MEMORANDUM

TO: Oversight Board

FROM: Tiffany Bohee
Executive Director

SUBJECT: Adopting environmental findings pursuant to the California Environmental Quality Act and approving, subject to the review and approval of the Oversight Board and the Department of Finance, Part 1 of the Long Range Property Management Plan that addresses the disposition and use of three properties: (1) an improved subterranean public parking garage commonly known as the Jessie Square Garage located generally below Jessie Square Plaza (Assessor's Block 3706, Lot 275 and portions of Lot 277); (2) an approximately 9,778-square-foot undeveloped parcel fronting Mission Street between Third and Fourth Streets adjacent to Jessie Square Plaza (Assessor's Block 3706, a portion of Lot 277); and (3) a 3,690-square-foot air rights parcel located above Jessie Square Plaza (Assessor’s Block 3706, a portion of Lot 277).

Adopting environmental findings pursuant to the California Environmental Quality Act and approving, subject to the review and approval of the Oversight Board and the Department of Finance, a Purchase and Sale Agreement with 706 Mission Co LLC and with the Mexican Museum, as a third party beneficiary, for the disposition and use of three properties: (1) an improved subterranean public parking garage commonly known as the Jessie Square Garage located generally below Jessie Square Plaza (Assessor’s Block 3706, Lot 275 and portions of Lot 277); (2) an approximately 9,778-square-foot undeveloped parcel fronting Mission Street between Third and Fourth Streets adjacent to Jessie Square Plaza (Assessor’s Block 3706, a portion of Lot 277); and (3) a 3,690-square-foot air rights parcel located above Jessie Square Plaza (Assessor’s Block 3706, a portion of Lot 277).

EXECUTIVE SUMMARY

Over the last seven years, the former San Francisco Redevelopment Agency (the “RDA”), and now the Office of Community Investment and Infrastructure (“OCI”) as the successor agency to the RDA, has been working with 706 Mission Co LLC (the “Developer”), an affiliate of Millennium Partners, to develop an innovative, high-rise mixed-use project at the corner of Third and Mission Streets in the former Yerba Buena Center Redevelopment Project Area (“Project Area”). The project, which will be situated on vacant OCI-owned property fronting Jessie Square and Developer-owned property at 706 Mission Street, includes a high-rise residential tower adjacent and connected to the existing 10-story Aronson Building, and a new home for The Mexican Museum at the base of the project fronting Jessie Square Plaza.
The RDA entered into a series of agreements to effectuate the mixed-use project. In 2008, the
RDA entered into an exclusive negotiations agreement with the Developer to negotiate the terms
under which the RDA would sell its property to the Developer. Negotiations stalled due to the
economic recession, and the agreement was amended and restated in 2010. Also in 2010, the
RDA entered into (1) an exclusive negotiations agreement with The Mexican Museum to
negotiate the terms of its participation in the larger mixed-use project, and (2) a $10.5 million
grant agreement with The Mexican Museum for the design and construction of the interiors of
the new museum space.

Since 2010, substantial progress has been made by the Developer. The Developer is currently in
the process of obtaining entitlements for a project that includes: (1) a new 43-story tower (with
up to 190 residential units) connected to the existing historically significant Aronson Building;
(2) approximately 48,000 net square feet of cultural space for The Mexican Museum; (3)
approximately 5,000 gross square feet of ground-floor retail/restaurant space to be leased to The
Mexican Museum; and (4) use of the Jessie Square Garage for private and public uses (the
“Project”).

As contemplated in the earlier agreements with the Developer, the OCII Commission (the
“Commission”) authorized on July 16, 2013 a Purchase and Sale Agreement with the Developer
and The Mexican Museum, as a third party beneficiary (the “PSA”). Under the terms of the
PSA, OCII will sell its property, including the vacant parcel fronting Jessie Square Plaza and the
Jessie Square Garage, to the Developer. The Developer, in return, will purchase the property
from OCII for its appraised value of $34.28 million. In addition, the Developer will contribute a
number of other public benefits, including construction of the core and shell of the space for The
Mexican Museum, payment of a $5 million operating endowment for The Mexican Museum, and
payment of a 28% affordable housing fee. These public benefits are further described later in
this Memorandum.

The Oversight Board is being asked to approve two documents: (1) the PSA as described above,
and (2) Part 1 of the Long Range Property Management Plan (“LRPMP”) under Section 34191.5
of the Health and Safety Code. (This section is part of Assembly Bill No. 1484 (statutes 2012,
chapter 26), which together with Assembly Bill No. 1X 26 (statutes 2011, chapter 5) constitute
the “Redevelopment Dissolution Law”). The LRPMP, which is attached to Resolution No. 7-
2013 accompanying this Memorandum, proposes selling certain OCII-owned property to the
Developer to fulfill an enforceable obligation consistent with a federal governmental purpose, in
compliance with Redevelopment Dissolution Law. On July 16, 2013, the OCII Commission
approved the LRPMP and now submits it the Oversight Board for its review and approval under
Section 34191.5. If the Oversight Board approves the LRPMP, OCII will transmit it to the
Department of Finance for its review.

Approval of the LRPMP and the PSA will allow for the development of the last vacant site in the
Project Area, and realization of The Mexican Museum’s long-held vision of a permanent home
in the heart of the Yerba Buena cultural district.

