



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- TIDF (Admin. Code)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

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## Planning Commission Motion No. 17642

HEARING DATE: JUNE 26, 2008

*Date:* June 12, 2008  
*Case No.:* 2008.0001BX  
*Project Address:* **505 - 525 Howard Street**  
*Zoning:* C-3-O (SD) (Downtown Office Special Development) District  
 200/350-S Height and Bulk District  
*Block/Lots:* 3736/121 and 114  
*Project Sponsor:* Wilson Meany Sullivan, L.P.  
 Four Embarcadero Center, Suite 2200  
 San Francisco, CA 94111  
*Staff Contact:* Kevin Guy – (415) 558-6163  
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**ADOPTING FINDINGS RELATING TO (1) THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, (2) MAKING A DETERMINATION OF COMPLIANCE UNDER PLANNING CODE SECTION 309 FOR A PROPOSAL TO MODIFY PLANNING COMMISSION MOTION NO. 15005 TO ALLOW FOR CHANGES TO A PREVIOUSLY APPROVED BUILDING, INCLUDING THE ADDITION OF APPROXIMATELY 74,500 GROSS SQUARE FEET OF OFFICE SPACE AND APPROXIMATELY 2,120 GROSS SQUARE FEET OF RETAIL SPACE, AND GRANTING EXCEPTIONS TO PLANNING CODE STANDARDS FOR BUILDING BULK (PLANNING CODE SECTIONS 270 AND 272) AND FREIGHT MANEUVERING (PLANNING CODE SECTION 155), LOCATED AT 500 AND 525 HOWARD STREET ON ASSESSOR'S BLOCK 3736, LOTS 121 AND 114, IN THE C-3-0 (DOWNTOWN OFFICE SPECIAL DEVELOPMENT) DISTRICT AND WITHIN THE 200/350-S HEIGHT AND BULK DISTRICT.**

### RECITALS

- On December 14, 1998, Wilson Cornerstone Properties filed with the City and County of San Francisco Planning Department ("Department") Environmental Evaluation Application No. 98.902E for a master-planned development consisting of four separate office buildings (Buildings 1-4) and associated ground floor retail and parking on whole or partial blocks forming four corners of the intersection of First and Howard Streets (the "Original Foundry Square Project").

2. On January 13, 2000, the Planning Commission ("Commission") adopted Motion 14957, finding that the Final Environmental Impact Report for the Original Foundry Square Project (the "2000 FEIR") to be adequate, accurate, and objective, and certified the completion of the 2000 FEIR in compliance with the California Environmental Quality Act ("CEQA"), 14 California Code of Regulations § 15000 *et seq.* (the "CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code.
3. On March 2, 2000 and January 11, 2001, by Motion Nos. 15005, 15006 and 16069, the Commission granted approvals for the Original Foundry Square Project under San Francisco Planning Code ("Code") **Section 309** (Permit Review in C-3 Districts) and Code **Sections 321/322** (Office Development: Annual Limit). Commission Motion No. 15005 (Code **Section 309** approval) is hereby incorporated by reference, except as otherwise expressly modified herein.
4. On December 7, 2007, Wilson Meany Sullivan, L.P., authorized agent of KSW Properties, owner of 505 Howard Street, and Stockbridge 525 Howard, LLC, owner of 525 Howard Street (the "Project Sponsor"), filed an Environmental Evaluation Application for an Addendum to Case No. 1998.902E for modifications to the Building 3 component of the Original Foundry Square Project to add approximately 74,500 gross square feet of office space and approximately 2,120 gross square feet of retail space to the original approval, expand the building footprint, and increase the building height by approximately 4 feet. With these modifications, Building 3 would be a 10-story building with a mechanical level on Floor 11, approximately 161 feet in height, consisting of approximately 252,500 gross square feet of office space and approximately 9,520 gross square feet of ground-floor retail space at 505 and 525 Howard Street (the "Modified Project").
5. Section 15164 of the CEQA Guidelines provides for the use of an addendum to document the basis for a lead agency's decision not to require a subsequent or supplemental Environmental Impact Report ("EIR") for a project that is already adequately covered in an existing EIR.
6. Department staff analyzed the potential environmental impacts of the Modified Project as documented in the addendum to the 2000 FEIR dated June 5, 2008 (the "Addendum"), which was prepared and reviewed in compliance with CEQA, the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code, and reflects the independent judgment and analysis of the Department. The Addendum analyzed the environmental effects of the Modified Project compared to the Original Foundry Square Project and any potential changes in circumstances since the 2000 FEIR. The Addendum concluded that the Modified Project does not require a subsequent or supplemental EIR under CEQA Guidelines Sections 15162 and 15164.
7. On January 2, 2008, the Project Sponsor submitted an amendment to the Original Foundry Square Project requesting review of the Modified Project under Code **Section 309**, requiring a freight maneuvering exception (**Section 155**) and building bulk exceptions (**Sections 270 and 272**), as set forth in **Section 309(a)** of the Code (Application No. 2008.0001X).
8. On June 26, 2008, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Application No. 2008.0001X, at which time the Commission reviewed and discussed the findings prepared for its review by Department staff.

9. The Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Modified Project including the 2000 FEIR and Addendum.
10. The Commission has heard and considered the testimony presented at the public hearing and has further considered the written materials and oral testimony presented on behalf of the Project Sponsor, Department staff, and other interested parties.
11. **MOVED**, that the Commission hereby grants the approval requested in Application No. 2008.0001X, as modified herein, subject to the conditions contained in Exhibit A, attached hereto and incorporated herein by reference, based on the following findings:

### **FINDINGS**

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description.** The project site is located at 505 and 525 Howard Street, Lots 121 and 114 in Assessor's Block 3736, within the C-3-O (SD) (Downtown Office Special Development) District. The majority of the site is within the 200-S Height and Bulk District, while the westerly portion of the site is within the 350-S Height and Bulk District. The property at 505 Howard Street measures 29,698 square feet, and contains a surface parking lot. The property at 525 Howard Street measures 8,250 square feet, and is developed with a one-story building. This building is currently occupied by a restaurant and nightclub and would be demolished as part of the proposed project.
3. **Surrounding Neighborhood.** The project site is located at the intersection of First and Howard Streets at the edge of the Financial District, which consists of a wide variety of office, retail, hotel, and residential uses. The site is also within the Transbay Redevelopment Area and the Transit Center District Plan Area. The other corners at this intersection are developed with previous phases of the Foundry Square project. These buildings are ten stories in height, and exhibit an architectural character and massing substantially similar to the proposed project. Beyond the Foundry Square buildings, Howard and First Streets are generally developed with office uses over ground-floor retail spaces. High density residential uses are located further to the south along First Street, within the Rincon Hill area. The Transbay Terminal is located one block north of the project site. Older buildings in the area are typically four stories in height, while recently developed residential and office buildings are generally mid- to high-rise.
4. **Project Description.** The project proposes to demolish an existing surface parking lot and a one-story building containing a restaurant and nightclub, and construct a building with 10 occupiable floors plus a mechanical level, reaching a height of approximately 161 feet. The building would contain approximately 252,500 square feet of office space and approximately 9,520 square feet of ground floor retail. The proposed office space represents a net increase of 228,500 square feet over the previously existing office uses on the project site, and a net increase of 74,500 square feet over the previously approved office uses on the site. The building would also include 75 parking

spaces (with room for up to 100 valet spaces), 20 of which are replacement spaces required under a previous project approval.

