



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 20188 HEARING DATE MAY 10, 2018

Project Name: Central SoMa Housing Sustainability District – Planning Code and Business and Tax Regulations Code Amendments
Record No.: 2018-004477PCA
Staff Contact: Paolo Ikezoe, Senior Planner, Citywide Planning
(415) 575-9137; paolo.ikezoe@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RESOLUTION ADOPTING AND RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE AMENDMENTS TO THE SAN FRANCISCO PLANNING CODE AND BUSINESS AND TAX REGULATIONS CODE TO ESTABLISH THE CENTRAL SOUTH OF MARKET HOUSING SUSTAINABILITY DISTRICT, DELEGATING TO PLANNING DEPARTMENT STAFF CERTAIN REVIEW, AND MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE, FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1, AND FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, on May 1, 2018, Mayor Mark Farrell and Supervisor Jane Kim introduced an ordinance for Planning Code and Business and Tax Regulations Code Amendments to establish and implement the Central South of Market Housing Sustainability District (“Central SoMa HSD”).

WHEREAS, Assembly Bill 73 (“AB 73”), California Government Code Sections 66200 et seq., which took effect January 1, 2018, authorizes local municipalities to designate by ordinance one or more Housing Sustainability Districts (“HSD”) to provide a streamlined, ministerial approval process for residential and mixed use developments meeting certain requirements. AB 73 requires local agencies to prepare an Environmental Impact Report (“EIR”) to identify and mitigate the environmental impacts of designating an HSD. Projects approved under an HSD ordinance must implement applicable mitigation measures identified in the EIR.

WHEREAS, the Planning Code and Business and Tax Regulation Code Amendments would establish the Central SoMa HSD, which would provide a streamlined, ministerial process for approval by the Planning Department of developments in the Central South of Market Plan Area meeting the requirements of AB 73 and other eligibility criteria, and the Amendments propose to change the requirement to hold a Planning Commission hearing to consider discretionary review of these development proposals, in order to meet the streamlining requirements of AB 73.

WHEREAS, these amendments contain proposals for changes to standards from those currently established by the Planning Code and Business and Tax Regulations Code, including but not

limited to those for review and approval of residential and mixed-use developments and appeals of permit decisions to the Board of Appeals.

WHEREAS, this Resolution adopting and recommending that the Board of Supervisors approve the Planning Code and Business and Tax Regulation Code Amendments is a companion to other legislative approvals relating to the Central South of Market Plan ("Central SoMa Plan"), including recommendations that the Board of Supervisors approve amendments to the General Plan, Planning Code, Administrative Code, and Zoning Map, and an Implementation Program.

WHEREAS, These Planning Code and Business and Tax Regulations Code Amendments, together with the proposed General Plan, Planning Code, Administrative Code, and Zoning Map Amendments and the Implementation Program document, provide a comprehensive set of policies and implementation programming to realize the vision of the Plan. The Planning Code and Business and Tax Regulations Code Amendments help to implement the Central SoMa Plan by streamlining approval of residential and mixed-use development projects meeting certain eligibility criteria and thereby encouraging construction of on-site, permanently affordable housing units in the Plan Area. The Planning Code and Business and Tax Regulations Code Amendments will help the City achieve the Central SoMa Plan's goal of 33% affordable units across all new housing produced in the Plan Area, and may qualify the City for incentive payments from the State of California, which the City may use to provide additional community benefits in Central SoMa. The Planning Commission incorporates by reference the general findings and overview concerning the Central SoMa Plan as set forth in Planning Commission Resolution No. 20184 governing General Plan Amendments.

WHEREAS, the Planning Code governs permitted land uses and planning standards in the City. The Business and Tax Regulations Code provides the legislative basis for, direction to, and limitations on the review, approval, denial, and revocation of permits by executive agencies of the City. Thus, conforming amendments to the Planning Code and Business and Tax Regulations Code are required in order to establish and implement the Central SoMa HSD. An ordinance, attached hereto as Exhibit C, has been drafted in order to make revisions to the Business and Tax Regulations Code and Planning Code necessary to implement the proposed Central SoMa HSD. This ordinance amends Business and Tax Regulations Code Section 8 and 26 and adds Planning Code Section 343 to establish and implement the HSD. The City Attorney's Office has reviewed the draft ordinance and approved it as to form.

WHEREAS, on May 10, 2018, after a duly noticed public hearing, the Commission adopted the General Plan, Planning Code, Administrative Code, and Zoning Map Amendments and the Implementation Program document to give effect to the Central SoMa Plan.

WHEREAS, on May 10, 2018, after a duly noticed public hearing, the Commission reviewed and considered the Final Environmental Impact Report for the Central SoMa Plan ("Final EIR") and found the Final EIR to be adequate, accurate, and objective, thus reflecting the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the Draft EIR, and by Motion No. 20182 certified the Final EIR for the Central SoMa Plan as accurate, complete, and in compliance

with CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Business and Tax Regulation Code.

WHEREAS, on May 10, 2018, by Motion No. 20183, the Commission approved CEQA Findings, including a statement of overriding considerations, and adoption of a Mitigation Monitoring and Reporting Program (“MMRP”), under Case No. 2011.1356E, for approval of the Central SoMa Plan.

WHEREAS, the Final EIR analyzes the creation of a Housing Sustainability District in the Central SoMa Plan Area. The Planning Code and Business and Tax Regulations Code Amendments are within the scope of the Project evaluated in Final EIR.

WHEREAS, the Planning Code and Business and Tax Regulations Code Amendments would require developments approved under the Central SoMa HSD to implement applicable mitigation measures identified in the Final EIR.

WHEREAS, on May 10, 2018, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on the Planning Code and Business and Tax Regulation Code Amendments.

WHEREAS, Planning Department staff recommends adoption of this Resolution adopting and recommending that the Board of Supervisors approve the Planning Code and Business and Tax Regulation Code Amendments.