Staff recommends approval of the LRPMP and the PSA.
BACKGROUND

The OCII Property

Under the terms of the PSA, OCII is proposing to sell three properties to the Developer. The three properties are: (1) an approximately 9,778-square-foot undeveloped parcel fronting Mission Street between Third and Fourth Streets, adjacent to Jessie Square Plaza (the "Mexican Museum Site"); (2) an improved subterranean public parking garage commonly known as the Jessie Square Garage located generally below Jessie Square Plaza (the "Jessie Square Garage"); and (3) a 3,690-square-foot air rights parcel above Jessie Square Plaza (the "Air Rights Parcel") (collectively, the "OCII Property"). A brief summary of each property follows:

1. The Mexican Museum Site. This property is the last of OCII’s undeveloped parcels in the Project Area. The land is subject to a 1993 Land Disposition Agreement, as amended eight times, with The Mexican Museum, a California nonprofit organization, for the purposes of constructing a stand-alone museum for The Mexican Museum (the “LDA”). The property subject to the LDA is currently unimproved, except for a foundation and basement that was previously constructed for a stand-alone museum, as part of the development of Jessie Square Garage (described below).

2. Jessie Square Garage. This property is improved with a four-level underground public parking structure with 442 spaces. The Jessie Square Garage was built as part of a larger construction project that included surrounding public improvements (including Jessie Square Plaza and the substructures for the Contemporary Jewish Museum and the Mexican Museum sites (“Jessie Square Garage/Improvements”). The Jessie Square Garage/Improvements were financed with approximately $43.1 million in tax allocation revenues bonds (2003 Series B and 2003 Series C) authorized by the Board of Supervisors (the “Garage Bonds”). As a result of the pledge and use of this tax increment to pay the debt service on the bonds, the City and County of San Francisco (the “City”) receives less property tax revenue for the City’s general fund. In order to make up for this lost revenue, the City and the RDA entered into that certain Cooperation and Tax Increment Reimbursement Agreement dated as of January 13, 2003, whereby the RDA agreed to pay to the City the operating revenues from the garage in the amount needed to reimburse the City for the foregone property tax revenues. To the extent that operating revenues are insufficient to cover the full amount of lost property tax revenues in any given tax period, the RDA, and now OCII, accrues debt to the City in the amount of the shortfall, plus interest. The Cooperation and Tax Increment Reimbursement Agreement is included on OCII’s Recognized Obligation Payment Schedule 13-14A as ROPS Line 138.

3. The Air Rights Parcel. This is a small air rights parcel above Jessie Square Plaza, a completed 38,000-square-foot public plaza. It is needed for the Project because a portion of the museum space will cantilever over Jessie Square Plaza.

The RDA originally acquired these properties with urban renewal funds provided through a federal Contract for Loan and Capital Grant dated December 2, 1966 and approved by the U.S.
Department of Housing and Urban Renewal (the “HUD Contract”). Under the HUD Contract, the RDA was required to use the federal funds to carry out redevelopment activities in accordance with the Yerba Buena Center Redevelopment Plan and the federal standards for urban renewal under Title I of the Housing Act of 1949.

In 1983, the RDA and the City executed, with HUD concurrence, the Yerba Buena Center Redevelopment Project Area Closeout Agreement (the “YBC Closeout Agreement”) whereby the RDA agreed to retain the OCII Property (and other parcels identified as “Project Property” in Exhibit A to the YBC Closeout Agreement) for disposition, subject to applicable federal law and subject further to restrictions on the use of any proceeds received from the sale or lease of the Project Property.

The Developer ENA

The Developer owns the real property commonly known as 706 Mission Street (the “Developer Property”), which is located adjacent to the OCII Property. The Developer Property is currently improved in part with the Aronson Building, an existing 10-story building of approximately 100,000 square feet of office and retail space, which has been designated as a Category I Significant Building pursuant to the City’s Planning Code and which has been informally determined to be eligible for placement on the National Register of Historic Places. Maps showing the OCII Property and the Developer Property (together, the “Site”) are included as Exhibit A to this Memorandum.

In 2008 the RDA Commission authorized an exclusive negotiations agreement with the Developer for the development of a high-rise mixed-use project to include the new home of The Mexican Museum. Unfortunately, progress under this agreement was severely impacted by the economic recession and the inability of the Developer to obtain project financing that resulted from the collapse of the global financial markets. In 2010, once the economy started showing signs of improvement and project financing become more readily available, the Developer and RDA entered into an amended and restated exclusive negotiations agreement to extend the term of the original agreement and make other changes to account for the revised project timeline and the impending expiration of the Project Area (the “Developer ENA”).

The Developer ENA contemplated that the RDA would transfer the OCII Property to the Developer and that the Developer would construct an integrated mixed-use development on the Site that included a tower of a height between 500 and 550 feet and a new 35,000 to 40,000-square-foot museum for The Mexican Museum. The existing Aronson Building was to be rehabilitated and incorporated into the overall project design. The Developer also proposed to purchase the Jessie Square Garage, which would serve both public and project-related uses.

