.

*The Site is located in close proximity to Downtown's tourist and business attractions, while being on the border of the South of Market neighborhood. This area is distant enough from other hotels that are primarily located North of Market Street, so as to not create a concentration of hotels, which could have the potential to overwhelm the character of the surrounding neighborhood or create unmanageable traffic problems.*

**OBJECTIVE 5:**

RETAIN A DIVERSE BASE OF SUPPORT COMMERCIAL ACTIVITY IN AND NEAR DOWNTOWN.

**Policy 5.1:**

Provide space for support commercial activities within the downtown and in adjacent areas.

*The site is presently under-utilized as a two-story office building for Olivet University in a 130-foot height district. The Project site is a logical place for hotel development in that it is located immediately adjacent to the Moscone Convention center and the Yerba Buena cultural and open space facilities, and it is in close proximity to the City's business and tourist attractions.*

*The location minimizes the adverse impacts on circulation, existing uses and scale of development by offering a hotel choice for visitors desiring a location slightly outside the 3rd Street/Market/Mission corridors but within easy reach of the entire Yerba Buena and core downtown areas. The hotel will not generate significant additional traffic in the area because most hotel guests will not need automobiles, and the Project does not include any off-street parking spaces.*

**OBJECTIVE 9:**

PROVIDE QUALITY OPEN SPACE IN SUFFICIENT QUANTITY AND VARIETY TO MEET THE NEEDS OF DOWNTOWN WORKERS, RESIDENTS, AND VISITORS.

**Policy 9.1:**

Require usable indoor and outdoor open space, accessible to the public, as part of new downtown development.

**Policy 9.2:**

Provide different kinds of open space downtown.

**Policy 9.2:**

Provide a variety of seating arrangements in open spaces throughout downtown.

*The proposed project would include street trees, landscaping, and other streetscape elements along Fourth and Clementina Streets as part of the project's streetscape plan. Features include bike parking and at least 1,560 sq. ft. of public open space within an interior courtyard. The public open space would be designed to include an intimate seating area, appropriated for the size and location of the public open space.*

## TRANSPORTATION ELEMENT

### Objectives and Policies

#### OBJECTIVE 2:

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

#### Policy 2.1:

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

*The Project is located within an existing high-density downtown district with a multitude of transportation options. The Site is about two blocks from Market Street, within a few blocks of the Transbay Terminal, and directly on the Central Subway line, now under construction. Because the Project would not include parking, its guests and employees would be encouraged to use transit as their primary travel mode.*

## URBAN DESIGN ELEMENT

### Objectives and Policies

#### OBJECTIVE 3:

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

#### Policy 3.2:

Avoid extreme contrasts in color, shape and other characteristics which will cause new buildings to stand out in excess of their public importance.

#### Policy 3.5:

Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.

#### Policy 3.6:

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

*The height and character of the Project make it clear that it belongs as part of the downtown and Yerba Buena area.*

*The Project would result in a visual change to the project site and its surroundings because it would entail construction of an 11-story, 120-foot-tall building on a site that currently is occupied by a two-story building; however, the skyline to the north, northwest, and east of the project site features buildings that are of a similar height or taller than the proposed project. Although the proposed building would be taller than the development (or lack thereof) on several nearby properties – including the adjacent gas station to the south and the Yerba Buena Gardens to the east – the Project's proposed height is consistent with the requirements of the 130 Height District and with similar sized buildings in the area, and meets the "L" Bulk Limits.*

**OBJECTIVE 4:**

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENTAL TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

**Policy 4.11:**

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

**Policy 4.12:**

Install, promote and maintain landscaping in public and private areas.

**Policy 4.13:**

Improve pedestrian areas by providing human scale and interest.

*The Project will include streetscape improvements along its two street frontages, including the installation of new street trees, new landscaping, new publically accessible bicycle racks along Fourth Street, and a 1,560 sq. ft. public open space within an interior courtyard of the proposed hotel building. These improvements will provide much needed streetscape improvements that will help to improve pedestrian safety through a landscaped buffer from the busy Fourth Street corridor, and the well-designed outdoor seating area will help to promote a human scale and interest in an area that lacks public open space. The building's base has been detailed to provide an appropriate scale for pedestrians, and the Project would add an important aspect of activity (restaurant/bar/hotel lobby uses) and landscaping to a streetscape currently lacking in pedestrian amenities.*

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:
  - A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*The Site does not currently contain any retail uses, and none would be displaced by the Project. The Project would further this policy by including ground-floor retail uses. Moreover, the addition of hotel*

*uses will bring new employees and visitors to the Site and area, which would strengthen existing retail operations and encourage new retail opportunities in the vicinity.*

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

*The Site does not currently contain any residential use, and thus the Project has no effect on the amount of existing housing.*

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

*The Site does not currently contain any residential uses; however, the Project would promote this policy by contributing to the City's affordable housing supply by complying with the Section 414 Jobs-Housing Linkage Program.*

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

*The Site is situated in the downtown core and is well served by public transit. The Site is located just one block from Market Street, a major transit corridor that provides access to various MUNI and BART lines. In addition, the Site is within a couple blocks from the proposed Transbay Terminal, and directly on the Central Subway line, now under construction. As such, its employees would rely on transit as the primary means of travel to work, thereby minimizing commuter traffic and parking demand.*

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

*The Site does not contain any industrial or service sector uses, and thus none will be displaced by the Project.*

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

*The proposed project would be constructed to meet all applicable seismic and life-safety requirements of the San Francisco Building Code. This proposal will not adversely affect the property's ability to withstand an earthquake; rather, it will result in the production of seismically safe structure.*

- G. That landmarks and historic buildings be preserved.

*No landmarks or historic buildings would be demolished, and the property is not part of a historic or conservation district. The Project will have no effect on this policy.*

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

*The Site is surrounded by existing urban development and would have no appreciable effect on views from public parks. The Project would not cast shadow on any parks protected under Planning Code Section 295. The additional shade it would cast on the courtyard at Yerba Buena Gardens would be minor, limited to late afternoon hours during late fall and winter, and would not have an adverse effect on the courtyard's use. The project would therefore comply with this Policy.*

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

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES a Determination of Compliance under Section 309, Application No. 2011.0038CEKVX!**, subject to the following conditions attached hereto as "EXHIBIT A", and subject to the Conditions of Approval of Planning Commission Motion No. XXXXX, in general conformance with plans on file, dated November 29, 2012, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The Planning Commission has reviewed and considered the IS/MND and the record as a whole and finds that there is no substantial evidence that the Project will have a significant effect on the environment with the adoption of the mitigation measures contained in the MMRP to avoid potentially significant environmental effects associated with the Project, and hereby adopts the FMND.

The Planning Commission hereby adopts the MND and the MMRP attached hereto as Exhibit C and incorporated herein as part of this Motion by this reference thereto. All required improvement and mitigation measures identified in the IS/MND and contained in the IMMRP are included as conditions of approval.