NOW, THEREFORE, BE IT RESOLVED, that the Commission hereby delegates its authority to the Planning Department to review applications for development eligible for streamlined review as part of under the Central SoMa HSD. The Planning Commission would not hold a public hearing for discretionary review of applications for eligible development under the Central SoMa HSD if the legislation is adopted substantially as proposed.

AND BE IT FURTHER RESOLVED, that the Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed Planning Code and Business and Tax Regulation Code Amendments for the following reasons:

1. The Planning Code and Business and Tax Regulation Code Amendments establish and implement the Central SoMa HSD, which will streamline approval of residential and mixed-use development projects that provide at least 10% on-site affordable housing and comply with certain prevailing wage and skilled and trained workforce requirements. The Planning Code and Business and Tax Regulations Code Amendments will help the City achieve the Central SoMa Plan’s goal of 33% affordable units across all new housing produced in the Plan Area, and may qualify the City for incentive payments from the State of California, which the City may use to provide additional community benefits in Central SoMa.
2. The Planning Code and Business and Tax Regulations Code Amendments will help implement the Central SoMa Plan, which will accommodate development capacity for up

to 33,000 jobs and 8,300 housing units by removing much of the Plan Area's industrially-protective zoning and increasing height limits on many of the Plan Area's parcels.

3. The Planning Code and Business and Tax Regulations Code Amendments will help implement the Central SoMa Plan, which will maintain the diversity of residents by requiring that more than 33% of new housing units are affordable to low- and moderate-income households, and by requiring that these new units be built in SoMa.
4. The Planning Code and Business and Tax Regulations Code Amendments will help implement the Central SoMa Plan, which will facilitate an economically diversified and lively jobs center by requiring most large sites to be jobs-oriented, by requiring production, distribution, and repair uses in many projects, and by allowing retail, hotels, and entertainment uses in much of the Plan Area.
5. The Planning Code and Business and Tax Regulations Code Amendments will help implement the Central SoMa Plan, which will provide safe and convenient transportation by funding capital projects that will improve conditions for people walking, bicycling, and taking transit.
6. The Planning Code and Business and Tax Regulations Code Amendments will help implement the Central SoMa Plan, which will offer parks and recreational opportunities by funding the construction and improvement of parks and recreation centers in the area and requiring large, non-residential projects to provide publicly-accessible open space.
7. The Planning Code and Business and Tax Regulations Code Amendments will help implement the Central SoMa Plan, which will create an environmentally sustainable and resilient neighborhood by requiring green roofs and use of non-greenhouse gas emitting energy sources. A proposal to include a Mello-Roos Community Facilities District ("CFD") in the Central SoMa Plan is also under consideration. This CFD would provide funding for environmental sustainability and resilience strategies to improve air quality, provide biodiversity, and help manage stormwater. The CFD would also help to create an environmentally sustainable and resilient neighborhood.
8. The Planning Code and Business and Tax Regulations Code Amendments will help implement the Central SoMa Plan, which will preserve and celebrate the neighborhood's cultural heritage by helping to fund the rehabilitation and maintenance of historic buildings. The CFD under consideration for addition to the Central SoMa Plan would provide funding to help preserve the Old Mint and for cultural and social programming for the neighborhood's existing residents and organizations. The CFD would also help to preserve and celebrate the neighborhood's cultural heritage.
9. The Planning Code and Business and Tax Regulations Code Amendments will help implement the Central SoMa Plan, which will ensure that new buildings enhance the character of the neighborhood and the City by implementing design controls that would generally help protect the neighborhood's mid-rise character and street fabric, create a strong street wall, and facilitate innovative yet contextual architecture.

AND BE IT FURTHER RESOLVED, that the Commission finds the Planning Code and Business and Tax Regulation Code Amendments are in general conformity with the General Plan, as it is proposed to be amended, as set forth in Planning Commission Resolution No. 20184, and for the following reasons:

HOUSING ELEMENT:

Objective 1

Identify and make available for development adequate sites to meet the City's housing needs, especially permanently affordable housing.

Policy 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

The proposed Ordinance will require 10% of units in any HSD project to be affordable to households of very low or low income. HSD projects subject to San Francisco's Section 415 inclusionary requirements must satisfy this requirement through the on-site option, and then may choose to provide the rest of the requirement on-site (affordable units at AMI levels required in 415) or through payment of the off-site fee option.

Policy 1.2

Focus housing growth and infrastructure necessary to support growth according to community plans. Complete planning underway in key opportunity areas.

Policy 1.10

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

The proposed Ordinance will accelerate entitlements and require provision of at least 10% on-site affordable housing for eligible projects in the Central SoMa Plan Area. The Central SoMa Plan envisions dense new housing and commercial space in one of the most transit-served areas in the region. Existing regional transit nodes on Market Street and at the 4th and King Caltrain station bookend the Plan Area, and a future Central Subway will connect the neighborhood to the rest of the city and region. The Area Plan also calls for large scale investments in pedestrian and bicycle infrastructure.

Objective 2

Retain existing housing units, and promote safety and maintenance standards, without jeopardizing affordability.

Policy 2.1

Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.

Policy 2.2

Retain existing housing by controlling the merger of residential units, except where a merger clearly creates new family housing.

The proposed Ordinance will not allow projects to participate in the Central SoMa HSD if they propose demolishing or merging any existing residential units.

Objective 3

Protect the affordability of the existing housing stock, especially rental units.

Policy 3.1

Preserve rental units especially rent controlled units, to meet the City's affordable housing needs.

The proposed Ordinance will not allow projects to participate in the Central SoMa HSD if they propose demolishing or merging any existing residential units, including rental units subject to Rent Control.

Objective 4

Foster a housing stock that meets the needs of all residents across lifecycles.

Policy 4.4

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

The proposed Ordinance will require 10% of units in any HSD project, whether it consist of rental or ownership units, to be permanently affordable to households of very low or low income.

Policy 4.5

Ensure that new permanently affordable housing is located in all of the city's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

100% affordable housing projects of any height will be eligible to participate in the proposed HSD and receive ministerial approval, if they meet all criteria of Section 343. All mixed income housing projects developed pursuant to the proposed Ordinance will be required to provide 10% of units on-site permanently affordable to very low or low income households.

