Project Approvals Background (prepared by Developer)

The initial Project design included the rehabilitation of the existing 10-story, 144-foot tall Aronson Building, and construction of a new, adjacent 47-story residential tower, reaching a roof height of 520 feet with a 30-foot tall mechanical penthouse. The two buildings would be connected and would contain up to 215 dwelling units, a core-and-shell museum space that would house The Mexican Museum, and approximately 4,800 square feet of retail space. Portions of the existing Jessie Square Garage would be reconfigured to increase the number of parking spaces from 442 spaces to up to 470 spaces, add loading and service vehicle spaces, and to allocate up to 215 parking spaces within the garage to serve the proposed residential uses. This initial Project design also proposed a “flex option” that would retain approximately 61,000 square feet of office uses within the existing Aronson Building, and would reduce the residential component of the Project to up to 191 dwelling units.

On June 27, 2012, the Planning Department published a draft Environmental Impact Report (“EIR”) pursuant to the California Environmental Quality Act (“CEQA”) that evaluated the potential environmental impacts of the original Project. On March 7, 2013, the Planning Department published a Comments and Responses document, responding to comments made regarding the draft EIR, and on March 21, 2013, the Planning Commission certified the EIR.

Three separate appeals of the Planning Commission’s certification of the EIR to the Board of Supervisors were filed in March and April 2013. These appeals raised issues primarily related to the Project’s potential for impacts to historic resources, traffic and circulation, pedestrian safety, and shadow impacts due to the height of the building. The Planning Department and 706 Mission Co. LLC (the “Project Sponsor”) responded in full to these concerns, and the Board of Supervisors unanimously voted to affirm the Planning Commission’s certification of the EIR on May 7, 2013.

In October 2012, the Project Sponsor filed entitlement applications for the initial Project design. Those entitlements included requests for: (1) a Determination of Compliance pursuant to Planning Code Section 309 with requested Exceptions from Planning Code requirements for “Reduction of Ground-Level Wind Currents in C-3 Districts,” “Off-Street Parking Quantity,” “Rear Yard,” and “General Standards for Off-Street Parking and Loading” to allow curb cuts on Third and Mission Streets (the “Section 309 Determination”); (2) a General Plan Referral; (3) an amendment to Height Map HT01 of the Zoning Maps of the Planning Code to reclassify a portion of the Project site from the 400-I Height and Bulk District to the 520-I Height and Bulk District (the “Height Map Amendment”); (4) an amendment to Zoning Map SU01 and the text of the Planning Code to establish the “Yerba Buena Center Mixed-Use Special Use District” (the “SUD”) on the property, which would modify specific Planning Code regulations related to permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations; and (5) a Major Permit to Alter for the construction of a new tower and the rehabilitation of the Aronson Building, a Category I (Significant) building under Article 11 of the Planning Code, located within the New Montgomery-Mission-Second Street Conservation District, including the removal of non-historic ground-floor infill materials, fire escapes, landings, and rooftop mechanical penthouse structures (the “Permit to Alter”).
Also in October 2012, the Project Sponsor requested an amendment to its September 25, 2008, request for review of a development exceeding 40 feet in height, pursuant to Planning Code Section 295, analyzing the potential shadow impacts of the Project to properties under the jurisdiction of the Recreation and Parks Department, to take into account the 47 story, 520-foot tall (with a 30-foot mechanical penthouse) Project design. Specifically, the applicant requested: (i) an amendment to the shadow budget for Union Square to increase the absolute cumulative limit (the “ACL”) for new shadow on Union Square (the “ACL Adjustment”); and (ii) a determination that the Project would have no substantial adverse effect on the use of Union Square and an allocation of shadow within the ACL to the Project (the “Section 295 Actions”).