5. **Project Background.** On January 13, 2000, the San Francisco Planning Commission certified a Final Environmental Impact Report for a development program of office space and ground-floor retail uses that comprised the original Foundry Square project. In March of 2000 and January of 2001, the Planning Commission granted the necessary approvals for the project. The Foundry Square project included the development of four office buildings at each corner at the intersection of First and Howard Streets, with approximately 1,150,000 square feet of office uses and approximately 47,000 square feet of ground-floor retail space. The development proposed a unified architectural style and massing, with complementary open plazas situated at each corner, creating a corporate campus within an urban context. Since the original approvals, Buildings 2 and 4 have been constructed and are currently occupied. Building 1 is complete, but not yet occupied.

The proposed project would modify Building 3 of the original Foundry Square approval to incorporate the adjacent property located at 525 Howard, which is currently occupied by a one-story building containing a restaurant and nightclub. This adjacent property was not contemplated or analyzed as part of the original Foundry Square project. The footprint of Building 3 would expand to add approximately 74,500 square feet of office space and approximately 2,120 square feet of retail space to the original approval. The expanded Building 3 would include a total of approximately 252,500 square feet of office space, approximately 9,520 square feet of retail space, and up to 100 valet parking spaces. This parking includes 20 spaces that were required as part of the original Foundry Square approval to replace surface parking spaces that were removed by the development. The project would also slightly increase the approved height of the building by approximately 4 feet, for an overall height of approximately 161 feet. This height would be comparable to the other three Foundry Square buildings, and would comply with the 200/350-S height controls.

6. **CEQA Findings.** After considering the 2000 FEIR and the Addendum, the Commission hereby makes the following findings:
  - A. The Commission has independently reviewed and analyzed the 2000 FEIR and Addendum and the other information in the record and has considered the information contained therein and finds that the Addendum is the appropriate document under CEQA to consider the revisions made to the Original Foundry Square Project and hereby finds that no supplemental or subsequent EIR is required for the Modified Project for the following reasons:
    - (1) The changes to the Original Foundry Square Project reflected in the Modified Project do not constitute substantial changes which require major revisions in the 2000 FEIR due to the involvement of new significant environmental effects or a substantial increase of the severity of previously identified effects;

- (2) Substantial changes have not occurred with respect to the circumstances under which the Modified Project will be undertaken which require major revisions to the 2000 FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- (3) There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the 2000 FEIR was certified, which shows (a) that the Modified Project will have one or more significant effects not discussed in the 2000 FEIR; (b) that significant effects previously examined will be substantially more severe than shown in the 2000 FEIR; or (c) that mitigation measures or alternatives previously found to be feasible would in fact be feasible and would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measure or alternative.

Based on the foregoing, the Commission finds that none of the conditions described in Section 15162 of the CEQA Guidelines calling for the preparation of a subsequent or supplemental EIR have occurred and that therefore, the Addendum rather than a subsequent or supplemental EIR is appropriate and that the Addendum is hereby approved.

- B. **Mitigation Monitoring and Reporting Program.** The Mitigation Monitoring and Reporting Program for the Original Foundry Square Project, adopted as Exhibit C to Commission Motion No. 15005, continues to apply to the Modified Project, except as modified by Condition No. 2(A) set forth in Exhibit A hereto which updates Mitigation Measure No. G.17 to reflect current Planning Department practice and replaces it in its entirety, but only as to the Modified Project.
  - C. **Significant Unavoidable Environmental Impacts.** As set forth in the 2000 FEIR and Commission Motion No. 14957 (adopting findings related to the certification of the 2000 FEIR), the Original Foundry Square Project would result in significant unavoidable environmental impacts. The Commission, by Commission Motion No. 15005, found that these significant unavoidable impacts are acceptable due to specific overriding economic, legal, social and other considerations. As set forth in the Addendum, the Modified Project would not result in any new significant environmental impacts. The Statement of Overriding Considerations set forth in Commission Motion No. 15005 continues to apply to this approval.
  - D. **Alternatives Rejected and Reasons for Rejection.** The project alternatives to the Original Foundry Square Project described in the 2000 FEIR are not included as part of the Modified Project and are rejected as infeasible for the reasons set forth in Commission Motion No. 15005.
7. **Section 309 Review.** Because the Modified Project requests exceptions under Code **Section 309**, a public hearing is required before the Commission. As stated above, the Project Sponsor is seeking exceptions from Code **Section 270** bulk-limit requirements under Code **Section 272** (Code **Section 309(a)(12)**) and from Code **Section 155(d)** requirements for freight maneuvering.

An exception from Code **Section 155** freight loading maneuvering requirements was previously approved for Building 3 by Commission Motion No. 15005.

8. **Planning Code Compliance.** The Commission finds and determines that the Modified Project meets all applicable Code requirements, or is granted an exception thereto, and makes the following additional findings:

A. Maximum Floor Area Ratio -- Pursuant to standards set forth in **Section 124** of the Code, the base floor area ratio ("FAR") in the C-3-O District is 6:1. A maximum FAR of 18:1 is permitted subject to height and building bulk limitations with the inclusion of transferable development rights ("TDR's").

*The Modified Project would have an FAR of approximately 6.65:1. Therefore, the Modified Project requires approximately 24,710 gross square feet of TDR's.*

B. Setbacks and Separation of Towers -- **Section 132(c)(1)** of the Code requires all structures in the "S" Bulk District to provide a minimum 15-foot setback from the interior property lines that do not abut public sidewalks and from the property lines abutting a public street or alley. The setback is required at the lower tower height, and is measured from the interior property line or the center of a public right-of-way.

*The Modified Project would abut three public rights-of-way: Howard Street, First Street and Tehama Street. The building façades facing these three streets would comply with the 15-foot setback requirement as measured from the center of the three adjoining streets. For the interior property line setback, the building would be set back 15 feet from its western interior property line. Thus, the Modified Project would comply with Section 132(c)(1) setback requirements.*

C. Open Space -- Code **Section 138(b)** requires that, in a C-3-0 District, an application for a permit to construct a new building or an addition of gross floor area equal to 20 percent or more of the existing building requires the provision of public open space at a ratio of one square foot of open space for every 50 square feet of developed space.