The proposed real estate transaction contemplated under the Developer ENA called for the RDA to convey its property to the Developer for substantial consideration, which included the following: (1) the Developer’s construction of the base, core, and shell of the museum, to be conveyed after completion back to the RDA at no cost for use by The Mexican Museum; (2) the Developer’s payment of $5 million to an operating endowment for The Mexican Museum to support its future operations; (3) the payment or defeasance of the outstanding amount of bond
debt associated with the Garage Bonds (approximately $43 million); (4) the maintenance of at least 210 spaces in the Jessie Square Garage for public use; and (5) a 28% affordable housing requirement. These public benefits are further described later in this Commission Memorandum.

The Mexican Museum

As previously mentioned, the Mexican Museum Site is subject to a 1993 LDA with The Mexican Museum for the development of a stand-alone museum. However, in the Eighth Amendment to the LDA, dated Dec. 7, 2004, the RDA and The Mexican Museum agreed to pursue “a reduced scale of development on the Site providing for the potential of The Mexican Museum as a cultural component in a larger development.”

In 2008, concurrently with approval of the original exclusive negotiations agreement with the Developer, the RDA entered into a Memorandum of Understanding with The Mexican Museum and the San Francisco Arts Commission, which was subsequently amended three times (the “MOU”). Under the MOU, which provided grant funding in the amount of $820,000 and assistance for predevelopment and planning activities related to The Mexican Museum’s participation in the Project, the RDA and The Mexican Museum agreed that the Project, rather than the stand-alone facility contemplated under the LDA, was the best opportunity to develop a museum space for The Mexican Museum.

In December 2010, the RDA Commission authorized two additional agreements with The Mexican Museum: (1) an Exclusive Negotiations Agreement and (2) a Grant Agreement. The Exclusive Negotiations Agreement sets forth the terms and conditions for negotiating The Mexican Museum’s participation in the Project (the “Museum ENA”). The Grant Agreement requires the RDA to disburse approximately $10.5 million of RDA funding for predevelopment and planning activities and the design and construction of tenant improvements for the museum space in the Project. The Grant Agreement stipulates that this funding is to be disbursed through one or more future grant disbursement agreements. To date, $1.75 million has been authorized for disbursement under the Grant Agreement, but only about $900,000 has been spent to date by The Mexican Museum on predevelopment costs associated with the new museum space.

The Project

The Developer is currently in the process of pursuing regulatory approvals for a mixed-use project consisting of the following components:

1. A new 43-story residential tower (480 feet of occupied floors; 510 feet to top of structure) adjacent and physically connected to the existing Aronson Building, with up to 172 two- and three-bedroom units. The average unit size will be approximately 2,000 square feet;

2. A museum space of approximately 48,000 net square feet that will be leased to The Mexican Museum. The museum space will front Jessie Square Plaza, and be housed on the first four floors of the residential tower and the second through fourth floors of the Aronson Building;
3. A rehabilitated historically important Aronson Building, with ground-floor restaurant space that will be leased to The Mexican Museum, and up to 18 two- and three-bedroom residential units; and

4. The purchase of the Jessie Square Garage for public and project-related uses. The total number of parking spaces in the Jessie Square Garage would increase from 442 to 470 spaces. A maximum of 1:1 parking would be available for residents of the Project; the balance would remain available for general public parking, including parking for St. Patrick’s Church, the Contemporary Jewish Museum, and The Mexican Museum.

Conceptual renderings of the Project are attached to this Memorandum as Exhibit B.

**Project Approvals**

Certain City approvals or actions are required for the Project, including approvals or actions from the Planning Commission, Recreation and Park Commission, Historic Preservation Commission, and Board of Supervisors. Throughout the approvals process, the Developer has relied on financial feasibility analyses prepared by the land use economics firm, Economic and Planning Systems Inc. ("EPS"). To independently verify EPS’s conclusions, staff hired Keyser Marston Associates Inc., another real estate economics firm ("KMA"). KMA concurred with EPS’s conclusions. The EPS and KMA reports are included in Exhibit C to this Memorandum.

Recent and upcoming City approvals and actions are summarized below and further detailed in Exhibit D, which was prepared by the Developer:

**Planning Commission:**
- March 21, 2013 – Certification of the Final Environmental Impact Report ("FEIR") (See Exhibit E)
- May 23, 2013 – Approval of: (1) a Section 309 Determination and General Plan Referral; (2) a recommendation to the Board of Supervisors of the Height Map Amendment (from 400-I to 480-I), (3) a Zoning Map and Planning Code Text Amendment to establish the Yerba Buena Center Mixed-Use Special District; and (4) a Shadow Budget Amendment for Union Square and other shadow determinations per Planning Code Section 295

**Recreation and Park Commission**
- May 23, 2013 – Approval of a Shadow Budget Amendment for Union Square and other shadow determinations per Planning Code Section 295

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1 Planning Code Section 309 establishes a framework for review of construction or substantial alteration of structures in C-3 (Downtown Commercial) Zoning Districts. Projects are reviewed for conformity with the Planning Code and the General Plan, and modifications may be imposed on various aspects of a project, including overall building form, impacts to public views, shadows and wind levels on sidewalks and open spaces, traffic circulation, preservation of historic resources, and landscaping, to achieve this conformity. Through the Section 309 review process, a project sponsor may also request exceptions from certain requirements of the Planning Code. The Developer requested exceptions for ground-level wind current, off-street parking, rear yards, and off-street parking and loading.
Historic Preservation Commission
- April 3, 2013 — Approval of a Major Permit to Alter (for construction of the new tower and rehabilitation of the Aronson Building, a Category I Significant Building under Article 11 of the Planning Code)