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

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on ~~January 31, 2013~~ April 4, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: ~~January 31, 2013~~ April 4, 2013

## EXHIBIT A

### AUTHORIZATION

1. This authorization is for the granting of certain **exceptions pursuant to Section 309** to allow the construction of a new, 11-story, approximately 120-foot tall building containing approximately 78,000 gsf, including 4,265 gsf of ground floor restaurant/bar/retail space, approximately 1,600 square feet of rooftop restaurant/bar space, and up to 220 tourist hotel guestrooms, with **exceptions to Ground-Level Wind Currents in C-3 Districts (Section 148), and Tour Bus Parking (Section 162)**, located at 250 Fourth Street, Block 3733, and Lot 008 within the C-3-S District, SOMA Youth and Family Special Use District, and a 130-L Height and Bulk District; in general conformance with plans, dated November 29, 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2011.0038CEKVX! and subject to conditions of approval reviewed and approved by the Commission on ~~January 31, 2013~~ April 4, 2013, under Motion No. XXXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### RECORDATION OF CONDITIONS OF APPROVAL

2. Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on ~~January 31, 2013~~ April 4, 2013, under Motion No. XXXXXX.

### PRINTING OF CONDITIONS OF APPROVAL ON PLANS

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

### SEVERABILITY

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

### CHANGES AND MODIFICATIONS

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



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

### PERFORMANCE

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

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

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

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

- 8. Additional Project Authorization.** The Project Sponsor must obtain a Conditional Use authorization under Section 303 to allow a tourist hotel with 220 guestrooms (Section 216(b)(ii)) and restaurant/bar uses per Sections 249.40A(c)(1)(A)(2) and 249.40A(c)(1)(A)(5); and must obtain Variances from Sections 145.1, to allow a hotel lobby that exceeds 25% of the ground floor frontage and to allow non-active uses within the first 25 feet of the building frontage, and to allow a reduction in the transparent frontage on Clementina Street and must satisfy all the conditions thereof. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

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

- 9. Transferable Development Rights.** Pursuant to Section 128, the Project Sponsor shall purchase the required number of units of Transferrable Development Rights (TDR) and secure a Notice of Use of TDR prior to the issuance of a site permit for all development which exceeds the base FAR of 5.0 to 1, up to an FAR of 7.5 to 1. The net addition of gross floor area subject to the fee shall be determined based on drawings submitted with the Building Permit Application.

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

10. **Mitigation Measures.** Improvement and Mitigation measures described in the MMRP attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.

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

## DESIGN – COMPLIANCE AT PLAN STAGE

11. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, open spaces and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

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

12. **Privacy Louvers.** Privacy louvers will be included in the design for the rooms directly facing residential units in the Ceatrice Polite building at 317-321 Clementina Street. Specifically, the louvers will be provided in the rooms labeled #16, 18, 20, 22 at floors 2-9 in the plans attached as **Exhibit B**.

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

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

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

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

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

15. **Lighting Plan.** The Project Sponsor shall submit an exterior lighting plan to the Planning Department prior to Planning Department approval of the building / site permit application.

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

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

Safety street furniture, such as a planter box, will be installed on the blind northwest corner at Fourth Street and Clementina Street to keep pedestrians from cutting the corner on Fourth Street. This will minimize wheelchair and pedestrian conflicts in an area that will see heavy and increased sidewalk use due to the new transit station on the southwest corner of that intersection.

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

17. **Open Space Provision - C-3 Districts.** Pursuant to Planning Code Section 138, the Project is required to provide 1,560 sq. ft. of publically-accessible open space. The Project Sponsor shall continue to work with Planning Department staff to refine the design and programming of the public open space so that the open space generally meets the standards of the Downtown Open Space Guidelines in the Downtown Plan of the General Plan. Subject to approval by the adjoining property owners, the garden wall surrounding the publically accessible open space shall have vegetation planted or other beautification measures undertaken on the side facing adjoining residential properties on the west (Clementina Towers) and north (Wolff House).

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

18. **Open Space Plaques - C-3 Districts.** Pursuant to Planning Code Section 138, the Project Sponsor shall install the required public open space plaques at each building entrance including the standard City logo identifying it; the hours open to the public and contact information for building management. The plaques shall be plainly visible from the public sidewalks on Fourth and Clementina Streets and shall indicate that the open space is accessible to the public. Design of the plaques shall utilize the standard templates provided by the Planning Department, as available, and shall be approved by the Department staff prior to installation.

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

19. **Street Trees.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating a total of four (4) of the eleven (11) required street trees. The installed street trees shall be evenly spaced along the Fourth Street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved

by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of any of these trees within the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of Section 138.1 may be modified or waived by the Zoning Administrator to the extent necessary (*See Condition 19 below for required Street Tree In-Lieu Fee*).

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

## PARKING AND TRAFFIC

20. **Bicycle Parking.** Although the Project proposes 10 Class 1 bicycle parking spaces, no fewer than 6 Class 1 bicycle parking spaces shall be provided as required by Planning Code Section 155.4. In addition, adequate signs or notices shall be required in order to advertise the availability of such bicycle parking.

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

## OTHER PROVISIONS

21. **Street Tree In-Lieu Fee.** Pursuant to Planning Code Section 428, the Project Sponsor shall pay an in-lieu fee for seven (7) street trees that are required under Planning Code Section 138.1, but that according to the Department of Public Works, cannot be planted due to the narrow sidewalk width along Clementina Street. The in-lieu fee shall be paid prior to the issuance of any certificate of occupancy.

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

22. **Jobs Housing Linkage.** Pursuant to Planning Code Section 413 (formerly 313), the Project Sponsor shall contribute to the Jobs-Housing Linkage Program (JHLP). The calculation shall be based on the net addition of gross square feet of each type of space to be constructed as set forth in the permit plans. The Project Sponsor shall provide evidence that this requirement has been satisfied to the Planning Department prior to the issuance of the first site or building permit by the Department of Building Inspection.

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

23. **Childcare Requirements for Office and Hotel Development Projects.** Pursuant to Section 414 (formerly 314), the Project Sponsor shall pay the in-lieu fee as required. The net addition of gross floor area subject to the fee shall be determined based on drawings submitted with the Building Permit Application.

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

24. **First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

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

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

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

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

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

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

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

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

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

## MONITORING - AFTER ENTITLEMENT

29. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.  
*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*
30. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.  
*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## OPERATION

31. **Open Space: Amplified Music and Event Hours.** No amplified sound audible to residents of adjoining properties will be permitted in the outdoor courtyard or rooftop lounge, and as in the rest of Yerba Buena, any outdoor events in ~~that those~~ spaces shall end by 10 p.m.  
*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*
32. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.  
*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>*
33. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.  
*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>*
34. **Sidewalk Seating and Tables.** Sidewalk tables for the future ~~hH~~Hotel restaurant will be installed in accordance with the Yerba Buena Sidewalk Management Plan, a coordinated and comprehensive plan that is under development for the entire Yerba Buena/Moscone area in response to the growing number of users, heavy demands on the street and sidewalks from conventions, and proliferation of new, street-facing businesses. This plan will control permitting

and licensing of all street furniture, and will state when and where street furniture is allowed. If the Yerba Buena Sidewalk Management Plan is not final at the time the hotel is operational, the Project Sponsor shall install sidewalk seating in accordance with the most current draft of said plan, and in consultation with adjoining property owners and managers.

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

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

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

36. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property. Hotel sign lighting on Fourth Street will be controlled so as not to cause a nuisance for residents in Wolff House.