*The Modified Project proposes a total of approximately 262,020 gross square feet of floor space (approximately 252,500 gross square feet of office space and 9,520 gross square feet of retail space). At a ratio of 1:50, the proposed floor area would require approximately 5,240 square feet of open space. Approximately 6,940 square feet of open space would be provided in the form of a public plaza. Pursuant to the Conditions of Approval, the Project Sponsor will submit a detailed design for the open space, including materials and their treatment, furniture, and plantings for review and approval by the Planning Department. Therefore, the Modified Project would comply with Code Section 138(b).*

D. Pedestrian Streetscape Improvements -- Code **Section 138.1** requires project sponsors to make streetscape improvements where the proposed project includes the construction of a new building, substantial alterations to an existing building, or the addition of floor area equal to 20 percent or more of an existing building.

*The Modified Project will comply with this provision by making public sidewalk improvements as required by the Planning Department and the Department of Public Works.*

E. Downtown Park Special Fund -- Code **Section 139** requires project sponsors to pay a fee for the net addition of gross floor area for office use to be constructed.

*The Project Sponsor would comply with this requirement by contributing to the Downtown Park Special Fund as required by the Planning Code and based on drawings submitted with the Building Permit application.*

F. Street Trees in C-3 Districts -- Code **Section 143** requires that street trees be installed by the owner or developer in the case of a new building, relocation of a building, or addition of gross floor area equal to 20 percent or more of the gross floor area of an existing building.

*The Applicant will provide street trees on Howard Street and First Street as required by the Planning Code, as interpreted by the Zoning Administrator.*

G. Shadows on Public Sidewalks in C-3 Districts -- Pursuant to **Section 146(c)** of the Code, new buildings and additions to existing buildings shall be shaped, if it can be done without creating an unattractive design and without unduly restricting the development potential of the site in question, so as to reduce substantial shadow impacts on public sidewalks.

*As set forth in the 2000 FEIR and Commission Motion No. 15005, Finding No. 8, the Original Foundry Square Project would not result in substantial shadow impacts on public sidewalks. As set forth in the Addendum, the relatively modest design changes proposed as part of the Modified Project, with regard to shadow conditions, would not alter the conclusions in the 2000 FEIR. Therefore, the Modified Project would comply with Code Section 146(c).*

H. Shadows on Public or Publicly Accessible Open Spaces in C-3 Districts -- Pursuant to **Section 147** of the Code, new buildings and additions to existing buildings, where the building height exceeds 50 feet, must be shaped, consistent with the dictates of good design and without unduly restricting the development potential of the site in question, to reduce substantial shadow impacts on public plazas and other publicly accessible spaces other than those protected under Section 295.

*As set forth in the 2000 FEIR and Commission Motion No. 15005, Finding No. 9, the Original Foundry Square Project would not result in substantial shadow impacts on public or publicly accessible open spaces. As set forth in the Addendum, the relatively modest design changes proposed as part of the Modified Project, with regard to shadow conditions, would not alter the conclusions in the 2000 FEIR. Therefore, the Modified Project would comply with Code Section 147.*

I. Reduction of Ground-Level Wind Currents in C-3 Districts -- Code **Section 148** requires, in C-3 Districts, that new buildings and additions to existing buildings 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 ten percent of the time year round, between 7:00 A.M. and 6:00 P.M., the comfort level of 11 m.p.h. equivalent wind speed in areas of substantial public use and 7 m.p.h. equivalent wind speed in public seating areas.

*On December 21, 2007, Donald Ballanti, a certified meteorologist, prepared a supplemental wind analysis to evaluate the likely effect of the Building 3 design changes proposed as part of the Modified Project in light of wind tunnel tests conducted for the Building 3 design approved as part of the Original Foundry Square Project (the "2007 Wind Analysis"). The 2007 Wind Analysis states that the wind tunnel tests conducted for the*

*Original Foundry Square Project found that winds near the site of Building 3 were predicted to continue to meet the City's comfort and wind hazard criteria with the construction of the Original Foundry Square Project. The 2007 Wind Analysis concludes that the relatively minor changes to the design of Building 3 proposed as part of the Modified Project would not affect that outcome because the Modified Project would have little if any impact on winds in sidewalk pedestrian areas. Based on the foregoing, the Modified Project would comply with Code Section 148.*

J. Public Art -- **Section 149** of the Code sets forth a public art requirement for construction of new building or addition of floor area in excess of 25,000 square feet to an existing building in a C-3 District. Such public art must be equal in value to one percent of the construction cost of the building or addition as determined by the Director of the Department of Building Inspection. It must be installed and maintained (i) in areas on the site of the building or addition and clearly visible from the public sidewalk or the open-space feature required by Code **Section 138**, (ii) on the site of the open-space feature provided pursuant to said **Section 138**, (iii) upon the approval of any relevant public agency, on adjacent public property, or (iv) in a publicly accessible lobby area of a hotel.

*No change is proposed from the Original Foundry Square Project, approved by Commission Motion No. 15005 except that at an estimated cost of construction of \$57,000,000, approximately \$570,000 in public art would be required for the Modified Project. Final construction cost will be determined as part of the Building Permit process. The Project Sponsor intends to fulfill this requirement by placing a sculpture within the open space plaza.*

K. Off-street Parking -- Pursuant to Code **Section 161(c)**, no off-street parking is required for any use in a C-3 District.

*While no off-street parking is required, Code **Section 204.5** requires that Conditional Use authorization be obtained for parking provided in excess of seven percent of the building gross floor area, as defined under the Code. Seven percent of the Modified Project's 252,500 gross square feet of office space is 17,675 gross square feet or 82 parking spaces at 215 square feet per valet space. The Original Foundry Square Project approvals provided for 20 required replacement parking spaces for Building 3 or a total of 4,300 gross square feet at 215 square feet per space. This required replacement parking square footage continues to apply to the Modified Project. Therefore, the off-street parking for the Modified Project (21,975 gross square feet) would not require Conditional Use authorization.*

L. Off-Street Freight Loading -- Code **Section 152** sets forth requirements for off-street freight loading. **Table 152.1** requires, in C-3 Districts, 0.1 off-street freight loading spaces per 10,000 square feet of gross floor area (to the closest whole number).

*The Modified Project proposes approximately 252,500 gross square feet of office use and would require 2.52 off-street freight loading spaces. Under **Section 153** of the Code, when the calculation of required off-street freight loading spaces results in a fractional number, a fraction of 1/2 or more must be adjusted to the next higher number of whole spaces. Therefore, three off-street freight loading spaces are required by Code. The Modified Project would include two off-street freight loading spaces. As permitted by Code **Section 153(a)(6)**, one off-street freight loading space would be substituted with two service vehicle spaces located in the parking garage.*



M. Freight Loading Maneuvering -- Code **Section 155(d)** provides that truck and service vehicle maneuvering shall be contained within structures.

*The Project Sponsor requests a Section 309 exception to freight maneuvering requirements, as described under Finding No. 9 below.*

N. Bulk Limits -- Code **Sections 270** and **272** establish building bulk limits and special exceptions in C-3 Districts which are discussed in the "Exceptions" portion of this Motion.