Board of Supervisors
- May 7, 2013 — Decision to uphold certification of the EIR
- July 23, 2013 — Hearing on Height Map Amendment, Zoning Map and Text Amendment for Special Use District; hearing on Appeal of Major Permit to Alter

Board of Appeals
- July 31, 2013 — Hearing on Appeal of Section 309 Determination, Jurisdiction Request (asking the Board of Supervisors to take over jurisdiction of the Planning Commission’s actions to approve the Shadow Budget Amendment for Union Square and the other Planning Code Section 295 actions)

As noted above, certain of these approvals and actions have been appealed to either the Board of Supervisors or the Board of Appeals. The certification of the FEIR by the Planning Commission was upheld by the Board of Supervisors on May 7, 2013; all of the other appeals are still pending. The appeals have 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 residential tower. A summary of these issues are summarized below:

- **Shadow Impacts.** Per the FEIR, the Project would have a less than significant project-level shadow impact on parks and other public open spaces, and would not substantially impair the use or enjoyment of Union Square or Jessie Square Plaza. The Project would, however, result in a cumulatively considerable contribution to a significant cumulative shadow impact on public open spaces. There is no feasible mitigation to reduce the impact to a less than significant level. Any significant development on the Project Site will shadow downtown open space and sidewalks, which would also be impacted by other development in the vicinity. The FEIR considered two alternatives that would eliminate the Project’s shadow impact from Union Square, but would not reduce the Project’s contribution to shadow impacts to less than a cumulatively considerable level, because the alternatives would still shadow other public open spaces.

Despite the lack of feasible mitigation, the Project has been redesigned to minimize net new shadow on Union Square. The Project was moved westward from the original design in part to reduce shadow on Union Square. Additionally, 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 Developer requested a modification to its 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 height reduction also reduced the amount of net new shadow on Union Square by approximately 29%.

The FEIR included a “Reduced Shadow Alternative” that reduced the height of the residential tower to 351 feet to eliminate net new shadow on Union Square. The feasibility analysis prepared by EPS, and peer-reviewed by KMA, shows that the Reduced Shadow Alternative is not financially feasible. The law firm of Lippy Gaffney Wagner LLP, as legal counsel for a group of Project opponents, retained Eric Sussman to provide a critique of EPS’ analysis of the financial feasibility of the Reduced Shadow Alternative. Mr. Sussman is a real estate economist and lecturer at the University of California at Los Angeles’s business school. Using a different set of assumptions (including cost per unit size, floor plate size, efficiency ratio, and sales price per unit), Mr. Sussman found the Reduced Shadow Alternative to be financially feasible.

EPS prepared a response to Mr. Sussman’s analysis, and found his methodology to be flawed. At the request of OCII, KMA also reviewed Mr. Sussman’s analysis and also found the methodology to be flawed because it projects what EPS and KMA believe to be an unachievable average sales price of $3.47 million per unit. KMA found that as a result of the overstated sales price per unit, Mr Sussman’s overall residential sales projection for 27 floors in the Reduced Shadow Alternative is higher than the projection for the Project with 43 floors, even though the Reduced Shadow Alternative has 16 fewer floors. KMA also found that Mr. Sussman’s pricing projection is not supported by sales at 301 Mission Street, a highly comparable residential tower project recently completed by Millennium Partners, even after adjustments for time. For example, the units on the first 27 floors at 301 Mission Street sold for an average sales price of $1.23 million between spring 2012 through winter 2013, as compared to Mr. Sussman’s average sales price of $3.47 million per unit. Furthermore, KMA found that Mr. Sussman’s projected sales prices fail to account for the limited views on the lower floors. At 301 Mission Street, sales prices did not reach $3 million until well above the 27th floor, while Sussman projects more than $3 million per unit on the lower floors. Mr. Sussman’s analysis, as well as the responses by EPS and KMA, are attached to this Memorandum as Exhibit C.

- **Pedestrians.** Per the EIR, the Project will not result in any significant project-level or cumulative pedestrian impacts. However, a number of comments about pedestrian safety were made by the public and the Board of Supervisors. The EIR identifies three “Improvement Measures” to improve pedestrian traffic and safety conditions in the vicinity, including reducing existing pole clutter and pedestrian obstructions on the Third Street sidewalk, positioning a traffic control attendant at the Project’s Third Street driveway, and assessing the feasibility of measures to reduce potential pedestrian-vehicle conflicts.

- **Historic Resources.** The EIR identifies no significant impacts related to historic resources. The Project would not result in any significant environmental impacts to the

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2 The height of the Reduced Shadow Alternative, at 351 feet, is less than the 400 feet allowed under current zoning.
Aronson Building as a historic resource or to historic districts, including the Aronson Historic District and the New Montgomery-Mission-Second Street Conservation District. Because the Project would not have a significant impact on historic resources, no mitigation measures are required, although the EIR analyzes an alternative (the "Separate Buildings Alternative") that would minimize changes to the Aronson Building to further reduce the less-than-significant impacts of the Project.