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



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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## Planning Commission Draft Motion

HEARING DATE: ~~JANUARY 31, 2013~~ APRIL 04, 2013

Date: ~~January 3, 2013~~ March 28, 2013  
Case No.: **2011.0038 CEKVX!**  
Project Address: **250 – 4<sup>th</sup> STREET**  
Zoning: C-3-S (Downtown Support)  
SOMA Youth and Family Special Use District  
130-L Height and Bulk District  
Block/Lot: 3733/008  
Project Sponsor: Mr. Jay Singh  
250 Fourth Street Development, LLC  
275 South Airport Blvd.  
South San Francisco, CA 94080  
Staff Contact: Elizabeth Watty – (415) 558-6620  
[Elizabeth.Watty@sfgov.org](mailto:Elizabeth.Watty@sfgov.org)

**ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTION 216(B), 249.40A(c)(1)(A)(2), 249.40A(c)(1)(A)(5) AND 303, TO ALLOW A TOURIST HOTEL WITH UP TO 220 GUESTROOMS AND BAR/RESTAURANT USES, AS PART OF A PROJECT THAT INCLUDES THE DEMOLITION OF AN EXISTING TWO-STORY-OVER-BASEMENT OFFICE BUILDING AND CONSTRUCTION OF AN 11-STORY, 78,000 GSF TOURIST HOTEL BUILDING WITH APPROXIMATELY 4,265 SQUARE FEET OF GROUND-FLOOR RESTAURANT/BAR/RETAIL AND APPROXIMATELY 1,600 SQUARE FEET OF ROOFTOP RESTAURANT/BAR SPACE, AT 250 – 4<sup>TH</sup> STREET WITHIN THE C-3-S (DOWNTOWN SUPPORT) DISTRICT, SOMA YOUTH AND FAMILY SPECIAL USE DISTRICT, AND THE 130-L HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

### PREAMBLE

On January 14, 2011, Jay Singh of 250 Fourth Street Development, LLC (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Environmental Review, to allow the demolition of an existing two-story-over-basement office building and construction of a 78,000 gsf tourist hotel building with 220-guest rooms over 4,265 gsf of ground floor commercial space that would be approximately 120-feet tall.



On March 21, 2012, the Project Sponsor filed an application with the Department for a Conditional Use Authorization under Planning Code Sections 216(b)(ii), 249.40A(c)(1)(A)(2), 249.40A(c)(1)(A)(5) and 303, to allow a tourist hotel with 220 rooms and restaurant and bar space within the C-3-S (Downtown Support) District, SOMA Youth and Family Special Use District, and a 130-L Height and Bulk District.

On March 21, 2012, the Project Sponsor also filed an application with the Department for a Determination of Compliance with Planning Code Section 309, with exceptions to the requirements for Reduction of Ground-Level Wind Currents in C-3 Districts (Section 148) and Tour-Bus Loading (Section 162), within the C-3-S (Downtown Support) District, SOMA Youth and Family Special Use District, and a 130-L Height and Bulk District.

On October 29, 2012, the Project Sponsor filed a variance application with the Zoning Administrator under Planning Code Sections 145.1(c)(3) and 145.1(c)(6) for a building lobby exceeding 25% of the building frontage at the ground level and to provide less than the required transparent building frontage on Clementina Street within the C-3-S (Downtown Support) District, SOMA Youth and Family Special Use District, and a 130-L Height and Bulk District.

On ~~January 31, 2013~~ April 04, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization Application No. 2011.0038CEKVX!.

On December 12, 2012, the Preliminary Mitigated Negative Declaration (PMND) for the Project was prepared and published for public review; and

The PMND was available for public comment and appeal until January 3, 2013; and

On January 8, 2013, the Planning Department reviewed and considered the Final Mitigated Negative Declaration (FMND) and found that the contents of said report and the procedures through which the FMND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), Title 14 California Code of Regulations Sections 15000 et seq. (the “CEQA Guidelines”) and Chapter 31 of the San Francisco Administrative Code (“Chapter 31”); and

The Planning Department/Planning Commission found the FMND was adequate, accurate and objective, reflected the independent analysis and judgment of the Planning Department/Planning Commission, [and that the summary of comments and responses contained no significant revisions to the Draft IS/MND], and approved the FMND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2011.0038CEKVX!, at 1650 Mission Street, Fourth Floor, San Francisco, California.

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

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

**MOVED**, that the Commission hereby authorizes the Conditional Use Authorization requested in Application No. 2011.0038CEKVX!, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located on the northwest corner of Fourth Street and Clementina Street; Lot 008 in Assessor's Block 3733. The Site totals approximately 10,400 sq. ft. The site is located in the South of Market Neighborhood within the Downtown Area Plan and the Downtown Support (C-3-S) Zoning District, SOMA Youth and Family Special Use District, and a 130-L Height and Bulk District. The site is currently improved with a 31,200-sq.-ft. building, which was constructed in 1946. The building is used as an office/educational building occupied by Olivet Theological University. On-site operations consist of office and classroom activities, along with site maintenance and housekeeping. The 30-foot tall existing building occupies the entire site.
3. **Surrounding Properties and Neighborhood.** The project site comprises a single parcel in the Downtown Area Plan and within the C-3-S Zoning District and the 130-L Height and Bulk District. The C-3-S District also includes Yerba Buena Gardens, which includes the Moscone Convention Center, hotels, museums and cultural facilities, housing, retail, and offices arranged around public gardens and plazas. The district has historically housed commercial support businesses, such as wholesaling, printing, building services, and secondary office space.

The Site is also within the SoMa Youth and Family Zone Special Use District ("SUD"). The SUD is intended to expand the provision of affordable housing the SoMa area, but does not preclude the expansion of hotel, office or other uses. In addition, this designation is intended to protect and enhance the health and environment of youth and families by adopting policies that focus on certain lower density areas of this district for the expansion of affordable housing opportunities. The SUD also requires a conditional use authorization for restaurant and bar uses.

Land uses in the immediate area include residential, commercial, and community uses. The properties in the vicinity include: a nine-story, 112-unit apartment building with ground floor retail (230 Fourth Street/801-805 Howard Street) to the north; the Moscone Center (747 Howard

Street) to the east on the other side of Fourth Street; a 76-branded gasoline service and smog service station (800 Folsom Street) that was recently closed for construction of the Central Subway's new Moscone Station; a nine-story, 91-unit apartment building (317-321 Clementina Street) to the south on the other side of Clementina Street; and the Clementina Towers apartment complex (320 and 330 Clementina Street) with two, 13-story apartment buildings setback from the street with open spaces and surface parking lots to the west.

The closest public open space to the Site is Yerba Buena Gardens, across Fourth Street to the east. This park is owned by the successor entity to the San Francisco Redevelopment Agency and is generally bounded by Mission Street to the north, 3<sup>rd</sup> Street to the east, Folsom Street to the south, and Fourth Street to the west. The garden includes meadows, trees, vegetation, waterfalls, public art, small cafes, terraces, small gardens, a carousel, play structures, and an outdoor amphitheater. Yerba Buena Gardens also contains buildings such as the Center for the Arts Theater, Moscone Convention Center Ballroom, Moscone Center South, an ice skating rink, a bowling center, a childcare center, Zeum children's museum, and the Metreon retail center.

In addition to residential, commercial and open spaces, other uses in the area include museums (San Francisco Museum of Modern Art), the Jewish Museum, the Museum of the African Diaspora, and the Museum of Craft and Design), large retail facilities (Target, Westfield San Francisco Center), and parking garages. Interstate 80 is approximately 1.5 blocks south of the Site. BART and MUNI Metro lines are two blocks to the north. The Central Subway, which is now under construction, will run under Fourth Street with a Moscone Station immediately adjacent to the Site.