*The Project Sponsor requests Section 309 exceptions to building bulk requirements, as described under Finding No. 9 below.*

O. Jobs-Housing Linkage Program -- Code **Section 313** housing requirements apply to office projects proposing at least 25,000 square feet of new use.

*The Project Sponsor would comply with this requirement by contributing to the Citywide Affordable Housing Fund as required by the Planning Code and based on drawings submitted with the Building Permit application.*

P. Child Care Provision -- Code **Section 314.3** applies to office development projects proposing the net addition of 50,000 or more gross square feet of use. Such projects must provide a child-care facility on or near the site of the development, arrange with a nonprofit organization to provide a child-care facility, or pay an in-lieu fee to the City.

*The Project Sponsor would comply with this requirement by paying an in-lieu fee as required by the Planning Code and based on drawings submitted with the Building Permit application.*

Q. Height Limits -- The project site is located within the 200-S and 350-S Height and Bulk Districts.

*The Modified Project would reach an approximate height of 161 feet, and thus would comply with the applicable height limit.*

R. Shadowing Property Under Jurisdiction of the Recreation and Park Commission -- Pursuant to Code **Section 295**, no building permit authorizing the construction of any structure exceeding 40 feet in height that will cast any shade or shadow upon any property under the jurisdiction of the Recreation and Park Commission during the times of one hour after sunrise and one hour before sunset, all year round, may be issued except on prior action of the Commission pursuant to the provisions of this Section. The Commission must conduct a hearing and must disapprove the issuance of any building permit governed by the provisions of this Section if it finds that the proposed project will have any adverse impact on the use of the property under the jurisdiction of the Recreation and Park Commission because of the shading or shadowing that it will cause, unless it is determined that the impact would be insignificant.

*The Planning Department conducted a shadow analysis which determined that the Project would not cast net new shadow on any open space under the jurisdiction of, or designated to be acquired by the Recreation and Park Commission.*

9. Exceptions Requested Pursuant to Section 309: The Planning Commission finds and determines that the following exceptions, as permitted in **Section 309(a)**, and as requested by the Project Sponsor are warranted and hereby granted:

A. Freight Maneuvering. The Modified Project requires an exception to the freight maneuvering requirements of Code **Section 155(d)**.

*The Modified Project proposes two freight loading spaces to be accessed via Tehama Street. Planning Code Section 155(d) requires that maneuvering for these spaces occur within the structure. Due to space constraints within the parking garage level, the Modified Project proposes that the maneuvering occur on Tehama Street. Due to the relatively low traffic speeds and volumes on Tehama Street, the periodic maneuvering of freight trucks should not significantly conflict with vehicular circulation. This exception was previously granted for Building 3 as part of the approvals for the original Foundry Square development.*

B. Bulk Limits. The Modified Project requires an exception to the bulk limit requirement, as set forth in Code **Sections 270 and 272**.

*The Modified Project is located in the 200-S and 350-S Height and Bulk Districts and is subject to the following bulk controls for the lower tower: a maximum length of 160 feet, a maximum diagonal dimension of 190 feet, and a maximum floor size of 20,000 square feet. The lower tower controls apply above the base height (1.25 times the widest abutting street or 50 feet whichever is greater) and up to the height of 160 feet. The widest abutting streets (Howard Street and First Street) are both approximately 82.5 feet wide. Therefore, the lower tower controls apply to the Modified Project above the height of 103 feet, or starting at approximately the 8th floor of the proposed building.*

*The maximum length dimension permitted under the Planning Code for the lower tower (Floors 8, 9, and 10) is 160 feet. The maximum proposed length dimension for Floors 8, 9, and 10 is approximately 150 feet, therefore, these floors comply with the maximum permitted length dimension.*

*The maximum diagonal dimension permitted under the Planning Code for the lower tower is 190 feet. The proposed diagonal dimension for Floors 8, 9, and 10 is approximately 209 feet, therefore, these floors exceed the maximum permitted diagonal dimension by approximately 19 feet.*

*The maximum average floor size permitted under the Planning Code for the lower tower is 17,000 square feet. The proposed average floor size for the lower tower is as follows:*

$$20,888 \text{ sq. ft. (Floor 8)} + 20,915 \text{ sq. ft. (Floor 9)} + 20,915 \text{ sq. ft. (Floor 10)} = 62,718 \text{ sq. ft.} / 3 = 20,906 \text{ sq. ft.}$$

*The proposed average floor size for the lower tower therefore exceeds the maximum permitted average floor size by approximately 3,906 square feet.*

*The maximum floor size permitted under the Planning Code for the lower tower is 20,000 square feet. The proposed floor size for Floor 8 is approximately 20,888, therefore, this floor exceeds the maximum permitted floor size by approximately 888 square feet. The proposed floor size for Floors 9 and 10 is approximately 20,915 square feet, therefore, these floors each exceed the maximum permitted floor size by approximately 915 square feet.*

*The Modified Project requires exceptions to the requirements for maximum diagonal dimension, maximum average floor size, and maximum floor size, pursuant to Code **Section 309(a)(12)**.*

Code **Section 272** recognizes that there may be some exceptional cases in which bulk limits may be properly exceeded to a certain degree, provided, however, that there are adequate compensating factors. Exceptions to the bulk limits may be approved in the manner provided in Code **Section 309**, provided that at least one of the five criteria set forth under Code **Section 272(a)** are met.

*Although the Modified Project is only required to meet one of the five criteria under Code Section 272(a), it would meet at least three of the criteria, as discussed below.*

**Section 272(a)(1):** Achievement of a distinctly better design, in both a public and a private sense, than would be possible with strict adherence to the bulk limits, avoiding an unnecessary prescription of building form while carrying out the intent of the bulk limits and the principles and policies of the General Plan;

*The building bulk exceptions would contribute to a better design by establishing a sense of proportionality with the large building base which in turn results from the larger Project Site. The bulk exceptions enable larger floor plates which would be suitable and practical for a wide variety of potential office tenants. The scale and character of the building is compatible with the remainder of the Foundry Square development, creating a corporate campus setting within an urban context. By configuring floor area within a relatively short, wider building, the Foundry Square development will preserve a sense of openness within an area slated for substantial future development of taller buildings. For these reasons and the additional reasons discussed under Section 272(a)(5) below, the building design carries out the intent of the bulk limits and the intent of the Downtown Plan to limit the impact of building mass and create a distinctly better design.*

**Section 272(a)(3):** The added bulk does not significantly affect light and air to adjacent buildings:

*The proposed building would be freestanding and surrounded by 82.5 foot wide streets on two sides (Howard Street and First Street) and by Tehama Street on the third side. The Modified Project would be adjacent to an existing 4-story building at 527 Howard Street; however, because the proposed building would have a 15-foot setback from the interior property line and no upper tower, adequate light and air would be provided to that building. The Foundry Square development, when considered in total, is comprised of wider buildings that are generally shorter than those in the vicinity. This configuration helps to create an area of openness and relief within the existing built environment, and will preserve this open character as the area surrounding the Transbay Terminal is intensely developed with larger buildings in the future. Based on the foregoing, the marginal added bulk would not significantly affect light and air to adjacent buildings.*

**Section 272(a)(5):** The building, structure or development is made compatible with the character and development of the surrounding area by means of all of the following factors:

- (A) A silhouette harmonious with natural land-forms and building patterns, including the patterns produced by height limits;
- (B) Either maintenance of an overall height similar to that of surrounding development or a sensitive transition, where appropriate, to development of a dissimilar character;

(C) Use of materials, colors and scales either similar to or harmonizing with those of nearby development; and

(D) Preservation or enhancement of the pedestrian environment by maintenance of pleasant scale and visual interest.