In response to comments from the public and the Board of Supervisors regarding height and shadow on Union Square, and in an effort to alleviate these concerns, on May 20, 2013, the Project Sponsor requested a modification of these entitlement applications to reduce the height of the Project’s proposed tower from 520 feet (with a 30-foot-tall elevator/mechanical penthouse) to 480 feet (with a 30-foot-tall elevator/mechanical penthouse). As a result, the number of dwelling units in the Project was reduced from a maximum of 215 dwelling units to a maximum of 190 dwelling units, the number of residential parking spaces was reduced from a maximum of 215 spaces to a maximum of 190 spaces, and the “flex option” of retaining office space within the Project was eliminated. In connection with the reduced height of the Project, the Project Sponsor revised the request for the Height Map Amendment to reclassify a portion of the Project Site from the 400-I Height and Bulk District to the 480-I Height and Bulk District.

Based on an analysis prepared by Turnstone Consulting, the City’s environmental consultant for the Project, the initial design of the Project would have cast 337,744 shadow-foot-hours (“sfh”) of net new shadow on Union Square on a yearly basis, which would be an increase of about 0.09% of the Theoretically Available Annual Sunlight (“TAAS”) on Union Square. In conjunction with the Project Sponsor’s proposed modification of the height of the Project, Turnstone Consulting submitted a supplemental shadow analysis that concluded the Project as modified would cast 238,788 sfh of net new shadow on Union Square on a yearly basis, which is a reduction of 98,956 sfh of net new shadow on Union Square as compared to the initial Project design.

On April 3, 2013, the Historic Preservation Commission (“HPC”) held a hearing on the Project, and adopted Motion No. 0197, approving the Major Permit to Alter and adopting findings pursuant to CEQA. An appeal of this decision was filed on June 13, 2013 by Thomas N. Lippe of Lippe Gafney Wagner LLP on behalf of 765 Market Street Residential Owner’s Association, Friends of Yerba Buena, Paul Sedway, Ron Wornick, Matthew Schoenberg, Joe Fang, and Margaret Collins (collectively, the “Appellants”). The appeal of the Major Permit to Alter is scheduled to be heard by the Board of Supervisors on July 23, 2013.

On May 23, 2013, the Planning Commission and the Recreation and Park Commission held a joint public hearing on the Project. At that hearing, the Planning Commission adopted Resolution No. 18876 and the Recreation and Park Commission adopted Resolution No. 1305-014, approving the ACL Adjustment for Union Square. The Recreation and Park Commission adopted Motion No. 1305-015 recommending that the General Manager of the Recreation and
Park Department recommend to the Planning Commission approval of the Section 295 Actions. Also at the same hearing, the Planning Commission adopted Motion No. 18877 approving the Section 295 Actions.

In addition, on May 23, 2013, the Planning Commission adopted Motion No. 18878, determining that the Project is consistent with the objectives and policies of the General Plan and the Priority Policies of Section 101.1; adopted Motion No. 18894, approving the Section 309 Determination; and adopted Resolution No. 18879, recommending that the Board of Supervisors approve the Height Map Amendment and the SUD.

Further, on May 23, 2013, the Planning Commission adopted Motion No. 18875, adopting CEQA findings, including a Statement of Overriding Considerations, and adopting the Mitigation Monitoring and Reporting Program for the Project, pursuant to CEQA. The Planning Commission found that the modification of the Project to reduce its height resulted in no substantial changes that would require recirculation of the EIR.

Appellants filed an appeal of the Section 309 Determination on June 7, 2013. That appeal is expected to be heard by the Board of Appeals on July 31, 2013. The Appellants also filed a Jurisdiction Request with the Board of Appeals, asking the Board to take jurisdiction over the Planning Commission’s actions to approve the ACL Adjustment and the Section 295 Actions. The hearing on the Jurisdiction Request is scheduled for July 31, 2013.

The Board of Supervisors’ Land Use and Economic Development Committee will hold a hearing on the Height Map Amendment and SUD on July 15, 2013. The full Board of Supervisors will consider the Height Map Amendment and SUD, along with the appeal of the Major Permit to Alter, on July 23, 2013.