Policy 4.6

Encourage an equitable distribution of growth according to infrastructure and site capacity.

The proposed Ordinance encourages new housing growth in the Central SoMa Plan Area. The Central SoMa Area Plan plans for new housing and commercial space, orienting major growth around a major transportation investment, the Central Subway. The Central Subway will add to an already dense transit network, in a neighborhood in close proximity to many jobs, services and activities, allowing new residents and employees of the neighborhood to rely on transit to get around. Additionally, the Plan calls for over \$2 billion in infrastructure investments, including open space, childcare and improved sustainable transportation facilities, to serve current and future residents, employees and visitors.

Objective 7

Secure funding and resources for permanently affordable housing, including innovative programs that are not solely reliant on traditional mechanisms or capital.

Policy 7.5

Encourage the production of affordable housing through process and zoning accommodations, and prioritize affordable housing in the review and approval process.

100% affordable housing projects of any height will be eligible to participate in the proposed HSD and receive ministerial approval, if they meet all criteria of Section 343. All mixed income housing projects developed pursuant to the proposed Ordinance will be required to provide 10% of units on-site permanently affordable to very low or low income households.

Objective 10

Ensure a streamlined, yet thorough, and transparent decision-making process.

Policy 10.1

Create certainty in the development entitlement process, by providing clear community parameters for development and consistent application of these regulations.

The proposed Ordinance will offer ministerial approval to projects meeting the clear, consistent requirements of proposed Section 343. Ministerial approvals offer an increased degree of certainty in the entitlement process.

Policy 10.2

Implement planning process improvements to both reduce undue project delays and provide clear information to support community review.

In addition to offering ministerial approval to qualifying projects, reducing project delay, the proposed Section 343 would require all HSD projects undergo a publicly noticed informational hearing prior to receiving approval. This hearing, which would be held in accordance with the Brown Act, would provide an opportunity for community review of the HSD project.

Policy 10.3

Use best practices to reduce excessive time or redundancy in local application of CEQA.

Policy 10.4

Support state legislation and programs that promote environmentally favorable projects.

The proposed Ordinance would implement locally a State Law (AB73) intended to promote environmentally favorable projects, and streamline environmental and entitlement review of such projects.

Objective 11

Support and respect the diverse and distinct character of San Francisco's neighborhoods.

Policy 11.1

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

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

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

The proposed Ordinance would require all HSD projects to undergo design review, and comply with all adopted design standards in the Urban Design Guidelines as well as the Central SoMa Plan's Guide to Urban Design.

Policy 11.7

Respect San Francisco's historic fabric, by preserving landmark buildings and ensuring consistency with historic districts.

The proposed Ordinance would not allow any project on a parcel containing a building listed in Articles 10 or 11 to participate in the HSD and receive ministerial approvals.

Objective 12

Balance housing growth with adequate infrastructure that serves the city's growing population.

Policy 12.1

Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

Policy 12.2

Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units.

Policy 12.3

Ensure new housing is sustainably supported by the City's public infrastructure.

The proposed Ordinance encourages new housing growth in the Central SoMa Plan Area. The Central SoMa Area Plan plans for new housing and commercial space, orienting major growth around a major transportation investment, the Central Subway. The Central Subway will add to an already dense transit network, in a neighborhood in close proximity to many jobs, services and activities, allowing new residents and employees of the neighborhood to rely on transit to get around. Additionally, the Plan calls for over \$2 billion in infrastructure investments, including open space, childcare and improved sustainable transportation facilities, to serve current and future residents, employees and visitors.

Objective 13

Prioritize sustainable development in planning for and constructing new housing.

Policy 13.1

Support “smart” regional growth that locates new housing close to jobs and transit.

The proposed Ordinance will accelerate entitlements of certain qualifying housing projects in the Central SoMa Plan Area. The zoning proposed in the Central SoMa Plan Area is flexible, allowing housing or commercial space on most properties. Any housing developed in Central SoMa will be in very close proximity to the region’s largest job center – both existing jobs as well as new jobs in commercial buildings enabled by the Plan – and transit.

Policy 13.2

Promote sustainable land use patterns that integrate housing with transportation in order to increase transit, pedestrian and bicycle mode share.

The proposed Ordinance will accelerate entitlements of certain qualifying housing projects in the Central SoMa Plan Area. The Central SoMa Plan envisions dense new housing and commercial space in one of the most transit-served areas in the region. Existing regional transit nodes on Market Street and at the 4th and King Caltrain station bookend the Plan Area, and a future Central Subway will connect the neighborhood to the rest of the city and region. The Area Plan also calls for large scale investments in pedestrian and bicycle infrastructure.

CENTRAL SOMA AREA PLAN:

GOAL 1: INCREASE THE CAPACITY FOR JOBS AND HOUSING

Objective 1.1

INCREASE THE AREA WHERE SPACE FOR JOBS AND HOUSING CAN BE BUILT

Policy 1.1.1

Retain existing zoning that supports capacity for new jobs and housing.

Policy 1.1.2

Replace existing zoning that restricts capacity for development with zoning that supports capacity for new jobs and housing.

The proposed Ordinance would allow housing projects complying with all zoning controls adopted as part of the Central SoMa Plan the option to participate in the HSD, provided all eligibility criteria of Section 343 are met. The proposed Ordinance would not allow mixed-income projects over 160 feet in height to participate in the HSD, however 100% affordable projects of any height would be potentially eligible to participate in the HSD

Objective 1.2

INCREASE HOW MUCH SPACE FOR JOBS AND HOUSING CAN BE BUILT

Policy 1.2.1

Increase height limits on parcels, as appropriate.

Policy 1.2.2

Allow physical controls for height, bulk, setbacks, and open space to determine density

The proposed Ordinance would allow projects meeting all height limits and physical controls set by the Central SoMa Area Plan the option to participate in the HSD, provided all other eligibility criteria of Section 343 are met. The proposed Ordinance would not allow mixed-income projects over 160 feet in height to participate in the HSD, however 100% affordable projects of any height would be potentially eligible to participate in the HSD.