*The form of the modified Building 3 is compatible with the context of the other buildings within the Foundry Square development, as well as the character of other development in the vicinity. The scale of development in the area is varied. Older buildings in the area are typically one to four stories in height, while recent residential and office buildings are generally mid- to high-rise. The moderate height of the Modified Project will serve as a visual transition between shorter and taller structures in the area. The relatively short, wide configuration of the Foundry Square development will continue to provide relief and preserve areas of open sky as the area surrounding the Transbay Terminal develops with taller structures in the future. The alternating planes of stone-cladding and glass curtain walls will relate both to older masonry buildings in the area, as well as newer structures with more extensive glazing. The Modified Project includes a large, street-level open space plaza that offers variation in the street wall and provides seating, landscaping, and other amenities to pedestrians.*

Code **Section 272** also states that exceptions to the bulk limits shall not result in a building of greater total gross floor area than would be permitted if bulk limits were met.

*The bulk exceptions would not result in greater square footage than would be permitted if bulk limits were met. The maximum permitted floor area for the project site, including TDR's, is 683,064 square feet. (37,948 square foot lot area x 18:1 FAR). The FAR for the Modified Project (6.65:1, 252,500 square feet) continues to be within Code requirements and is less than would be possible if the building was designed to maximize allowable heights without bulk exceptions.*

10. Modification Required by the Commission: Code **Section 309(b)** provides that the Commission may impose additional requirements and limitations in order to achieve the objectives and policies of the General Plan. The Commission imposes conditions on the Modified Project as indicated above and included in Exhibit A (Conditions of Approval) appended to this motion.
11. Section 101.1 Priority Policy Findings: Code **Section 101.1(b)(1-8)** establishes Eight Priority Planning Policies and requires review of permits for consistency with said policies.

*The Commission finds and determines that the Modified Project is consistent with these eight priority policies for the reasons set forth below.*

A. That Existing Neighborhood-Serving Retail Uses be Preserved and Enhanced and Future Opportunities for Resident Employment in and Ownership of Such Businesses Enhanced.

*As described above, the 525 Howard Street building (currently occupied by a restaurant and nightclub) would be demolished as part of the Modified Project. However, the Modified Project proposes approximately 9,520 gross square feet of neighborhood-serving retail space on the ground floor which would provide future opportunities for resident employment in and ownership of neighborhood-serving retail business consistent with this priority policy.*

B. That Existing Housing and Neighborhood Character be Conserved and Protected in Order to Preserve the Cultural and Economic Diversity of Our Neighborhood.

*There is no existing housing on the Project Site. The area surrounding the project site is in transition, with larger residential and office buildings replacing surface parking lots and some low-rise commercial and industrial buildings. The scale of the Modified Project does not overwhelm the older historic structures to remain in the area, but is sufficiently large to contribute to the concentration of office activity emerging through the southerly expansion of the Financial District. No housing will be demolished on the project site.*

C. The City's Supply of Affordable Housing be Preserved and Enhanced.

*There is no existing affordable or market-rate housing on the Project Site. The development will be required to contribute fees to the Office Affordable Housing Production Program. Therefore, the Modified Project would be consistent with this priority policy.*

D. That Commuter Traffic not Impede Muni Transit Service or Overburden our Streets or Neighborhood Parking.

*The Modified Project is adjacent to the Transbay Terminal and is serviced by abundant transportation options. The Modified Project will include an amount of parking that was established in consideration of both the projected area-wide parking shortfall and Transit First objectives. The parking would be accessed via Tehama Street to avoid conflicts with transit vehicles. The original Foundry Square project included mitigation measures designed to reduce impacts to the circulation system during peak commute periods, and the FEIR concluded that the Project would not contribute disproportionately to peak hour congestion. The Addendum to the FEIR concludes that the Modified Project would not result in new significant transportation impacts.*

E. That a Diverse Economic Base be Maintained by Protecting our Industrial and Service Sectors from Displacement due to Commercial Office Development, and that Future Opportunities for Resident Employment and Ownership in these Sectors be Enhanced.

*The Project Site currently contains a surface parking lot and a building at 525 Howard Street (currently occupied by a restaurant and nightclub measuring 10,230 square feet) which would be demolished as part of the Modified Project. However, these uses would be replaced with approximately 9,520 gross square feet of ground-floor retail space. The Modified Project would not displace any industrial uses.*

*The Downtown Plan identifies the South of Market area, particularly near the Transbay Terminal, as a location to encourage new office development, including service sectors. The Modified Project, in combination with the other buildings in the Original Foundry Square Project (Buildings 1, 2 and 4), addresses these objectives by targeting key City service sector industries and seeking to retain major existing San Francisco employers in the City as primary tenants.*

F. That the City Achieve the Greatest Possible Preparedness to Protect Against Injury and Loss of Life in an Earthquake.

*The structural design of the building incorporates redundant lateral support systems (internal shear walls and large external movement frames), which will result in substantially reduced drift and acceleration during a seismic event.*

G. That Landmarks and Historic Buildings be Preserved.

*The existing building at 525 Howard Street is not considered an historic resource under CEQA, and the property is not located within an historic district. The building was constructed in 1921, but no longer retains its architectural integrity due to the removal of the original fenestration on the front elevation in 1982. The proposed demolition of this building would not adversely affect an historic resource. Furthermore, the project would not adversely impact nearby historic structures, as it is compatible with the scale and architectural design of existing structures in the area.*

H. That our Parks and Open Space and their Access to Sunlight and Vistas be Protected from Development.

*As set forth in the Addendum to the FEIR, the relatively modest design changes proposed as part of the Modified Project would not materially alter the 2000 FEIR analysis regarding shadow impacts on parks and open space. Further, because the building height would only be increased by approximately 4 feet, the Modified Project would not materially alter the conclusions in the 2000 FEIR regarding views and vistas.*

12. Consistency with the General Plan: The Modified Project would be, on balance, consistent with and will not adversely affect the General Plan as set forth below:

Commerce and Industry Element:

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

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

*The Modified Project proposes a total of approximately 252,500 gross square feet of office space and approximately 9,520 gross square feet of ground-floor retail space in the Downtown Core area in close proximity to existing services, including existing public transit services. The Modified Project would provide net benefits in the form of job creation and is anticipated to result in an increase in tax revenue for the City and an increase in retail activity in the immediate neighborhood.*

Policy 1.3: Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

*The Modified Project would locate office and retail space in the Downtown Core area zoned for the C-3-O (SD) (Downtown, Office) District pursuant to the generalized commercial and industrial land use plan.*

OBJECTIVE 2: MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

*The Modified Project will add jobs to the local economy. The building includes flexible space that is designed to accommodate a variety of job-producing tenants. The Modified Project will contribute to funding to address housing, child care, transit, and open space needs generated by the new employment.*

Downtown Plan Element:

OBJECTIVE 2: MAINTAIN AND IMPROVE SAN FRANCISCO'S POSITION AS A PRIME LOCATION FOR FINANCIAL, ADMINISTRATIVE, CORPORATE, AND PROFESSIONAL ACTIVITY.

Policy 2.1: Encourage prime downtown office activities to grow as long as undesirable consequences of such growth can be controlled.

Policy 2.2: Guide location of office development to maintain a compact downtown core and minimize displacement of other uses.

*The Modified Project will create flexible office space with large floor plates that can suit a variety of tenants. The building will contribute to the concentration of office activity in the emerging southern portion of the Financial District. Employees in the building will be able to commute via abundant transit options that serve the area and will be able to access goods and services without reliance on private automobiles*

OBJECTIVE 3: IMPROVE DOWNTOWN SAN FRANCISCO'S POSITION AS THE REGION'S PRIME LOCATION FOR SPECIALIZED RETAIL TRADE.

Policy 3.5: Meet the convenience needs of daytime downtown workers.

*The Modified Project includes approximately 9,520 square feet of ground-floor retail uses. This retail space will meet the needs of employees within the building and the surrounding neighborhood, and will serve to activate the streetscape. In addition, the addition of office workers will contribute to the viability of the retail services in the vicinity.*

OBJECTIVE 9: PROVIDE QUALITY OPEN SPACE IN SUFFICIENT QUANTITY AND VARIETY TO MEET THE NEEDS OF DOWNTOWN WORKERS, RESIDENTS, AND VISITORS.

OBJECTIVE 10: ASSURE THAT OPEN SPACES ARE ACCESSIBLE AND USABLE.

Policy 10.5: Address the need for human comfort in the design of open spaces by minimizing wind and maximizing sunshine.

OBJECTIVE 11: PROVIDE CONTRAST AND FORM BY CONSCIOUSLY TREATING OPEN SPACE AS A COUNTERPOINT TO THE BUILT ENVIRONMENT.

Policy 11.1: Place and arrange open space to complement and structure the urban form by creating distinct openings in the otherwise dominant streetwall form of downtown.

*The Modified Project will include a large open plaza area that will be readily accessible to the public during daylight hours. This plaza will complement similar open space areas associated with the previous phases of the Foundry Square development that are situated at the other corners of the intersection of First and Howard Streets. The other plazas, combined with the intervening streets will create a sense of openness within the plaza and will help to maximize access to sunshine. The expansion of Building 3 should not appreciably affect wind patterns in the area.*

**OBJECTIVE 22: IMPLEMENT A DOWNTOWN STREETScape PLAN TO IMPROVE THE DOWNTOWN PEDESTRIAN CIRCULATION SYSTEM, ESPECIALLY WITHIN THE CORE, TO PROVIDE FOR EFFICIENT, COMFORTABLE, AND SAFE MOVEMENT.**

*The Modified Project will create streetscape interest for the pedestrian by introducing ground floor retail uses. The Modified Project will add street trees along portions of the First Street and Howard Street sidewalks, which will buffer pedestrians from automobile traffic. The open plaza area will create alternate routes for pedestrians, and the landscaping and seating within the plaza will serve as pleasant areas for pedestrians to rest.*

Urban Design Element:

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

**Policy 1.6:** Make centers of activity more prominent through design of street features and by other means.

*The Modified Project, combined with the overall Foundry Square development, will provide a significant center of activity made prominent through design of street features and open space. Street features include ground-floor retail and street trees to enhance the pedestrian experience that will facilitate movement within the Financial District and to the Transbay Terminal. The plaza is designed to form a large, central space at the intersection of First and Howard Streets, creating a sense of place within the Transbay Loop district, which currently lacks a positive sense of identity.*

**OBJECTIVE 3: MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.**

**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 Modified Project would be compatible with the scale of development in the Financial District area as a whole and more specifically with the other buildings in the Original Foundry Square Project (Buildings 1, 2 and 4).*

**OBJECTIVE 4: IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.**

**Policy 4.13:** Improve pedestrian areas by providing human scale and interest.



*The Modified Project relates to human scale through the introduction of ground-floor retail uses, street trees, and the large plaza area.*

Transportation Element:

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 Site is located within the existing high-density Financial District in close proximity to a variety of transportation options. Because the area is dense and well-established, the Modified Project would make good use of the existing transit services available in the area.*

OBJECTIVE 12: DEVELOP AND IMPLEMENT PROGRAMS IN THE PUBLIC AND PRIVATE SECTORS, WHICH WILL SUPPORT CONGESTION MANAGEMENT AND AIR QUALITY OBJECTIVES, MAINTAIN MOBILITY AND ENHANCE BUSINESS VITALITY AT MINIMUM COST.

Policy 12.1 (See also policies under Objective 16 and Objective 17): Develop and implement strategies which provide incentives for individuals to use public transit, ride share, bicycling and walking to the best advantage, thereby reducing the number of single occupancy auto trips.

*The Modified Project is subject to City policies of general application to office developments, including transportation system management program requirements. In addition, the Modified Project is subject to mitigation measures regarding a commute alternatives program (including employee information packets, regular distribution of information on transportation system changes, and regular distribution of information promoting use of public transit, ride-sharing and flex time), transit subsidies (either subsidized passes, debit cards, or pre-tax transit funds account) and aggressive single-occupancy vehicle reduction goals exceeding the average of other C-3 District buildings.*

*The parking operation will include: (1) A financial disincentive for long-term parking pursuant to Planning Code Section 155(g) and (2) A prohibition on daily, weekly, or monthly discounted parking rates.*

13. The Modified 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 Modified Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development. The Commission finds that granting the Modified Project Authorization in this case would promote the public welfare, convenience and necessity of the City for the reasons set forth above.