4. **Project Description.** The proposed project includes the demolition of the existing two-story-over-basement, approximately 30-foot tall, 31,200-sf office/educational building, occupied by Olivet Theological University, and the construction of a new, 220-room tourist hotel in an 11-story, 78,000 gsf building, including 4,265 sq. ft. of ground floor restaurant/bar ~~/and/or~~ retail space, 1,600 sq. ft. of rooftop restaurant/bar space, and a 10,295 sq. ft. below-grade basement. The project would include no off-street parking, but would include approximately ten (10) off-street bicycle parking spaces.
5. **Public Comment** To date, the Department has received written comments from the Yerba Buena Neighborhood Consortium. They expressed the desire for several additional conditions to be met, and if met, they support the project. The conditions include: (1) the addition of privacy louvers for any room directly facing the residential units in the Ceatrice Polite building (40-feet to the south across Clementina Street) and in Clementina Towers (approximately 65 feet north of the project); (2) no amplified sound within the ground floor public open space; (3) creation of a vegetated/beautified wall facing the adjacent Clementina Towers and Wolff House; (4) installation of safety street furniture on the northwest corner of Fourth and Clementina Streets; (5) restricted signage lighting; and (6) sidewalk tables and chairs installed in accordance with the pending Yerba Buena Sidewalk Management Plan.

The Project Sponsor has agreed to implement these conditions with modifications and clarifications, including the following: (1) privacy louvers will be provided in rooms directly

facing the Ceatrice Polite building; (2) louvers will not be provided at the rear of the building because no rooms directly face units in Clementina Towers and the distances involved are too great to create privacy impacts; and (3) amplified sound may be provided in the ground-floor public open space provided it is inaudible to residents of adjoining buildings.

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

- A. **Floor Area Ratio (Section 124).** The floor area ratio (FAR) limit as defined by Planning Code Section 124 for the Downtown Support District is 5.0 to 1, and can increase to 7.5 to 1 with the purchase of TDR, pursuant to Planning Code Section 123.

*The proposed project has a gross floor area, as defined under the Planning Code, of approximately 78,000 gsf and a lot size of 10,400 sq. ft., resulting in a FAR of approximately 7.5:1, which is permitted with the purchase of TDR. The project includes Conditions of Approval requiring the purchase of TDR in order to implement the construction of 26,000 gsf of floor area above the base FAR.*

- B. **Public Open Space (Section 138).** New buildings in the C-3-S Zoning District must provide public open space at a ratio of one sq. ft. per 50 gsf of all uses, except residential uses, institutional uses, and uses in a predominantly retail/personal services building.

*The project includes approximately 78,000 gsf. At a ratio of 1:50, 1,560 gsf of publically accessible open space is required. The Project includes 1,560 sq. ft. of publically accessible open space within an interior courtyard, designed in a manner that generally complies with the adopted Guidelines for Downtown Open Space, including the provision of outdoor seating. The design of the open space will be further refined throughout the building permit review process.*

- C. **Streetscape Improvements (Section 138.1).** Section 138.1(b) requires that when a new building is constructed in the C-3 District, street trees and sidewalk paving must be provided. Under Section 138.1(c), the Commission may also require the Project Sponsor to install additional sidewalk improvements such as lighting, special paving, seating and landscaping in accordance with the guidelines of the Downtown Streetscape Plan if it finds that these improvements are necessary to meet the goals and objectives of the General Plan.

*The project will include streetscape elements along Fourth and Clementina Streets, consistent with Planning Code Section 138.1.*

- D. **Street Frontage in Commercial Districts: Active Uses (145.1(c)(3)).** Section 145.1(c)(3) of the Planning Code requires that within Downtown Commercial Districts, space for “active uses” shall be provided within the first 25 feet of building depth on the ground floor. Spaces such as lobbies are considered active uses only if they do not exceed 25% of the building’s frontage at the ground level, or 40 feet, whichever is greater, and spaces such as laundry and trash rooms are not considered “active uses”.

*Section 145.1(c)(3) requires that the first 25 feet of building depth at the Project's ground floor, along any façade facing a street at least 30 feet in width, be occupied by active uses. Section 145.1(b)(2) provides that building lobbies can be considered active uses, so long as they do not exceed 40 feet or 25% of building frontage, whichever is larger. The Project is situated on the corner of Clementina and Fourth Streets, both of which exceed 30 feet in width, and proposes a ground-level design with hotel lobby frontage along both Streets. The building lobby fronting on Clementina would extend 57 feet, three inches, constituting approximately 44% of the Clementina Street frontage. The building lobby fronting on Fourth Street would extend 26 feet, 10 inches, constituting approximately 33% of the Project's Fourth Street frontage. In total, the project would include 84 feet of lobby frontage along Clementina and Fourth Streets. Therefore, these ground-floor lobby frontages would exceed the requirements of Section 145.1(c)(3).*

*The large lobby is proposed in order to make the relatively small hotel visible to conventioners from Fourth Street, and to provide pick-up and drop-off street loading along Clementina frontage so to prevent any such interference with transit and traffic along Fourth Street. The proposed hotel lobby would provide a high activity level, with direct access to the hotel's restaurant space, which would in turn have direct access to the public open space at northwest corner of the building. The Project Sponsor is seeking a variance from Section 145.1(c)(3) to permit the proposed lobby frontage along Clementina and Fourth Streets.*

*Furthermore, Planning Code Section 145.1(c)(3) requires that the first 25 feet of building depth at the Project's ground-floor, at any façade facing a street of at least 30 feet in width, be occupied by active uses.*

*The Project would include a permitted service entrance with street frontage along the Site's southwest corner along Clementina Street. Behind this service entrance, the Project would provide a trash area, building laundry room, and an area connecting the permitted service entrance with a service elevator. A portion of these non-active spaces would fall within the first 25 feet of the Project's ground-floor along Clementina Street, and would not comply with the requirements of Section 145.1(c)(3). The Project Sponsor is seeking a variance from Section 145.1(c)(3) to permit the proposed non-active uses within the first 25 feet of the Project's ground-floor along Clementina Street.*

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

*The Project's Fourth Street frontage measures 80 feet and proposes approximately 63 feet or 79 percent of transparent frontage; the Project's Clementina Street frontage measures 125 feet and proposes approximately 69 feet or 55 percent of transparent frontage. The Project Sponsor is seeking a variance from Section 145.1(c)(6) in order to allow less than 60% transparency along the Clementina Street frontage. Combined, the Project's two frontages exceed the 60 percent transparency requirement; however, the Clementina Street frontage provides less than 60 percent*

transparency due to the presence of a large, solid structural element at one side and service entries at the other. The Project Sponsor is seeking a variance from Section 145.1(c)(6) to permit the reduced transparency on the Clementina Street frontage.