- **Transportation.** The EIR identifies no significant transportation impacts. However, a number of comments about transportation and traffic issues were made by the public and the Board of Supervisors. The EIR identifies a variety of Improvement Measures to further reduce the Project's less-than-significant transportation impacts, including traffic signal timing modifications, "garage full" signs on Third and Mission Streets, monitoring and abatement of queues on Third and Mission Streets, installation of eyebolts to reduce pole clutter supporting Muni's overhead wire system, consolidation of traffic signal and overhead wire poles, pedestrian measures on Third Street, and measures to reduce potential conflicts between construction activities and pedestrians, transit, and autos.

**DISCUSSION**

**The Purchase and Sale Agreement**

The PSA, if approved by the Oversight Board and subject to DOF's review, would convey the OCII Property to the Developer. The conveyance will be a sole source sale that is consistent with California Community Redevelopment Law. OCII has complied with the procedural requirements for notice and public hearing for the sale of the OCII Property without a public bid, as described in Section 33431 of the Health and Safety Code.

The PSA also includes The Mexican Museum as a third party beneficiary of certain sections of the agreement, including provisions related to design and construction of the core and shell of the museum space, conveyance and leasing of the museum space, the endowment, and termination of the LDA. None of these sections may be modified or amended without the prior written consent of The Mexican Museum. Additionally, pursuant to these beneficiary rights, The Mexican Museum has remedies to enforce those sections of the PSA.

The PSA is attached as Exhibit F to this Memorandum. The key terms of the PSA are summarized below:

- **Purchase Price.** The purchase price for the OCII Property is $34,280,000, which is equal to the sum of (1) the $21,620,000 fair market value of the Jessie Square Garage and the $12,570,000 fair market value of Parcel CB-1-MM "As-Is Scenario A," each as reflected in the Valuation Report for Jessie Square/Parcel CB-1-MM/Jessie Square Garage prepared by CBRE for OCII, dated June 12, 2013 and (2) the $90,000 fair market value of the Jessie Square Airspace Parcel as reflected in the Valuation Report for the Jessie Square Airspace Parcel prepared by CBRE for OCII, dated June 12, 2013.
• **Construction of the Museum Space.** Consistent with the terms of the Developer ENA, the PSA obligates the Developer to construct the base, core and shell of the museum space, which will be approximately 48,000 net square feet fronting Jessie Square Plaza. The estimated cost of the base, core and shell of the museum space, including predevelopment costs, is $18 Million.

The Mexican Museum will be responsible for the cost of tenant improvements to the museum space. The Museum anticipates funding the tenant improvements through a combination of the grant funds authorized under the 2010 Grant Agreement with the RDA, fundraising, and a potential reauthorization of hotel tax bonds by the City. The proposed layout of the museum space is shown in Exhibit G.

• **Ownership and Lease of the Museum Space.** Under the Developer ENA, the Developer was required to convey the core and shell of the museum space to the RDA at no cost upon completion of construction. Under Redevelopment Dissolution Law, it is no longer possible for OCII to retain ownership of the Project's cultural component. Therefore, the PSA contemplates a transfer of the core and shell of the museum space to the City at no cost, rather than OCII, upon completion of construction, and a lease between the City and The Mexican Museum. If the City does not ultimately agree, and no other public designee of OCII can be identified, then the Developer will retain ownership of the museum space, which will be deed restricted as a cultural use. The Developer will then enter into a lease with The Mexican Museum. Potential lease terms between the City and The Mexican Museum have not yet been negotiated. Potential terms for a 99-year lease (66 years, plus up to three 11-year options) between the Developer and The Mexican Museum are included in Attachment T to the PSA.

• **Affordable Housing Fee.** The Developer will comply with the City's Residential Inclusionary Affordable Housing Program (the "Inclusionary Program") through the payment of an in-lieu fee based on 20% of the units in the Project. Currently, the amount of the fee required under the Inclusionary Program, based on the maximum of 190 units, is approximately $13.3 million. Under the PSA, the Developer will pay an additional in-lieu fee to OCII based on 8% of the units in the Project (the "OCII Fee"). Currently, the OCII Fee is estimated at $5.3 Million, for a total affordable housing fee of $18.6 million.

• **Operating Endowment.** The Developer also is required to contribute $5 million to an operating endowment for The Mexican Museum to help support its ongoing operations. The funds will be delivered to an escrow account in three equal installments as follows: (1) one-third no later than 30 days after issuance of the building permit for the core and shell of the museum space; (2) one-third after no later than 30 days after The Mexican Museum is granted access to the core and shell of the museum space for construction of tenant improvements; and (3) one-third no later than 30 days after The Mexican Museum opens the museum space to the public or one year after the temporary certificate of occupancy has been issued for the museum space, whichever is earlier. OCII will have some oversight over this endowment to ensure that it is preserved for its intended purpose.
• **Jessie Square Garage.** Under the PSA, the Jessie Square Garage will be conveyed to the Developer. Consistent with the City approvals for the Project, a maximum of 1:1 parking would be available for residents of the Project; the balance would remain available for general public parking, including parking for St. Patrick’s Church, the Contemporary Jewish Museum, and The Mexican Museum.