GOAL 2: MAINTAIN THE DIVERSITY OF RESIDENTS

Objective 2.1

MAINTAIN THE EXISTING STOCK OF HOUSING

Policy 2.1.1

Continue implementing controls that maintains the existing supply of housing.

The proposed Ordinance will not allow projects to participate in the Central SoMa HSD if they propose demolishing or merging any existing residential units, including rental units subject to Rent Control.

Objective 2.2

MAINTAIN THE AFFORDABILITY OF THE EXISTING HOUSING STOCK

Policy 2.2.1

Continue implementing controls and strategies that help maintain the existing supply of affordable housing.

The proposed Ordinance will not allow projects to participate in the Central SoMa HSD if they propose demolishing or merging any existing residential units, including rental units subject to Rent Control.

Objective 2.3

ENSURE THAT AT LEAST 33 PERCENT OF NEW HOUSING IS AFFORDABLE TO VERY LOW, LOW, AND MODERATE-INCOME HOUSEHOLDS

Policy 2.3.1

Set affordability requirements for new residential development at rates necessary to fulfill this objective.

Policy 2.3.3

Ensure that affordable housing generated by the Central SoMa Plan stays in the neighborhood.

The proposed Ordinance will require 10% of units in any HSD project to be affordable to households of very low or low income. HSD projects subject to San Francisco's Section 415 inclusionary requirements must satisfy this requirement through the on-site option, and then may choose to provide the rest of the requirement on-site (affordable units at AMI levels required in 415) or through payment of the off-site fee

option. 100% affordable housing projects of any height are potentially eligible to participate in the HSD if they meet all other eligibility requirements in Section 343.

Objective 2.4

SUPPORT HOUSING FOR OTHER HOUSEHOLDS THAT CANNOT AFFORD MARKET RATE HOUSING

Policy 2.4.1

Continue implementing strategies that support the development of “gap” housing.

The proposed Ordinance will require 10% of units in any HSD project to be affordable to households of very low or low income. HSD projects subject to San Francisco’s Section 415 inclusionary requirements must satisfy this requirement through the on-site option, and then may choose to provide the rest of the requirement on-site (affordable units at AMI levels required in 415) or through payment of the off-site fee option. 100% affordable housing projects of any height are potentially eligible to participate in the HSD if they meet all eligibility requirements in Section 343.

GOAL 8: ENSURE THAT NEW BUILDINGS ENHANCE THE CHARACTER OF THE NEIGHBORHOOD AND THE CITY

Objective 8.7

ESTABLISH CLEAR RULES FOR DEVELOPMENT

Policy 8.7.1

Whenever possible, delineate via the Planning Code what is allowed and not allowed in new development.

The proposed Ordinance would allow housing projects complying with all zoning controls adopted as part of the Central SoMa Plan the option to participate in the HSD, provided all eligibility criteria of Section 343 are met.

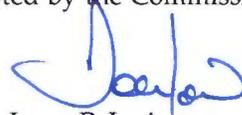
AND BE IT FURTHER RESOLVED, that the Commission adopts and incorporates by reference as though fully set forth herein the CEQA Findings set forth in Commission Motion No. 20183.

AND BE IT FURTHER RESOLVED, that the Commission adopts and incorporates by reference as though fully set forth herein the Mitigation Monitoring and Reporting Program, the requirements of which are made conditions of this approval.

AND BE IT FURTHER RESOLVED, that the Commission finds the Planning Code and Business and Tax Regulation Code Amendments are in general conformity with Planning Code Section 101.1 as set forth in Planning Commission Resolution No. 20184.

AND BE IT FURTHER RESOLVED, that the Commission adopts the Planning Code and Business and Tax Regulation Code Amendments as reflected in an ordinance approved as to form by the City Attorney attached hereto as Exhibit C, and incorporated herein by reference, and recommends their approval by the Board of Supervisors.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 10, 2018.



Jonas P. Ionin
Commission Secretary

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

NOES: None

ABSENT: None

ADOPTED: May 10, 2018

[Business and Tax Regulations, Planning Codes - Central South of Market Housing Sustainability District]

Ordinance amending the Business and Tax Regulations and Planning Codes to create the Central South of Market Housing Sustainability District (encompassing an area generally bounded on its western portion by Sixth Street, on its eastern portion by Second Street, on its northern portion by the border of the Downtown Plan Area (an irregular border that generally tracks Folsom, Howard, or Stevenson Streets), and on its southern portion by Townsend Street) to provide a streamlined and ministerial approval process for certain housing projects within the District meeting specific labor, on-site affordability, and other requirements; creating an expedited Board of Appeals process for appeals of projects within the District; and making approval findings under the California Environmental Quality Act, findings of public convenience, necessity, and welfare under Planning Code, Section 302, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

NOTE: Unchanged Code text and uncodified text are in plain Arial font. Additions to Codes are in *single-underline italics Times New Roman font*. Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~. Board amendment additions are in double-underlined Arial font. Board amendment deletions are in ~~Arial font~~. Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Environmental and Planning Code Findings.

(a) On _____, 2018 after a duly noticed public hearing, the Planning Commission certified the Final Environmental Impact Report (EIR) for the proposed Central SoMa Area Plan (the Project) by Motion No. _____, finding the Final EIR reflects

1 the independent judgment and analysis of the City and County of San Francisco, is adequate,
2 accurate and objective, and contains no significant revisions to the Draft EIR, and the content
3 of the report and the procedures through which the Final EIR was prepared, publicized, and
4 reviewed comply with the provisions of the California Environmental Quality Act (CEQA)
5 (Public Resources Code Sections 21000 et seq.), the CEQA Guidelines (14 Cal. Code Regs.
6 Sections 15000 et seq.) and Chapter 31 of the Administrative Code. Copies of the Planning
7 Commission Motion and Final EIR are on file with the Clerk of the Board of Supervisors in File
8 No. _____ and are incorporated herein by reference.