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

*Section 146(a) does not apply to construction on 4<sup>th</sup> Street or Clementina Streets, and therefore does not apply to this Project.*

*As it relates to Section 146(c), the project would replace a two story building with an 11-story structure. Although there would be new shadows on sidewalks and pedestrian areas adjacent to the site, the project's shadow effects would be limited in scope and would not increase the total amount of shading above levels that are commonly and generally accepted in urban areas. The Project is proposed at a height that is zoned for the subject property and cannot be further shaped to reduce substantial shadow impacts on public sidewalks without creating an unattractive design and without unduly restricting development potential. The Project is consistent with the predominantly low- and mid-rise character of the area, which will remain one of the downtown's sunniest locales after construction of the Project. Therefore, the Project will not create substantial shadow impacts to public sidewalks.*

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

*Shadow studies indicate that the Project would cast an insubstantial amount of new shadow on the mid-block Children's Garden across the street at Yerba Buena Gardens. On an annual basis, new shadow from the Project would eliminate roughly 0.2 percent of the annual sunlight theoretically available to the Garden. Net new shadow from the Project would be limited to late afternoon from late October through late February, when days are short, shadows are long, and shadows are present under existing conditions. The duration of net new shadows would range from 45 minutes on October 18<sup>th</sup> to 1.5 hours on December 22<sup>nd</sup>. Thereafter, the duration of new shadow would slowly decline before disappearing in late February. More specifically:*

- **October 18<sup>th</sup>:** *Net new shadow would have a total duration of approximately 45 minutes. At 4:15 p.m., the Project would shadow approximately 25 sq. ft. of the approximately*

*two-acre Children's Garden. Net new shadow would peak at 4:30 p.m. when 335 sq. ft. of the Garden would be shaded.*

- *December 22<sup>nd</sup>: Net new shadow would have a total duration of approximately 1.5 hours. At 2:45 p.m. approximately 631 sq. ft. of additional shadow would be cast on the Garden's amphitheater. Net new shadow would peak at 3:45 p.m. when new shadow would cover approximately 17 percent of the Garden, including portions of the play circle, picnic area and lawn circle.*
- *February 18<sup>th</sup>: Conditions in mid-February would mirror those in mid-October.*

*The additional shadow from the Project would have little or no effect on the use of the park. Several buildings – the Zeum, Ice Skating Center, and Moscone South Convention Center building – enclose and partially shade the Garden. The incremental new shadow would occur at times of the day and year when the park is already shaded, and would effectively cause portions of the Garden to be shaded 15-30 minutes earlier than without the Project. The areas where the bulk of the Projects shadow would fall – the lawn circle, picnic area and amphitheater – area not heavily used during the late afternoon, particularly during winter months when clouds and rain are common. The play circle would also experience incrementally more shade with the Project. However, a minor amount of additional shade is unlikely to alter use patterns of the playground area.*

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

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

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

*A total of 34 test point locations along sidewalk areas adjacent to and near the project site were selected for the purpose of analyzing existing and proposed wind levels and wind near the Project Site pursuant to Planning Code Section 148. Under existing conditions – without the Project – eight test locations exceeded the Planning Code’s pedestrian comfort level of 11 mph (more than 10 percent of the time). There were no locations which exceeded the wind hazard criterion (speeds reaching or exceeding the hazard level of 26mph, as averaged for a single full hour of the year).*

*With the Project, the wind speeds would exceed the comfort criterion at only five locations. The Project would reduce wind speeds below the comfort criterion on all the nearest test points on Clementina Street and would reduce the amount of time wind speeds exceed the comfort criterion at other locations on both Clementina Street and at the northwest corner of Fourth and Folsom Street. Although the Project would create one new exceedance, this is in a parking lot adjacent to the northwest corner of the building and not an area of substantial pedestrian use. Exceeding the seating or pedestrian comfort criteria – and not eliminating all of the pre-existing comfort exceedances – requires a Planning Code Section 309 exception.*

- I. **Parking (Section 151.1).** Planning Code Section 151.1 does not require off-street parking for the project.

*Off-street parking would not be provided for either the proposed commercial or hotel use.*

- J. **Loading (Section 152.1).** Planning Code Section 152.1 requires off-street loading if the commercial space exceeds 10,000 sq. ft. or of the hotel space exceeds 100,000 sf.

*The project’s proposed commercial use does not exceed 10,000 sq. ft., and the hotel use does not exceed 100,000 sf. Therefore, the project would not be required to provide an off-street loading space per Planning Code Section 152.1. The project includes no off-street loading, but includes a dedicated loading zone on Clementina Street.*

- K. **Bicycle Parking (Section 155.4).** Planning Code Section 155.4 requires projects with a gross square footage of between 50,001 square feet and 100,000 square feet provide six (6) Class 1 bicycle parking spaces, along with adequate signs or notices to advertise the availability of bicycle parking

The project requires a minimum of six (6) Class 1 bicycle parking spaces. The proposed basement would accommodate approximately 10 Class 1 bicycle parking spaces. Signage advertising the availability of bicycle parking is required as a Condition of Approval.

- L. **Use (Sections 216(b), 218(b), 249.40A(c)(1)(A)(2), 249.40A(c)(1)(A)(5)).** The project site is located in a Downtown Support (C-3-S) District wherein hotel and commercial uses are permitted. Areas identified as Downtown Support include a variety of different uses, such as hotels, housing, museums and cultural facilities, retail and offices.

*The hotel and retail uses of the proposed project would be consistent with the Downtown Support uses, pursuant to Planning Code Sections 216(b) and 218(b); however, the hotel – proposed at 220*



guestrooms – would require a Conditional Use Authorization. Though principally permitted in the C-3-S District, the restaurant/bar uses at the ground floor and roof deck require ~~conditional~~ Conditional Use authorization by virtue of the Project's location in the SoMa Youth and Family Special Use District.

- M. **Height (Section 260).** The property is located in a 130-L Height and Bulk District, thus permitting structures up to a height of 130 feet.

*The Project would reach a height of approximately 120'-0" to the roof of the building, with various features such as elevator/stair penthouses, mechanical structures, and wind screens extending above the 130-foot height limit in accordance with Planning Code Section 260(b): features excluded from the height limit. Therefore, the proposed project would comply with the Planning Code's 130-L Height and Bulk District.*

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

*The Department conducted a shadow analysis and determined that the Project would not shade any properties under the jurisdiction of, or designated for acquisition by, the Recreation and Park Department.*

- O. **Bulk (Section 270).** The project falls under the "L" bulk limitations, as defined in Planning Code Section 270, which require a maximum length of 250 feet, and a maximum diagonal dimension of 300 feet, for portions of the building over 80'-0" tall.

*The proposed building would be 129 feet, 6 inches long, with a diagonal dimension of 149 feet, 1 inch. The proposed length meets the bulk allowances, and thus complies with Planning Code Section 270.*

- P. **Child Care Requirement.** Section 414.3 of the Planning Code requires projects creating 50,000 square feet or more of additional hotel space to meet a child-care requirement (to mitigate the impact on the availability of child-care facilities, which would be caused by the employees attracted to the proposed development project). Applicants shall elect one of the six following options to fulfill this requirements: (1) provide a child-care facility on the premises of the development project for the life of the project pursuant to Section 414.5, (2) in conjunction with the sponsors or one or more other development projects subject to Section 414.1 et seq. located within ½ mile of one another, provide a single child-care facility on the premises of one of their development projects for the life of the project as set forth in Section 414.6, (3) either singly or in conjunction with the sponsors or one or more other development projects subject to Section 414.1 et seq. located within ½ mile of one another, provide a single child-care facility to be located within one mile of the development project(s) pursuant to Section 414.7; (4) pay an in-lieu fee pursuant to Section 414.8, (5) combine payment of an in-lieu fee to the Child Care

Capital Fund with construction of a child-care facility on the premises or providing child-care facilities near the premises, either singly or in conjunction with other sponsors pursuant to Section 414.9; or (6) enter into an arrangement pursuant to which a nonprofit organization shall provide a child-care facility at a site within the City pursuant to Section 414.10.