The Developer will repay the outstanding debt associated with the Garage Bonds and the Cooperation and Tax Reimbursement Agreement. The amount of this indebtedness as of June 1, 2013 is $25,284,468 under the Garage Bonds and $18,311,670 under the Cooperation and Tax Reimbursement Agreement, for a total payment of $43,596,138. The Developer will receive a dollar-for-dollar credit toward the payment of the purchase price based on repaying this indebtedness. Any costs of paying off this debt in excess of the appraised value will be considered a public benefit in favor of OCII.

This transaction has the additional benefit of defeasing the Garage Bonds, which will free up future tax increment that would otherwise have been used for debt service. Thus, the transaction will result in an increase in payments to taxing entities during future years as well as facilitate the winding down of the Successor Agency’s obligations with respect to this existing obligation.

• **Open Space Payments and Fee.** In recognition of the significant investment of public funds by OCII and the City in the development of the public open spaces at Yerba Buena Gardens (the “Gardens”) and in the surrounding neighborhood, the Developer has agreed to pay to OCII the following:

1. An ongoing annual payment to support the Gardens and other South of Market public open spaces (the “Annual Payment”). The Annual Payment will go toward general operations, cultural operations, capital expenditures and other purposes benefiting these public open spaces. At least 50% of the Annual Payment, currently estimated to be $500,000, will be used within the Gardens. OCII will be working with the City and community stakeholders to determine what City-owned South of Market open spaces will receive the balance of the Annual Payment, and how those funds will be spent. The Annual Payment will be increased annually by the Consumer Price Index for this area.

2. A one-time fee to support South of Market public open spaces (the “One-Time Fee”). The One-Time Fee, estimated to be about $1.66 million, will go toward general operations, cultural operations, capital expenditures and other purposes benefiting South of Market public open spaces. It is based on the one-time open space fee the Developer would have paid if the Project were located within the Transit Center District Plan area. OCII will be working with the City and community stakeholders to determine what City-owned South of Market open spaces will receive the One-Time Fee, and how it will be spent.

• **Transfer Payment.** The PSA requires a transfer payment upon the first and each subsequent sale of a residential condominium unit in the Project for specified public
benefits within the South of Market neighborhood (the “Transfer Payment”). The Transfer Payment will fund (i) affordable housing, (ii) homeless, youth and senior services, and (iii) small business and nonprofit rental assistance. It will be based on a percentage of cumulative gross sales. The estimated net present value of the Transfer Payment is approximately $10.7 million. Again, OCII will be working with the City and community stakeholders to determine how the Transfer Payment is spent in the South of Market neighborhood.

- **Pedestrian Improvements.** The PSA requires the Developer to make a number of pedestrian improvements, as follows:

  1. The Developer will work with OCII and the City to pursue various upgrades to Stevenson Street, including physical improvements and a full-time traffic manager, at the Developer’s sole expense. The estimated value of these improvements is approximately $5 million.

  2. The Developer will pursue a second midblock crosswalk on Mission Street between Third and Fourth Streets or equivalent pedestrian improvements, if recommended by a pedestrian study that will be undertaken pursuant to Planning Commission Motion No. 18894, at the Developer’s sole expense. The estimated value of these improvements is approximately $300,000.

  3. The Developer will make a payment of $86,400 to OCII to fund a six-month pilot program that will station personnel from the City’s Department of Parking and Traffic at key intersections (i.e., Mission and Third Streets, Mission and Fourth Streets, and Stevenson and Third Streets). OCII will be working with the City to provide these traffic enforcement services.

- **Deposits/Liquidated Damages.** The PSA requires the Developer to make three performance deposits totaling $2.7 million that will be applied to the redemption of the Garage Bonds if the Project moves forward. However, in the event the Developer fails to close escrow and the Project does not move forward, the Developer has agreed to pay liquidated damages consisting of (1) any performance deposits held by OCII at that time, (2) replenishment of any grant funds expended by The Mexican Museum pursuant to the Grant Agreement, and (3) OCII’s existing staffing costs. The timing and amount of the payments is further detailed in Section 1.3 of the PSA, attached as Exhibit C.

- **Schedule of Performance.** The PSA provides for close of escrow within 18 months (with a six-month extension at the Executive Director’s discretion), commencement of construction within 30 months from conveyance of the OCII Property to the Developer, and completion of construction 36 months thereafter.

As further detailed in Exhibit H to this Memorandum, the present value of all the Developer’s contributions and public benefits, including impact fees paid directly to the City, is approximately $118 million.
Long Range Property Management Plan

Redevelopment Dissolution Law imposes certain requirements on successor agencies established by AB 26, including a requirement that each successor agency must prepare a long range property management plan to dispose of any of its properties (Cal Health & Safety Code § 34191.5). The plan must include an inventory of all successor agency properties, with information about date of acquisition, purpose of acquisition, parcel data, current value, revenue generation, environmental contamination, potential for transit-oriented development, and previous development proposals for each property. The plan must also categorize each property by one of four permissible uses: (1) retention for governmental use; (2) retention for future development; (3) disposition; or (4) use of the property to fulfill an enforceable obligation.