9 (b) The Project evaluated in the Final EIR includes proposed amendments to the
10 Planning Code, Administrative Code, and Zoning Map, as well as amendments to the General
11 Plan to adopt the Central South of Market ("Central SoMa") Area Plan and other related
12 amendments. The proposed Planning Code amendments and Business and Tax Regulations
13 Code amendments set forth in this ordinance are within the scope of the Project evaluated in
14 the Final EIR.

15 (c) At the same hearing during which the Planning Commission certified the Final EIR,
16 the Planning Commission adopted findings under CEQA regarding the Project's
17 environmental impacts, the disposition of mitigation measures, and project alternatives, as
18 well as a statement of overriding considerations (CEQA Findings) and adopted a mitigation
19 monitoring reporting program (MMRP), by Resolution No. _____.

20 (d) At the same hearing, the Planning Commission, in Resolution No. _____,
21 recommended the proposed Planning Code amendments for approval and adopted findings
22 that the actions contemplated in this ordinance creating the Central South of Market Housing
23 Sustainability District are consistent, on balance, with the City's General Plan and eight
24 priority policies of Planning Code Section 101.1. The Board adopts these findings as its own.
25

1 A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No.
2 _____, and is incorporated herein by reference.

3 (e) Pursuant to Planning Code Section 302, the Board of Supervisors finds that the
4 Planning Code amendments and Business and Tax Regulations Code amendments will serve
5 the public necessity, convenience, and welfare for the reasons set forth in Planning
6 Commission Resolution No. _____, and the Board incorporates such reasons herein
7 by reference.

8 (f) The Board of Supervisors has reviewed and considered the Final EIR and the
9 environmental documents on file referred to herein. The Board of Supervisors has reviewed
10 and considered the CEQA Findings, and hereby adopts them as its own and incorporates
11 them by reference as though such findings were fully set forth herein.

12 (g) The Board of Supervisors adopts the MMRP as a condition of this approval, and
13 endorses those mitigation measures that are under the jurisdiction of other City Departments,
14 and recommends for adoption those mitigation measures that are enforceable by agencies
15 other than City agencies, all as set forth in the CEQA Findings and MMRP.

16 (h) The Board of Supervisors finds that no substantial changes have occurred in the
17 proposed Project that would require revisions in the Final EIR due to the involvement of new
18 significant environmental effects or a substantial increase in the severity of previously
19 identified significant effects; no substantial changes have occurred with respect to the
20 circumstances under which the proposed Project is to be undertaken that would require major
21 revisions to the Final EIR due to the involvement of new environmental effects or a substantial
22 increase in the severity of effects identified in the Final EIR, and no new information of
23 substantial importance to the proposed Project has become available that indicates that (1)
24 the Project will have significant effects not discussed in the Final EIR, (2) significant
25 environmental effects will be substantially more severe, (3) mitigation measures or

1 alternatives found not feasible that would reduce one or more significant effects have become
2 feasible or (4) mitigation measures or alternatives that are considerably different from those in
3 the Final EIR would substantially reduce one or more significant effects on the environment.
4

5 Section 2. The Business and Tax Regulations Code is hereby amended by revising
6 Sections 8 and 26, to read as follows:
7

8 **SEC. 8. METHOD OF APPEAL TO THE BOARD OF APPEALS.**

9 (a) Except for variance decisions and permits issued by the Entertainment Commission
10 or its Director, and as otherwise specified in this Section 8, appeals to the Board of Appeals shall
11 be taken within 15 days from the making or entry of the order or decision from which the
12 appeal is taken. Appeals of variance decisions shall be taken within 10 days.

13 (b) Appeals to the Board of Appeals of permit decisions made pursuant to Planning Code
14 Section 343 shall be taken within 10 days of the permit decision. This subsection (b) shall expire on the
15 Sunset Date of Planning Code Section 343, as defined in that Section. Upon the expiration of this
16 subsection, the City Attorney shall cause this subsection to be removed from the Business and Tax
17 Regulations Code.

18 (c) Appeals of actions taken by the Entertainment Commission or its Director on the
19 granting, denial, amendment, suspension, or revocation of a permit, or on denial of exceptions
20 from regulations for an Extended-Hours Premises Permit, shall be taken within 10 days from
21 the making of the decision. Nothing in this Section 8 is intended to require an appeal to the
22 Board of Appeals if any provision of Article 15, Article 15.1 (Entertainment Regulations Permit
23 and License Provisions), or Article 15.2 (Entertainment Regulations for Extended-Hours
24 Premises) of the Police Code governing these permits otherwise provides.
25

1 (d) Appeals shall be taken by filing a notice of appeal with the Board of Appeals and
2 paying to said Board at such time a filing fee as follows:

3 (a1) **Zoning Administrator, Planning Department, Director of Planning,**
4 **and Planning Commission.**

5 (1A) For each appeal from the Zoning Administrator's variance decision,
6 the fee shall be \$600.

7 (2B) For each appeal from any order, requirement, decision, or other
8 determination (other than a variance) made by the Zoning Administrator, the Planning
9 Department or Commission or the Director of Planning, including an appeal from disapproval
10 of a permit which results from such an action, the fee shall be \$600.

11 (b2) **Department of Building Inspection.**

12 (1A) For each appeal from a Department of Building Inspection denial,
13 conditional approval, or granting of a residential hotel or apartment conversion permit, the fee
14 shall be \$525.

15 (2B) For each appeal from the granting or denial of a building demolition,
16 or other permit (other than residential hotel conversion), the fee shall be \$175.

17 (3C) For each appeal from the imposition of a penalty only, the fee shall
18 be \$300.

19 (e3) **Police Department and Entertainment Commission.**

20 (1A) For each appeal from the denial or granting of a permit or license
21 issued by the Police Department, Entertainment Commission, or the Director of the
22 Entertainment Commission, to the owner or operator of a business, the fee shall be \$375; for
23 each such permit or license issued to an individual employed by or working under contract to
24 a business, the fee shall be \$150.