*The Project Sponsor will comply with this requirement, as outlined through the Conditions of Approval prior to issuance of the first construction document.*

- Q. **Jobs-Housing Linkage Program (Section 413).** Planning Code Section 413 requires large-scale development projects that contain entertainment, hotel, office, research and development, or retail uses to pay a fee to a designated housing developer or to the City in order to help offset the cost of building additional housing. The Section 413 housing requirement applies to hotel projects proposing at least 25,000 sq. ft. of new use with credits given for existing on-site uses.

*The Project would create approximately 78,000 sq. ft. of new hotel use and is subject to Section 413 requirements. Prior to issuance of a building or site permit, the sponsor shall elect one of the following three options to fulfill the requirements of this Section: (1) contribute of a sum or land of value at least equivalent to the in-lieu fee, to one or more housing developers who will use the funds or land to construct housing units pursuant to Section 413.5; (2) pay an in-lieu fee according to the formula set forth in Section 413.6; or, (3) combine the above options pursuant to Section 413.8.*

- R. **Street Trees (Sections 138.1 and 428).** Section 138.1 requires the installation of street trees in the case of the construction of a new building. One 24-inch box tree is required for every 20 feet of property frontage along each street or alley, with any remaining fraction of ten feet or more of frontage requiring an additional tree. The species and locations of trees installed in the public right-of-way shall be subject to approval by the Department of Public Works (DPW). The requirements of Section 138.1 may be waived or modified by the Zoning Administrator, pursuant to Section 428, where DPW cannot grant approval due to practical difficulties.

*The Project includes a total of approximately 210 feet of street frontage, along the Fourth and Clementina Street frontages, which means that eleven (11) street trees are required. According to the Department of Public Works, only four of the required eleven street trees can feasibly be installed. When a pre-existing site constraint prevents the installation of the required street trees, the Zoning Administrator may allow payment of an in-lieu fee, to satisfy the requirements of Section 138.1(c)(1). The Department of Public Works has recommended payment of an in-lieu fee for seven of the eleven required street trees. Conditions of approval have to been added to require the project to pay an in-lieu fee for seven street trees pursuant to Planning Code Section 428.*

- S. **Public Art (Section 429).** In the case of construction of a new building or addition of floor area in excess of 25,000 sq. ft. to an existing building in a C-3 District, Section 429

requires a project to include works of art costing an amount equal to one percent of the construction cost of the building.

*The Project would comply by dedicating one percent of construction cost to works of art. The public art concept and location will be subsequently presented to the Planning Commission at an informational presentation.*

7. **Planning Code Section 303 (c)** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

*The Site is located in the C-3-S District, which was created to provide for a variety of uses, including hotels, with a citywide or regional function. The existing neighborhood is representative of the zoning designation, and includes a wide range of uses, including residential, office, retail, hotel, cultural institutions, parking garages, and a convention center. The proposed hotel, restaurant, and bar use is desirable at this location because it will complement the cultural institutions, convention center, and retail uses that make San Francisco a travel destination. In addition to strengthening tourism – one of the pillars of the City's economy – the Project would generate substantial increases in property tax, transit occupancy tax, sales tax, and impact fee revenues.*

*In scale and appearance, the Project will be compatible with its neighbors – primarily low-and mid-rise buildings of modern vintage. No off-street parking would be provided since the Property is in close proximity to abundant existing and planned transit services. As such, the Project would provide for a development that is necessary and desirable for, and compatible with, the existing neighborhood, community and City as a whole.*

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:
- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The Project is a relatively small infill development in a dense urban environment, with low- and mid-rise buildings characterizing the immediate area. The Project would be compatible with the existing scale and pattern of development. It would bring active uses to both Fourth and Clementina Streets, and would improve the current auto-dominated character of Fourth Street. The façade would be comprised primarily of glass with Kynar finished metal trim and cement plaster elements that would give the building texture and depth. The tall ground floor would create an inviting lobby and retail/restaurant bar space, and would accentuate the public realm*

*with a translucent glass canopy partially extending over the Fourth and Clementina Streets sidewalks. In addition, the proposed sidewalk seating on Fourth Street would help to activate the currently uninviting sidewalk environment.*

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

*No off-street parking or freight loading is required by the Planning Code, and none would be provided. In lieu of off-street tour-bus loading, passenger loading zones would be established on both Fourth Street and Clementina Street. The lack of off-street parking and loading eliminates the need for any curb cuts, thus improving and preserving pedestrian use of the sidewalks that front the building, and eliminating the potential conflicts between pedestrians and vehicles. The lack of parking access on either façade also allows the Project to maximize the use of the street frontages for pedestrian access and retail opportunities. A Transportation Impact Study confirmed that traffic volumes and patterns would not have a significant impact on the environment, or are appropriately mitigated to the extent feasible.*

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

*The Project would not generate noxious emissions, such as noises, glare, dust and odor. The retail/restaurant/~~bar~~ space would be properly ventilated to ensure neighboring buildings are not impacted by kitchen or other odors. Outdoor patios and/or decks would be well-managed to ensure that noise remains at acceptable levels.*

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

*The Project would comply with street tree (through tree installations and in-lieu fees), other landscaping, lighting, and signage requirements. The Project would not include any off-street parking, and the Project's ground floor façade do not include any disruptive parking or loading access areas or entrances. The Project's rooftop could house a screened deck that will be limited to use by hotel guests. Public open space would be provided in a ground-floor patio and would benefit neighborhood residents as well as patrons of the Project.*

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

*The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.*

- 8. **Planning Code Section 303 (g)(1)** establishes criteria for the Planning Commission to consider when reviewing applications for the development of tourist hotels. On balance, the project does comply with said criteria in that:

- A. The impact of the employees of the hotel or motel on demand in the City for housing, public transit, childcare, and other social services. To the extent relevant, the Commission shall also consider the seasonal and part-time nature of employment in the hotel or motel;

*The addition of up to 220 new hotel rooms and retail/restaurant/bar space is not anticipated to have a significant impact on housing. Due to the Project's location close to many transit services, many employees are anticipated to be existing City residents. The Sponsor's contribution to the Jobs-Housing Linkage Program will help to fund the construction of affordable housing in the City.*

*The Site is also located close to many transit services and would not provide any off-street parking. This will encourage employees to use public transit, in compliance with the City's Transit First Policy. As employees will be distributed between different daily shifts, and since there are numerous transit options within blocks of the site, the project would have minimal impacts on public transit. The Sponsor's contribution to the City's Transit Impact Development Fee Fund would help to fund many planned downtown transit improvements.*

*The employees would have no measurable impact on child care, as the anticipated number of workers that the project would add to the City's overall work force is not significant. The Sponsor's participation in the childcare program pursuant to Section 414 of the Planning code would enhance the availability of affordable childcare services in the City.*

*The proposed hotel use would have no appreciable effect on other social services. The Project is likely to provide new employment for some currently unemployed workers and will participate in the City's First Source Hiring Program. Providing additional job opportunities to San Francisco residents may lessen the need for some social services.*

- B. The measures that will be taken by the Project Sponsor to employ residents of San Francisco in order to minimize increase demand for regional transportation;

*Many employees in a tourist hotel located in the City's Downtown area, across the street from the City's Moscone Convention Center, are anticipated to retain their positions year-round, in contrast to resort hotel employees where employment fluctuates depending on the season. Because of the stable nature of employment, more employees are likely to be local residents. Similarly, the on-site restaurant/bar/retail space is anticipated to serve the surrounding community in addition to tourist hotel guests. Because of this, employment is not expected to fluctuate depending on season and employees are more likely to be local residents. In addition, the Project Sponsor will participate in the City's First Source Hiring Program, which aims to increase employment of local residents.*

- C. The market demand for a hotel or motel of the type proposed.