**DECISION**

The Commission, after carefully balancing the competing public and private interests, based upon the Record, the submissions by the Project Sponsor, the staff of the Department and other interested parties, the oral testimony presented the public hearing, and all other written materials submitted by all parties, hereby **APPROVES** Application No. 2008.0001X subject to the conditions attached hereto as Exhibit A, which is incorporated herein by reference as though fully set forth, in general conformance with the plans stamped Exhibit B and dated June 26, 2008, on file in Case Docket No. 2008.0001X. Except as expressly modified herein for the Modified Project, Commission Motion No. 15005 continues in full force and effect.

**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 adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.**

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting on June 26, 2008.

Linda Avery  
Commission Secretary

AYES: Olague, Antonini, Borden, Miguel

NAYS: Moore, Sugaya

ABSENT: Lee

ADOPTED: June 26, 2008

# Exhibit A

## Conditions of Approval

Wherever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the Modified Project or other persons having an interest in the Modified Project or underlying property.

The authorization contained herein is a Determination of Compliance and exceptions under the Planning Code (**Section 270** and **Section 272**: bulk-limits and **Section 155(d)**: freight maneuvering) given pursuant to Code **Section 309**, generally as described in the text of Motion No. 17642, in Application No. 2008.0001X, and as shown on plans dated June 26, 2008 labeled "Exhibit B" and on file with said Application, for the modification of Planning Commission Motion No. 15005 to allow for changes to a previously approved building (Building 3) including the addition of approximately 74,500 gross square feet of office space and approximately 2,120 gross square feet of retail space on Assessor's Block 3736, Lots 121 and 114 in a C-3-O (SD) (Downtown, Office) District and within a 200/350-S Height and Bulk District.

### 1. COMPLIANCE WITH OTHER REQUIREMENTS

This decision conveys no right to construct, or to receive or apply for a building permit. The Project Sponsor must obtain a project authorization under Code **Section 322**, and satisfy all the conditions thereof. The conditions set forth below are additional conditions required in connection with the Modified Project. If these conditions overlap with any other requirement imposed on the Modified Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

### 2. GENERAL CONDITIONS

- A. Mitigation Measures. The Project Sponsor shall implement the mitigation measures set forth in and otherwise comply with, the Mitigation Monitoring and Reporting Program attached to this Motion as Exhibit C and incorporated herein by this reference, except that Mitigation Measure No. G.17 is replaced in its entirety by the following mitigation measure, and only as to the Modified Project:

Based on a reasonable presumption that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of a qualified archeological consultant having expertise in California prehistoric and urban historical archeology. The archeological consultant shall undertake an archeological testing program as specified herein. In addition, the consultant shall be available to conduct an archeological monitoring and/or data recovery program if required pursuant to this measure. The archeological consultant's work shall be conducted in accordance

with this measure at the direction of the Environmental Review Officer (ERO). All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less than significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Section 15064.5 (a)(c).

*Archeological Testing Program.* The archeological consultant shall prepare and submit to the ERO for review and approval an archeological testing plan (ATP). The archeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archeological testing program will be to determine to the extent possible the presence or absence of archeological resources and to identify and to evaluate whether any archeological resource encountered on the site constitutes an historical resource under CEQA.

At the completion of the archeological testing program, the archeological consultant shall submit a written report of the findings to the ERO. If based on the archeological testing program the archeological consultant finds that significant archeological resources may be present, the ERO in consultation with the archeological consultant shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archeological testing, archeological monitoring, and/or an archeological data recovery program. If the ERO determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:

- A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or
- B) A data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.

*Archeological Monitoring Program.* If the ERO in consultation with the archeological consultant determines that an archeological monitoring program shall be implemented the archeological monitoring program shall minimally include the following provisions:

- The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils disturbing activities commencing. The ERO in consultation with the archeological consultant shall determine what project activities shall be archeologically monitored. In most cases, any soils-disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the risk these activities pose to potential archeological resources and to their depositional context;
- The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of

- the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource;
- The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with project archeological consultant, determined that project construction activities could have no effects on significant archeological deposits;
  - The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;
  - If an intact archeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, and present the findings of this assessment to the ERO.

Whether or not significant archeological resources are encountered, the archeological consultant shall submit a written report of the findings of the monitoring program to the ERO.

*Archeological Data Recovery Program.* The archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.

The scope of the ADRP shall include the following elements:

- *Field Methods and Procedures.* Descriptions of proposed field strategies, procedures, and operations.
- *Cataloguing and Laboratory Analysis.* Description of selected cataloguing system and artifact analysis procedures.
- *Discard and Deaccession Policy.* Description of and rationale for field and post-field discard and deaccession policies.
- *Interpretive Program.* Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program.

- *Security Measures.* Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities.
- *Final Report.* Description of proposed report format and distribution of results.
- *Curation.* Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.

*Human Remains and Associated or Unassociated Funerary Objects.* The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Section 5097.98). The archeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines. Section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.

*Final Archeological Resources Report.* The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.

Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.

- B. Community Liaison. The Project Sponsor shall appoint a community liaison officer to deal with issues of concern to owners and occupants of nearby properties at all times during construction of the Modified Project. **Prior to the commencement of construction activities**, the Project Sponsor shall provide the Zoning Administrator and the owners of the properties within 300 feet of the Project Site written notice of the name, business address, and telephone number of the community liaison.

- C. Recordation. Prior to the issuance of any building permit for the construction of the Modified 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, which notice shall state that construction of the Modified Project has been authorized by and is subject to the conditions of this Motion. From time to time after recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied, and record said writing if requested.
- D. Reporting. The Project Sponsor shall submit two copies of a written report describing the status of compliance with the conditions of approval contained within this Motion **every six months from the date of this approval through the issuance of the first temporary certificate of occupancy**. Thereafter, the submittal of the report shall be on an annual basis. This requirement shall lapse when the Zoning Administrator determines that all the conditions of approval have been satisfied or that the report is no longer required for other reasons.
- E. Construction
- (1) The Project Sponsor shall ensure the construction contractor will coordinate with the City and other construction contractor(s) for any concurrent nearby projects that are planned for construction so as to minimize, to the extent possible, negative impacts on traffic and nearby properties caused by construction activities.
  - (2) Truck movements shall be limited to non-peak hours to minimize disruption of the general traffic flow on adjacent streets.
  - (3) The contractor shall arrange for off-street parking for construction workers.
  - (4) The Project Sponsor and construction contractor(s) shall meet with the Traffic Engineering Division of the Department of Parking and Traffic, the Fire Department, MUNI, and the Planning Department to determine feasible traffic mitigation measures to reduce traffic congestion and pedestrian circulation impacts during construction of the Modified Project.
- F. First Source Hiring Program. The Modified Project is subject to the requirements of the First Source Hiring Program (Chapter 83 of the Administrative Code) and the Project Sponsor shall comply with the requirements of this program, including having an Occupancy Program approved by the First Source Hiring **Administrator prior to the issuance of the first Certificate of Occupancy**.
- G. San Francisco Resident Placement and Training Program. Pursuant to Planning Code **Section 164**, the Project Sponsor shall (1) prepare a local employment program to be approved by the Planning Director, or his or her designee, and to be implemented by the provider of employment brokerage services, and (2) execute an agreement with the Department, or its designee, for the provision of employment brokerage services and implementation of the local employment program. The Program shall comply with all other provisions of **Section 164**.
- H. Severability. 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 of the remaining

provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.