1 (2B) For each appeal from the revocation or suspension of a permit or
2 license by the Police Department, Entertainment Commission, or the Director of the
3 Entertainment Commission, the fee shall be \$375 for an entity or individual.

4 (d4) **Department of Public Works.** For each appeal from the decision of the
5 Director of the Department of Public Works concerning street tree removal by a City agency,
6 commission, or department, the fee shall be \$100.

7 (e5) For each appeal from any other order or decision, the fee shall be \$300.

8 (f6) For requests for rehearing under Section 16 of this Article 1, the fee shall
9 be \$150.

10 (g7) For requests for jurisdiction, the fee shall be \$150.

11 (h8) An exemption from paying the full fee specified in ~~Subsections (d)(1)~~
12 ~~through (7)(a), (b), (c), (d), (e), (f), and (g)~~ herein may be granted upon the filing under penalty of
13 perjury of a declaration of indigency on the form provided and approved by the Board. All
14 agencies of the City and County of San Francisco are exempted from these fees.

15 (i9) **Additional Requirements.**

16 (1A) Notice of appeal shall be in such form as may be provided by the
17 rules of the Board of Appeals.

18 (2B) On the filing of any appeal, the Board of Appeals shall notify in
19 writing the department, board, commission, officer or other person from whose action the
20 appeal is taken of such appeal. On the filing of any appeal concerning a structural addition to
21 an existing building, the Board of Appeals shall additionally notify in writing the property
22 owners of buildings immediately adjacent to the subject building.

23 (3C) Except as otherwise specified in this subsection (d)(9)(C), ~~t~~The Board of
24 Appeals shall fix the time and place of hearing, which shall be not less than 10 nor more than
25

1 45 days after the filing of said appeal, and shall act thereon not later than 60 days after such
2 filing or a reasonable time thereafter.

3 *(i)* In the case of a permit issued by the Entertainment
4 Commission or its Director, the Board of Appeals shall set the hearing not less than 15 days
5 after the filing of said appeal, shall act thereon not more than 30 days after such filing, and
6 shall not entertain a motion for rehearing.

7 *(ii)* In the case of a decision on a permit application made pursuant to
8 Planning Code Section 343, the Board of Appeals shall set the hearing not less than 10 days after the
9 filing of said appeal, shall act thereon not more than 30 days after such filing, and shall not entertain a
10 motion for rehearing. This subsection (d)(9)(C)(ii) shall expire on the Sunset Date of Planning Code
11 Section 343, as defined in that Section. Upon the expiration of this subsection, the City Attorney shall
12 cause this subsection to be removed from the Business and Tax Regulations Code.

13 *(4D)* With respect to any decision of the Board of Appeals related to any
14 "dwelling" in which "protected class members" are likely to reside (each as defined in
15 Administrative Code Chapter 87), the Board of Appeals shall comply with the requirements of
16 Administrative Code Chapter 87 which requires, among other things, that the Board of
17 Appeals not base any decision regarding the development of such units on information which
18 may be discriminatory to any member of a "protected class."

19 *(5E)* Pending decision by the Board of Appeals, the action of such
20 department, board, commission, officer or other person from which an appeal is taken, shall
21 be suspended, except for: *(i)* actions of revocation or suspension of permit by the Director of
22 Public Health when determined by the Director to be an extreme public health hazard; *(ii)*
23 actions by the Zoning Administrator or Director of the Department of Building Inspection
24 stopping work under or suspending an issued permit; *(iii)* actions of suspension or revocation
25 by the Entertainment Commission or the Director of the Entertainment Commission when the

1 suspending or revoking authority determines that ongoing operation of the activity during the
2 appeal to the Board of Appeals would pose a serious threat to public safety; and (iv) actions of
3 the Director of the Office of Cannabis awarding a Temporary Cannabis Business Permit.

4
5 **SEC. 26. FACTS TO BE CONSIDERED BY DEPARTMENTS.**

6 (a) Subject to ~~§~~subsection (b)-~~below~~, in the granting or denying of any permit, or the
7 revoking or the refusing to revoke any permit, the granting or revoking power may take into
8 consideration the effect of the proposed business or calling upon surrounding property and
9 upon its residents, and inhabitants thereof; and in granting or denying said permit, or revoking
10 or refusing to revoke a permit, may exercise its sound discretion as to whether said permit
11 should be granted, transferred, denied, or revoked.

12 * * * *

13 (e) Notwithstanding subsection (a), the provisions of Planning Code Section 343 shall govern
14 actions taken on the granting, denial, amendment, suspension, and revocation of permits regulated
15 under that Section 343, not the standards set forth in subsection (a) of this Section 26. This subsection
16 (e) shall become operative upon receipt of preliminary approval of Planning Code Section 343 by the
17 California Department of Housing and Community Development under California Government Code
18 Section 66202. This subsection shall expire by the operation of law in accordance with the provisions
19 of Planning Code Section 343(k). Upon its expiration, the City Attorney shall cause this subsection to
20 be removed from the Business and Tax Regulations Code.

21
22
23 Section 3. The Planning Code is hereby amended by adding Section 343, to read as
24 follows:

25 **SEC. 343. CENTRAL SOMA HOUSING SUSTAINABILITY DISTRICT.**

1 (a) Purpose. This Section 343 establishes a Housing Sustainability District within the Central
2 SoMa Plan Area (“Central SoMa Housing Sustainability District” or “Central SoMa HSD”) under
3 California Government Code Sections 66200 et seq. The purpose of the Central SoMa Housing
4 Sustainability District is to encourage the provision of on-site affordable housing in new residential
5 and mixed-use projects in Central SoMa by providing a streamlined, ministerial approval process for
6 such projects. The Central SoMa Plan anticipates that 33% of all new residential units produced
7 within the Plan Area will be permanently affordable to households of very low, low, or moderate
8 income. This Section 343 sets forth eligibility criteria, design review standards, and entitlement and
9 approval procedures for projects seeking approval pursuant to the requirements of the Central SoMa
10 Housing Sustainability District.