Attached as an exhibit to Resolution No. 7-2013, which accompanies this Memorandum, is Part 1 of OCII’s LRPMP, which includes only the OCII Property that is the subject of the PSA. As detailed in the LRPMP, OCII is proposing to sell the OCII Property to the Developer of the Project at its appraised value to fulfill the enforceable obligation applicable to completion of urban renewal projects (i.e., disposition for economic development purposes) and thus to serve the federal governmental purposes, as further explained below:

Enforceable Obligation. The disposition of the OCII Property fulfills the contractual obligations under the YBC Closeout Agreement, which is a “legally binding and enforceable agreement” that meets the definition of an “enforceable obligation.” Cal Health & Safety Code § 34171(d)(1)(E). The disposition complies with the authorized uses described in Exhibit B, § 1(a) of the YBC Closeout Agreement (i.e. “appropriate economic development activities” with “related parking integrated with open space . . . and cultural facilities.”)

Governmental Purpose. The RDA, and now the Successor Agency, have held the OCII Property for the governmental purposes described in the YBC Closeout Agreement and the Community Development Block Grant (“CDBG”) program (See 24 C.F.R. §§ 570.201 (completion of urban renewal projects under Title I of the Housing Act of 1949) and 24 C.F.R. § 570.800 (pre-1996 federal urban renewal regulations continue to apply to completion of urban renewal projects)) (“CDBG Program Requirements”).

The YBC Closeout Agreement is an enforceable obligation requiring the Successor Agency to retain the property until it is transferred for “necessary and/or appropriate economic development activities.” YBC Closeout Agreement, § 1 (b) (“The Project Property shall be retained for disposition by the Agency.”)

The YBC Closeout Agreement establishes that the disposition of the OCII Property serves a “governmental purpose” because it implements the federal requirements for the use of property acquired with federal funds. The proposed disposition of OCII Property for a cultural facility and ancillary parking complies with authorized uses under the YBC Closeout Agreement, Exhibit B, § 1(a) (i.e. “appropriate economic development activities” with “related parking integrated with open space . . . and cultural facilities.”) and the CDBG Program Requirements.
**Benefit to Taxing Entities**

In approving the YBC Closeout Agreement, HUD emphasized that “all future proceeds from the sale or lease of Project Property must be treated as program income under the CDBG program.” Letter, H. Dishroom, HUD Area Manager, to D. Feinstein, Mayor, Re: Project No. Calif. R-59 (Aug. 10, 1983). In light of this federal enforceable obligation, proceeds from the disposition of the OCII Property are not available for distribution under Redevelopment Dissolution Law because the federal government characterizes the proceeds as program income under the CDBG program. However, disposition of the OCII property contemplated under the PSA and LRPMP will result in the refunding of the Garage Bonds, which will relieve the City of a debt burden and free up future tax increment for distribution to the taxing entities, including the City, the Bay Area Rapid Transit District, the San Francisco Community College District, and the San Francisco Unified School District (the “Taxing Entities”). Additionally, the OCII Fee (for affordable housing) generated by the Project will reduce future draws from the Redevelopment Property Tax Trust Fund to satisfy OCII’s retained housing obligations.

The Project will generate other revenues to the Taxing Entities, as follows:

*Property Taxes.* The Project will generate more revenues from property taxes payable to the Taxing Entities compared with existing conditions. These revenues are summarized in the table below, which shows that property tax revenues distributed to the Taxing Entities are projected to increase from about $73,000 per year under current conditions to approximately $1.5 million per year upon completion of the Project. More detailed calculations, and the assumptions used to generate these calculations, are included in Exhibit I.

**706 Mission Estimated Annual Property Tax Allocations**

(Base Secured Tax Rate - 1% Total)

<table>
<thead>
<tr>
<th>Taxing Entity</th>
<th>Allocation (of 1% Base Secured Tax Rate)</th>
<th>Development Scenario</th>
<th>As-Is</th>
<th>Proposed Mixed-Use Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>City and County of San Francisco</td>
<td>64.6% $33,029</td>
<td>As-Is</td>
<td>$719,565</td>
<td></td>
</tr>
<tr>
<td>Educational Revenue Augmentation Fund</td>
<td>25.3% $23,833</td>
<td>Proposed Mixed-Use Project</td>
<td>$519,244</td>
<td></td>
</tr>
<tr>
<td>SF Unified School District</td>
<td>7.7% $7,245</td>
<td>As-Is</td>
<td>$157,820</td>
<td></td>
</tr>
<tr>
<td>SF Community College District</td>
<td>1.4% $1,355</td>
<td>As-Is</td>
<td>$29,609</td>
<td></td>
</tr>
<tr>
<td>BART</td>
<td>0.6% $593</td>
<td>As-Is</td>
<td>$12,966</td>
<td></td>
</tr>
<tr>
<td>BAAQMD</td>
<td>0.2% $198</td>
<td>As-Is</td>
<td>$4,275</td>
<td></td>
</tr>
<tr>
<td>County Office of Education</td>
<td>0.1% $94</td>
<td>As-Is</td>
<td>$1,995</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0% $66,346</strong></td>
<td></td>
<td><strong>1,445,475</strong></td>
<td></td>
</tr>
</tbody>
</table>

Note: As-is condition reflects property taxes generated by the Developer Property. Property tax is not generated by the OCII Property.
**Sales Taxes.** EPS, on behalf of the Developer, estimates that the Project will generate net new sales of approximately $22.5 million a year. These revenues would be distributed as shown in the table below.