*San Francisco regularly places amount the world's most favored travel destinations. At present, occupancy rates in San Francisco are nearing 80 percent, substantially above the 62 percent nationwide average. With this level of occupancy, the competitive market will be operating at capacity during peak periods and will be unable to accommodate additional demand. It is anticipated that the addition of the proposed hotel with 220 guestrooms would be readily absorbed into the marketplace in*

*2015, without significantly affecting occupancy for any competitive properties.<sup>1</sup> Market conditions clearly support the need for new hotel stock, particularly in centrally located mid-range hotels that would appeal to both tourists and business travelers. The economic recovery, along with the America's Cup and the proposed expansion to the Moscone Convention Center further increase the market demand for additional hotel rooms.*

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

## **COMMERCE AND INDUSTRY ELEMENT**

### **Objectives and Policies**

#### **OBJECTIVE 1:**

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

#### **Policy 1.1:**

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

#### **Policy 1.2:**

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

#### **Policy 1.3:**

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

*The proposed project would add approximately 220 tourist hotels rooms intended to serve visitors and business travelers of San Francisco's downtown area, and as a result would create new jobs in a location that is easily accessible by multiple transit services. The project would result in increased tax revenue for the City and an increase in retail activity in the immediate neighborhood.*

*A tourist hotel is permitted with a Conditional Use Authorization, and is thus consistent with activities in the commercial land use plan.*

#### **OBJECTIVE 2:**

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

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<sup>1</sup> PKF Consulting USA, *Market Demand Analysis*, December 7, 2012. This document is available for public review at the Planning Department, 1650 Mission Street, San Francisco, as part of Case No. 2011.0038C.

**Policy 2.1:**

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

*Due to the Site's location to downtown and its proximity to Moscone Center, the Project is anticipated to easily attract hotel patrons. The Site is also centrally located, close to many jobs and services, as well as public transit.*

**OBJECTIVE 8:**

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL CENTER FOR CONVENTIONS AND VISITOR TRADE.

**Policy 8.1:**

Guide the location of additional tourist related activities to minimize their adverse impacts on existing residential, commercial, and industrial activities.

**Policy 8.3:**

Assure that areas of particular visitor attraction are provided with adequate public services for both residents and visitors.

*The Project has been conceived to complement investment San Francisco has made in Moscone Convention Center. It locates new tourist hotel rooms in a location that is geographically in close proximity to the attractions, conventions, entertainment, transit, retail and food services frequented by tourists and business travelers.*

**DOWNTOWN AREA PLAN**

**Objectives and Policies**

**OBJECTIVE 1:**

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

**Policy 1.1:**

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

*The proposed project would add approximately 220 tourist hotels rooms intended to serve visitors and business travelers of San Francisco's downtown area, and as a result would create new jobs in a location that is easily accessible by multiple transit services. The project would result in increased tax revenue for the City and an increase in retail activity in the immediate neighborhood.*

**OBJECTIVE 4:**

ENHANCE SAN FRANCISCO'S ROLE AS A TOURIST AND VISITOR CENTER.

**Policy 4.1:**

Guide the location of new hotels to minimize their adverse impacts on circulation, existing uses, and scale of development.

*The Site is located in close proximity to Downtown's tourist and business attractions, while being on the boarder of the South of Market neighborhood. This area is distant enough from other hotels that are primarily located North of Market Street, so as to not create a concentration of hotels, which could have the potential to overwhelm the character of the surrounding neighborhood or create unmanageable traffic problems.*

**OBJECTIVE 5:**

RETAIN A DIVERSE BASE OF SUPPORT COMMERCIAL ACTIVITY IN AND NEAR DOWNTOWN.

**Policy 5.1:**

Provide space for support commercial activities within the downtown and in adjacent areas.

*The site is presently under-utilized as a two-story office building for Olivet University in a 130-foot height district. The Project site is a logical place for hotel development in that it is located immediately adjacent to the Moscone Convention center and the Yerba Buena cultural and open space facilities, and it is in close proximity to the City's business and tourist attractions.*

*The location minimizes the adverse impacts on circulation, existing uses and scale of development by offering a hotel choice for visitors desiring a location slightly outside the 3rd Street/Market/Mission corridors but within easy reach of the entire Yerba Buena and core downtown areas. The hotel will not generate significant additional traffic in the area because most hotel guests will not need automobiles, and the Project does not include any off-street parking spaces.*

**OBJECTIVE 9:**

PROVIDE QUALITY OPEN SPACE IN SUFFICIENT QUANTITY AND VARIETY TO MEET THE NEEDS OF DOWNTOWN WORKERS, RESIDENTS, AND VISITORS.

**Policy 9.1:**

Require usable indoor and outdoor open space, accessible to the public, as part of new downtown development.

**Policy 9.2:**

Provide different kinds of open space downtown.

**Policy 9.2:**

Provide a variety of seating arrangements in open spaces throughout downtown.

*The proposed project would include street trees, landscaping, and other streetscape elements along Fourth and Clementina Streets as part of the project's streetscape plan. Features include bike parking and at least*



*1,560 sq. ft. of public open space within an interior courtyard. The public open space would be designed to include an intimate seating area, appropriated for the size and location of the public open space.*

## TRANSPORTATION ELEMENT

### Objectives and Policies

#### OBJECTIVE 2:

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

#### Policy 2.1:

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

*The Project is located within an existing high-density downtown district with a multitude of transportation options. The Site is about two blocks from Market Street, within a few blocks of the Transbay Terminal, and directly on the Central Subway line, now under construction. Because the Project would not include parking, its guests and employees would be encouraged to use transit as their primary travel mode.*

## URBAN DESIGN ELEMENT

### Objectives and Policies

#### OBJECTIVE 3:

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

#### Policy 3.2:

Avoid extreme contrasts in color, shape and other characteristics which will cause new buildings to stand out in excess of their public importance.

#### Policy 3.5:

Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.

#### Policy 3.6:

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

*The height and character of the Project make it clear that it belongs as part of the downtown and Yerba Buena area.*

*The Project would result in a visual change to the project site and its surroundings because it would entail construction of an 11-story, 120-foot-tall building on a site that currently is occupied by a two-story*

*building; however, the skyline to the north, northwest, and east of the project site features buildings that are of a similar height or taller than the proposed project. Although the proposed building would be taller than the development (or lack thereof) on several nearby properties – including the adjacent gas station to the south and the Yerba Buena Gardens to the east – the Project's proposed height is consistent with the requirements of the 130 Height District and with similar sized buildings in the area, and meets the "L" Bulk Limits.*

**OBJECTIVE 4:**

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENTAL TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

**Policy 4.11:**

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

**Policy 4.12:**

Install, promote and maintain landscaping in public and private areas.