11 (b) Geography. The Central SoMa Housing Sustainability District shall include all parcels
12 within the Central SoMa Special Use District, which is defined in Section 249.78(b). The entirety of the
13 Central SoMa Special Use District is an “eligible location,” as that term is defined in California
14 Government Code Section 66200(e).

15 (c) Relationship to Other Planning Code Provisions. Except as otherwise provided in this
16 Section 343, all provisions of the Planning Code, including Section 249.78, that would be applicable to
17 projects approved pursuant to this Section 343 shall apply to such projects. In the event of a conflict
18 between other provisions of the Planning Code and this Section, this Section shall control.

19 (d) Eligibility. Projects seeking approval pursuant to this Section 343 shall meet all of the
20 following requirements:

21 (1) The project is located in a zoning district that principally permits residential uses.

22 (2) The project proposes no less than 50 dwelling units per acre, and no more than 750
23 dwelling units per acre.

24 (3) A majority of the project’s gross square footage is designated for residential uses.

25 All non-residential uses must be principally permitted in the underlying zoning district and any

1 applicable special use district(s), and may not include greater than 24,999 gross square feet of office
2 space that would be subject to the annual limit on office development set forth in Sections 321 et seq.

3 (4) The project does not exceed a height of 160 feet, except that any project whose
4 principal use is housing, where all such housing is restricted for a minimum of 55 years as affordable
5 for "persons and families of low or moderate income," as defined in California Health & Safety Code
6 Section 50093, shall be deemed to satisfy this subsection (c)(4) regardless of height.

7 (5) If the project sponsor seeks a density bonus pursuant to California Government
8 Code Section 65915 et seq., the project sponsor demonstrates to the satisfaction of the Planning
9 Department that the project would not result in a significant shadow impact.

10 (6) The project is not located on a lot containing a structure listed as a designated
11 landmark pursuant to Article 10 of the Planning Code or a contributory or significant structure
12 pursuant to Article 11 of the Planning Code.

13 (7) The project provides no less than 10% of its dwelling units as units affordable to
14 very low or low income families, using one of the following methods:

15 (A) For projects subject to Section 415, by electing to comply with Section 415
16 by choosing the On-Site Affordable Housing Alternative under Sections 415.5(g)(1)(A) or
17 415.5(g)(1)(D); or

18 (B) For projects not subject to Section 415, by entering into a regulatory
19 agreement with the City that contains the terms specified in Section 206.6(f).

20 (8) The project does not demolish, remove, or convert to another use any existing
21 dwelling unit(s).

22 (9) The project complies with all applicable zoning and any adopted design review
23 standards.

1 (10) The project sponsor complies with all Mitigation Measures in the Central SoMa
2 Environmental Impact Report (Central SoMa EIR) that the Planning Department determines are
3 applicable to the project.

4 (11) The project sponsor certifies that the project will comply with all applicable
5 requirements of California Government Code Section 66201(f)(4).

6 (12) The project shall comply with Government Code Section 66201(f)(5).

7 (13) A project is not deemed to be for residential use if it is infeasible for actual use as
8 a single or multifamily residence.

9 (e) Approving Authority. The Planning Department is the approving authority designated to
10 review permit applications for compliance with this Section 343.

11 (f) Application.

12 (1) Prior to submittal of an application for required approvals from the Planning
13 Department, a project sponsor seeking to apply pursuant to this Section 343 shall submit an
14 application for a preliminary project assessment (PPA), pursuant to Planning Department procedures.

15 (2) In addition to any requirements under other provisions of this Code for submittal of
16 application materials, an application under this Section 343 shall be submitted to the Department on a
17 form prescribed by the Department and shall include at minimum the following materials:

18 (A) A full plan set, including site plan, elevations, sections, and floor plans,
19 showing total number of units, and number of and location of units affordable to very low or low
20 income households;

21 (B) All documentation required by the Department in its response to the project
22 sponsor's previously-submitted PPA application;

23 (C) Documentation sufficient to support determinations that:

24 (i) the project meets all applicable zoning and any adopted design
25 review standards;

1 (ii) the project sponsor will implement any and all Mitigation Measures
2 in the Central SoMa EIR that the Planning Department determines are applicable to the project,
3 including but not limited to the following:

4 a. An agreement to implement any and all Mitigation Measures
5 in the Central SoMa EIR that the Planning Department determines are applicable to the project; and

6 b. Scope(s) of work for any studies required as part of any and all
7 Mitigation Measures in the Central SoMa EIR that the Planning Department determines are applicable
8 to the project. An application pursuant to this Section 343 shall not be deemed complete until such
9 studies are completed to the satisfaction of the Environmental Review Officer.

10 (iii) the project sponsor will comply with subsections (d)(10) and (d)(11)
11 of this Section 343.

12 (g) Decision and Hearing. The Department shall exercise ministerial approval of projects that
13 meet all the requirements in this Section 343. Section 329 of this Code shall not apply to projects that
14 are approved pursuant to this Section 343.

15 (1) Hearing. The Planning Department shall conduct an informational public hearing
16 for all projects that are subject to this Section 343 within 100 days of receipt of a complete application,
17 as defined in subsection (f).

18 (2) Decision. Within 120 days of receipt of a complete application, as defined in
19 subsection (f), the Planning Director or the Director's designee shall issue a written decision
20 approving, disapproving, or approving subject to conditions, the project. The applicant and the
21 Department may mutually agree to extend this 120-day period. If no written decision is issued within
22 120 days of the Department's receipt of a complete application, or within the period mutually agreed
23 upon by the Department and applicant, the project shall be deemed approved. The Planning Director
24 or the Director's designee shall include any certifications required by California Government Code
25 Section 66205(e) in a copy of the written decision.

1 (3) Grounds for Permit Denial. The Department may deny a Central SoMa HSD
2 project application only for one or more of the following reasons:

3 (A) The proposed project does not fully comply with this Section 343, including
4 but not limited to meeting all adopted design review standards and demonstrating compliance with all
5 applicable Mitigation Measures in the Central SoMa EIR that the Department determines are
6 applicable to the project.