- I. Food Service. The Project Sponsor shall make best efforts to lease at least one of the ground floor retail spaces to a food service. In the event that the Project Sponsor is unable to lease a retail space to a food service, food service shall be provided by a cart or other portable device.
- J. Signage and Activation of Open Spaces. Within six months of this approval, the Project Sponsor shall provide a report to the Planning Commission regarding efforts to activate and program the existing open space plazas that have been developed as part of the overall Foundry Square development. As part of this report, the Project Sponsor shall discuss the provision of signage indicating that the open space plazas are available for use by the general public.

**3. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A BUILDING OR SITE PERMIT**

- A. Housing Fee. The Project Sponsor shall pay the Jobs-Housing Linkage Program (JHLP) fee as required by Planning Code **Section 313** and based on drawings submitted with the Building Permit Application.
- B. Design. The Project Sponsor and architects shall continue to work on aspects of the design development with the Department.
- C. Certification of Transfer of Development Rights. Prior to issuance of a building permit or site permit, the Project Sponsor shall complete the Transfer of Development Rights necessary to develop the Modified Project and have such transfer certified in compliance with Planning Code **Section 128(h)**.
- D. Signage. The Applicant shall develop a signage program for the Project, which shall be subject to review and approval by Department staff. All subsequent sign permits shall conform to the approved signage program. Once approved by the Department, the signage program information shall be submitted and approved as part of the first building or site permit for the Project.
- E. Lighting. The Applicant shall develop a lighting program for the Project, which shall be subject to review and approval by Department staff. The lighting program shall include any lighting required or proposed within the public right-of-way as well as lighting attached to the building. Once approved by Department staff, the lighting program information shall be submitted and approved as part of the first building or site permit for the Project.



4. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A FINAL ADDENDUM TO A BUILDING OR SITE PERMIT

A. Design

- (1) Except as otherwise provided in the attached Motion, the Modified Project shall be completed in compliance with the Planning Code and in general conformity with plans dated June 26, 2008, labeled "Exhibit B".
- (2) Final architectural and decorative detailing, materials, glazing, color and texture of exterior finishes shall be submitted for review by, and shall be satisfactory to the Planning Director.
- (3) Final detailed building plans shall be reviewed and approved by the Department. Detailed building plans shall include a final site plan, floor plans, elevations, sections, landscape plan, specification of finish materials and colors, and details of construction.
- (4) Highly reflective spandrel glass, mirror glass, or deeply tinted glass shall not be permitted. Only clear glass shall be used at pedestrian levels.
- (5) **Per Code Section 141**, rooftop mechanical equipment, if any, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

B. Publicly-Accessible Open Space.

- (1) The Modified Project shall include the open space generally described in this Motion.
- (2) The final open space design, including materials and their treatment, furniture, and planting plan including species shall be submitted for review by, and shall be satisfactory to the Planning Director.
- (3) Said public open space shall bear plaques at each entrance including the standard City logo identifying it, the hours open to the public (8:00 A.M. to 6:00 P.M.), and contact information for building management. A map showing other nearby open spaces that are publicly accessible shall also be provided in the open space area. Design of the plaque and the map shall be approved by the Department staff prior to installation. Said plaque shall include such information as availability of public restrooms, access to food service, number of seats, etc.

- C. Pedestrian Streetscape Improvements. A final pedestrian streetscape improvement plan including landscaping and paving materials and patterns, shall be submitted for review by, and shall be satisfactory to the Planning Director, in consultation with staff from the Department of Public Works and the Department of Parking and Traffic. Other agencies shall be contacted as appropriate. The Modified Project shall include pedestrian streetscape improvements as described in this Motion and in conformance with Planning Code **Section 138.1**, **Section 143**, and the Downtown Streetscape Plan.
- D. Public Artwork
- (1) The Project shall include the 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.
  - (2) The Project Sponsor and the Project artist shall consult with the Planning Department during design development regarding the height, size, type and location of the art. The final art concept and location shall be submitted for review by, and shall be satisfactory to the Director of the Department in consultation with the Commission.
- E. Garbage and Recycling. The building design shall provide adequate space designated for trash compactors and trash loading. Space for the collection and storage of recyclable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program, shall also be provided at the ground level of the Modified Project. Such space shall be indicated on the building plans.
5. **CONDITIONS TO BE MET PRIOR TO THE FIRST CERTIFICATION OF OCCUPANCY**
- A. Transit Impact Development Fee. The Project Sponsor shall pay the Transit Impact Development Fee (TIDF) as required by **Chapter 38** of the Administrative Code 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 Director with certification that the fee has been paid.
- B. Downtown Park Fee. The Project Sponsor shall pay the Downtown Park Fee as required by **Section 139** of the Code 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 Director with certification that the fee has been paid.
- C. Street Trees. The Project Sponsor shall provide (and maintain existing) street trees as set forth in Code **Section 143**, and as determined appropriate by the Planning Department and Department of Public Works.
- D. Childcare Brokerage Fee. The Project Sponsor shall pay the in lieu childcare fee to the City Controller required under Code **Section 314** 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 Director with certification that the fee has been paid.

- E. Publicly-Accessible Open Space. The Project Sponsor shall complete the on-site open space plaza as generally depicted on the plans dated June 26, 2008, labeled as "Exhibit B." and as developed with Department staff per Condition 4B above.
- F. Public Artwork
- (1) The Applicant shall install the public art generally as described in this Motion and make it available to the public. If the Zoning Administrator concludes that it is not feasible to install the work(s) of art within the time herein specified and the Project Sponsor provides adequate assurances that such works will be installed in a timely manner, the Zoning Administrator may extend the time for installation for a period of not more than twelve (12) months.
  - (2) The Project Sponsor shall comply with Code **Section 149(b)** by providing 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.
- G. Garbage and Recycling. The Project Sponsor shall provide the garbage and recycling areas as outlined above and contract for recycling pickup.
- H. Emergency Preparedness Plan. An evacuation and emergency response plan shall be developed by the Project Sponsor or building management staff, in consultation with the Mayor's Office of Emergency Services, to ensure coordination between the City's emergency planning activities and the Modified Project's plan and to provide for building occupants in the event of an emergency. The Modified Project's plan shall be reviewed by the Office of Emergency Services and implemented by the building management insofar as feasible before issuance of the final certificate of occupancy by the Department of Public Works. A copy of the transmittal and the plan submitted to the Office of Emergency Services shall be submitted to the Department. To expedite the implementation of the City's Emergency Response Plan, the Project Sponsor shall post information (with locations noted on the final plans) for building occupants concerning actions to take in the event of a disaster.

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