**Policy 4.13:**

Improve pedestrian areas by providing human scale and interest.

*The Project will include streetscape improvements along its two street frontages, including the installation of new street trees, new landscaping, new publically accessible bicycle racks along Fourth Street, and a 1,560 sq. ft. public open space within an interior courtyard of the proposed hotel building. These improvements will provide much needed streetscape improvements that will help to improve pedestrian safety through a landscaped buffer from the busy Fourth Street corridor, and the well-designed outdoor seating area will help to promote a human scale and interest in an area that lacks public open space. The building's base has been detailed to provide an appropriate scale for pedestrians, and the Project would add an important aspect of activity (restaurant/~~bar~~/hotel lobby uses) and landscaping to a streetscape currently lacking in pedestrian amenities.*

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

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

*The Site does not currently contain any retail uses, and none would be displaced by the Project. The Project would further this policy by including ground-floor retail uses. Moreover, the addition of hotel uses will bring new employees and visitors to the Site and area, which would strengthen existing retail operations and encourage new retail opportunities in the vicinity.*

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

*The Site does not currently contain any residential use, and thus the Project has no effect on the amount of existing housing.*

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

*The Site does not currently contain any residential uses; however, the Project would promote this policy by contributing to the City's affordable housing supply by complying with the Section 414 Jobs-Housing Linkage Program.*

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

*The Site is situated in the downtown core and is well served by public transit. The Site is located just one block from Market Street, a major transit corridor that provides access to various MUNI and BART lines. In addition, the Site is within a couple blocks from the proposed Transbay Terminal, and directly on the Central Subway line, now under construction. As such, its employees would rely on transit as the primary means of travel to work, thereby minimizing commuter traffic and parking demand.*

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

*The Site does not contain any industrial or service sector uses, and thus none will be displaced by the Project.*

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

*The proposed project would be constructed to meet all applicable seismic and life-safety requirements of the San Francisco Building Code. This proposal will not adversely affect the property's ability to withstand an earthquake; rather, it will result in the production of seismically safe structure.*

- G. That landmarks and historic buildings be preserved.

*No landmarks or historic buildings would be demolished, and the property is not part of a historic or conservation district. The Project will have no effect on this policy.*

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

*The Site is surrounded by existing urban development and would have no appreciable effect on views from public parks. The Project would not cast shadow on any parks protected under Planning Code Section 295. The additional shade it would cast on the courtyard at Yerba Buena Gardens would be minor, limited to late afternoon hours during late fall and winter, and would not have an adverse effect on the courtyard's use. The project would therefore comply with this Policy.*

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. The Commission hereby finds that approval of this Conditional Use Authorization would promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES a Conditional Use Authorization under Section 303, Application No. 2011.0038CEKVX!**, subject to the following conditions attached hereto as “EXHIBIT A”, and subject to the Conditions of Approval of Planning Commission Motion No. XXXXX, in general conformance with plans on file, dated November 29, 2012, and stamped “EXHIBIT B”, which is incorporated herein by reference as though fully set forth.

The Planning Commission has reviewed and considered the IS/MND and the record as a whole and finds that there is no substantial evidence that the Project will have a significant effect on the environment with the adoption of the mitigation measures contained in the MMRP to avoid potentially significant environmental effects associated with the Project, and hereby adopts the FMND.

The Planning Commission hereby adopts the MND and the MMRP attached hereto as Exhibit C and incorporated herein as part of this Motion by this reference thereto. All required improvement and mitigation measures identified in the IS/MND and contained in the IMMRP are included as conditions of approval.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. XXXXX. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on ~~January 31, 2013~~ April 04, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: ~~January 31, 2013~~ April 04, 2013

## EXHIBIT A

### AUTHORIZATION

1. This authorization is for the granting of a **Conditional Use Authorization** pursuant to Section 216(b), 249.40A(c)(1)(A)(2), 249.40A(c)(1)(A)(5), and 303 to allow the construction of a new, 11-story, approximately 120-foot tall building containing approximately 78,000 gsf, including 4,265 gsf of ground floor restaurant/bar/retail space, 1,600 sq. ft. of roof deck restaurant/bar space, and up to **220 tourist hotel guestrooms**, located at 250 Fourth Street, Block 3733, and Lot 008 within the C-3-S District, SOMA Youth and Family Special Use District, and a 130-L Height and Bulk District; in general conformance with plans, dated November 29, 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2011.0038CEKVX! and subject to conditions of approval reviewed and approved by the Commission on ~~January 31, 2013~~ April 4, 2013, under Motion No. XXXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### RECORDATION OF CONDITIONS OF APPROVAL

2. Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on ~~January 31, 2013~~ April 04, 2013, under Motion No. XXXXXX.

### PRINTING OF CONDITIONS OF APPROVAL ON PLANS

3. The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. XXXXXX shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use Authorization and any subsequent amendments or modifications.

### SEVERABILITY

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

### CHANGES AND MODIFICATIONS

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

## Conditions of Approval, Compliance, Monitoring, and Reporting PERFORMANCE

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

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

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

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8. **Additional Project Authorization.** The Project Sponsor must obtain a Planning Code Section 309 Determination of Compliance for exceptions to Ground-Level Wind Currents in C-3 Districts (Section 148), and Tour Bus Parking requirements (Section 162); and must obtain Variances from Sections 145.1, to allow a hotel lobby that exceeds 25% of the ground floor frontage to allow non-active uses within the first 25 feet of the building frontage, and a reduction in transparent frontage on Clementina Street and must satisfy all the conditions thereof. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

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9. **Transferable Development Rights.** Pursuant to Section 128, the Project Sponsor shall purchase the required number of units of Transferrable Development Rights (TDR) and secure a Notice of Use of TDR prior to the issuance of a site permit for all development which exceeds the base FAR of 5.0 to 1, up to an FAR of 7.5 to 1. The net addition of gross floor area subject to the fee shall be determined based on drawings submitted with the Building Permit Application.

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

10. **Mitigation Measures.** Improvement and Mitigation measures described in the MMRP attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.

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## OTHER PROVISIONS

11. **Street Tree In-Lieu Fee.** Pursuant to Planning Code Section 428, the Project Sponsor shall pay an in-lieu fee for seven (7) street trees that are required under Planning Code Section 138.1, but that according to the Department of Public Works, cannot be planted due to the narrow sidewalk width along Clementina Street. The in-lieu fee shall be paid prior to the issuance of any certificate of occupancy.

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

12. **Jobs Housing Linkage.** Pursuant to Planning Code Section 413 (formerly 313), the Project Sponsor shall contribute to the Jobs-Housing Linkage Program (JHLP). The calculation shall be based on the net addition of gross square feet of each type of space to be constructed as set forth in the permit plans. The Project Sponsor shall provide evidence that this requirement has been satisfied to the Planning Department prior to the issuance of the first site or building permit by the Department of Building Inspection.

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

13. **Childcare Requirements for Office and Hotel Development Projects.** Pursuant to Section 414 (formerly 314), the Project Sponsor shall pay the in-lieu fee as required. The net addition of gross floor area subject to the fee shall be determined based on drawings submitted with the Building Permit Application.

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

14. **First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

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

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



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

## **MONITORING - AFTER ENTITLEMENT**

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

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

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