7 (B) The project sponsor has not submitted all of the information or paid any
8 application fee required by this Section 343 and necessary for an adequate and timely design review or
9 assessment of potential impacts on neighboring properties.

10 (C) The Department determines, based upon substantial evidence in light of the
11 whole record of the public hearing on the project, that a physical condition on the site of development
12 that was not known and could not have been discovered with reasonable investigation at the time the
13 application was submitted would have a specific adverse impact upon the public health or safety and
14 that there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. As used
15 in this subsection (g)(3)(C), "specific adverse impact" means a significant, quantifiable, direct, and
16 unavoidable impact based on identified objective written public health or safety standards, policies, or
17 conditions, as in existence at the time the application is deemed complete.

18 (4) Appeal. The procedures for appeal to the Board of Appeals of a decision by the
19 Department under this Section 343 shall be as set forth in Section 8 of the Business and Tax
20 Regulations Code.

21 (5) Discretionary Review. No requests for discretionary review shall be accepted by
22 the Planning Department or heard by the Planning Commission or Board of Appeals for projects
23 subject to this Section 343.

24 (6) Progress Requirement. The project sponsor of any project approved pursuant to
25 this Section 343 shall obtain the first site or building permit for the project from the Department of

1 Building Inspection within 36 months of the Department's issuance of a written decision pursuant to
2 subsection (g)(2) of this Section 343. If the project sponsor has not obtained the first site or building
3 permit from the Department of Building Inspection within 36 months, then as soon as is feasible after
4 36 months has elapsed, the Planning Director shall hold a hearing requiring the project sponsor to
5 report on the status of the project, to determine whether the project sponsor has demonstrated good
6 faith in its effort to obtain the first site or building permit for the project. If the Planning Director finds
7 that the project sponsor has not demonstrated good faith in its efforts to obtain the first site or building
8 permit for the project, the Planning Director shall revoke the approvals for the project. Factors in
9 determining whether the project sponsor has demonstrated good faith in its efforts include, but are not
10 limited to, whether any delays are the result of conditions outside the control of the project sponsor and
11 whether changes in the financing of the project are necessary in order for construction to proceed.

12 (h) Design Review Standards. Projects subject to this Section 343 shall be reviewed for
13 compliance with the design standards set forth in the San Francisco Urban Design Guidelines and the
14 Central SoMa Plan's Guide to Urban Design, which are on file with the Planning Department, as
15 approved by the California Department of Housing and Community Development.

16 (i) District Affordability Requirement. At the request of the California Department of Housing
17 and Community Development, the Planning Department shall demonstrate that at least 20% of the
18 residential units constructed in the Central SoMa Housing Sustainability District during the life of the
19 District and pursuant to this Section 343 will be affordable to very low, low-, and moderate-income
20 households and subject to a recorded affordability restriction for at least 55 years.

21 (j) Monitoring and Enforcement. The Planning Department shall include, as conditions of
22 approval of all projects approved pursuant to this Section 343, monitoring and enforcement provisions
23 to ensure that the project meets all labor and wage requirements and complies with all identified
24 applicable mitigation measures. Projects found to be in violation of any of these conditions shall be
25 subject to the Administrative Enforcement Procedures in Section 176.1 of this Code, including

1 initiation of abatement proceedings or referral to the City Attorney or District Attorney for prosecution,
2 if not corrected within 90 days of service of any notice of violation issued under Section 176.1(c).

3 Conditions of approval shall include, but are not limited to:

4 (1) A project sponsor shall submit weekly reports to the Office of Labor Standards
5 Enforcement, certifying that a project approved pursuant to this Section 343 is complying with
6 subsections (d)(11) and (d)(12), if applicable to the project. Projects found to be in violation of
7 subsections (d)(11) and (d)(12) shall be subject to penalties pursuant to Section 1741 of the Labor
8 Code, in addition to any penalties assessed pursuant to Section 176.1 of this Code. All penalties shall
9 be paid prior to issuance of the project's First Certificate of Occupancy.

10 (2) The Planning Department shall monitor compliance with Central SoMa EIR
11 Mitigation Measures.

12 (3) The Planning Department shall monitor and report the construction of affordable
13 housing units under the Central SoMa Housing Sustainability District in its annual Housing Inventory,
14 which shall include the following information:

15 (A) Number of projects approved pursuant to this Section 343.

16 (B) Number of projects under construction pursuant to approvals obtained
17 under this Section 343.

18 (C) Number of projects completed pursuant to approvals obtained under this
19 Section 343.

20 (D) Number of dwelling units within projects completed pursuant to approvals
21 obtained under this Section 343.

22 (E) Number of dwelling units affordable to very low, low, moderate, and middle
23 income households within projects completed pursuant to approvals obtained under this Section 343.

24 (k) Operative and Sunset Dates.

1 (1) This Section 343 shall become operative upon receipt of preliminary approval by
2 the California Department of Housing and Community Development under California Government
3 Code Section 66202 ("Operative Date").

4 (2) This Section 343 shall expire by operation of law seven years from the Operative
5 Date, unless this Section 343 is renewed by ordinance pursuant to Government Code Section 66201(g),
6 in which case this Section 343 shall expire on the date specified in that ordinance ("Sunset Date").

7 (3) Upon the expiration of this Section 343, the City Attorney shall cause this Section
8 343 to be removed from the Planning Code. Pursuant to Government Code Section 66205(b), this
9 Section 343 shall govern the processing and review of any complete application submitted pursuant to
10 this Section 343 prior to the Sunset Date.

11
12 Section 4. Effective Date; Operative Date.

13 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
14 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
15 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
16 Mayor's veto of the ordinance.

17 (b) Consistent with Section 343(k)(1) of the Planning Code, this ordinance in its
18 entirety shall become operative upon receipt of preliminary approval by the California
19 Department of Housing and Community Development under California Government Code
20 Section 66202.

21
22 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
25 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By:



7 PETER R. MILJANICH
8 Deputy City Attorney

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