### 706 Mission Estimated Annual Net New Sales Tax Allocations

<table>
<thead>
<tr>
<th>Taxing Entity</th>
<th>Assumptions</th>
<th>Net New Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Purposes</td>
<td>6.50% of taxable sales</td>
<td>$1,463,033</td>
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<tr>
<td>City General Fund</td>
<td>1% of taxable sales</td>
<td>$225,082</td>
</tr>
<tr>
<td>BART</td>
<td>0.50% of taxable sales</td>
<td>$112,541</td>
</tr>
<tr>
<td>San Francisco County Transportation Authority</td>
<td>0.50% of taxable sales</td>
<td>$112,541</td>
</tr>
<tr>
<td>SF Public Financing Authority</td>
<td>0.25% of taxable sales</td>
<td>$56,270</td>
</tr>
<tr>
<td></td>
<td>8.75% of taxable sales</td>
<td>$1,969,467</td>
</tr>
</tbody>
</table>

**Other Fiscal Benefits.** Finally, the Developer estimates that the Project will generate a number of other fiscal benefits, including: up to approximately $17.3 million in one-time development revenues and impact fees and approximately 1,000 construction jobs.

**Compliance with OCII Workforce Policies**

The PSA requires the Developer to comply with all applicable OCII employment and contracting programs, including, but not limited to, the programs on small business enterprises, construction workforce, equal benefits, minimum compensation, healthcare accountability, and prevailing wages.

Because the Developer does not anticipate starting construction for at least 18 months, it has not yet assembled its team of consultants and contractors. However, the Developer has expressed a strong commitment to working with OCII staff to comply with OCII's workforce policies, and assemble a diverse project team. Additionally, pursuant to the PSA, the Developer is required to: (1) provide quarterly updates prior to OCCI prior to the commencement of construction regarding its efforts to meet the 50% small business enterprise goals; (2) submit an equal opportunity program for approval by OCII staff prior to the close of escrow; and (3) utilize the services of and provide funding to the Office of Economic and Workforce Development for construction placement services.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Based on the analysis contained in the Final Environmental Impact Report for the Project (the “FEIR”) (see Exhibit E), and the findings pursuant to the California Environmental Quality Act ("CEQA") adopted by the San Francisco Planning Commission (the “Planning Commission”) on March 21, 2013, by Motion No. 18829 certifying the FEIR and establishing a Mitigation Monitoring Program as part of the FEIR (which Planning Commission certification of the FEIR was appealed to the Board of Supervisors, and upheld by the Board of Supervisors on May 7,
2013), the Commission will need to adopt findings in accordance with CEQA that the PSA is an Implementing Action for the construction of the Project, pursuant to the approvals granted by the Planning Commission. Staff, in making the necessary findings for the Implementing Action contemplated herein, considered and reviewed the FEIR. Documents related to the Implementing Action and the FEIR have been and continue to be available for review by the Oversight Board and the public and are part of the record before the Oversight Board.

The LRPMP allows for the transfer of the Property to the Developer pursuant to the PSA, which Agreement is the specific action implementing the transfer, and thus the LRMP is exempt from CEQA on the following grounds: 1) under Section 15262 of the State CEQA Guidelines, the LRPMP is a planning study for possible future actions that have not yet been approved; 2) under Section 15061 (b) (3) of the CEQA Guidelines, the LRPMP does not have the potential for causing a significant effect on the environment because it merely provides documentation for pre-disposition and planning activities; and 3) under Section 15268 of the CEQA Guidelines, the LRPMP is a ministerial act that provides for compliance with the Redevelopment Dissolution Law.

NEXT STEPS

The OCII Commission approved the PSA and LRPMP on July 16, 2013 and seeks separate Oversight Board approvals of these two actions.

1) If the Oversight Board approves the PSA as a disposition of successor agency properties under Section 34181 (a) of the Health and Safety Code, OCII will notify the California Department of Finance ("DOF"), which has five days from the notice to request review of the disposition. If it does not request review, the Oversight Board’s approval will become final. If DOF requests review, it has sixty days to review the matter under Section 34181 (f).

2) If the Oversight Board approves the LRPMP, OCII will submit it to DOF under Section 34191.5 (a) for its approval. Redevelopment Dissolution Law does not specify a time frame by which DOF must complete its review of a LRPMP. The Oversight Board’s approval of the PSA and LRPMP will be conditioned on the final approval of DOF.

As previously discussed, a number of other Project-related items are currently scheduled for consideration by the Board of Supervisors on July 23, 2013. These items include the Height Map Amendment, Zoning Map and Text Amendment for the Special Use District, and hearing on the appeal of the Major Permit to Alter. Additionally, the hearing on the appeal of the Section 309 Determination and the Jurisdiction Request are scheduled to be heard by the Board of Appeals on July 31, 2013.
STAFF RECOMMENDATION

Staff recommends approval of the LRPMP and the PSA, subject to the review and approval of DOF.

Originated by Christine Maher, Development Specialist

Exhibit A: Site Maps
Exhibit B: Conceptual Project Renderings
Exhibit C: Feasibility Reports
Exhibit D: Summary of Project Approvals
Exhibit E: Final Environmental Impact Report (Compact Disc)
Exhibit F: Purchase and Sale Agreement
Exhibit G: Conceptual Mexican Museum Renderings
Exhibit H: Summary of Developer Contributions and Public Benefits
Exhibit I: Estimated Property Tax Revenues