Executive Summary Adoption of CEQA Findings, Planning Code Amendment, Development Agreement, Conditional Use

HEARING DATE: NOVEMBER 21, 2019

Record No.: **2019-012970PRJ**

Project Address: 34 Properties Owned or Leased by the Academy of Art

University ("Academy")

Zoning: Multiple Zoning Districts Block/Lot: Multiple Block and Lots

Project Sponsor: Jim Abrams

J. Abrams Law, P.C.

One Maritime Plaza, Suite 1900

San Francisco, CA 94111

Property Owner(s): Multiple LLCs

79 New Montgomery Street, 3rd Floor

San Francisco, CA 94105

Staff Contact: Andrew Perry – (415) 575-9017

andrew.perry@sfgov.org

Recommendation: Adopt CEQA Findings

Adopt Resolution Recommending Approval

Approval with Conditions

PROJECT BACKGROUND

The Academy of Art Project before the Commission is the culmination of more than a decade of review and enforcement action by the Planning Department and City. In 2007, the Academy of Art ("Academy") occupied 34 properties throughout the City, 28 of which had changes of use or building modifications that had occurred without benefit of required permits or other entitlements. By 2016, the number of total properties occupied by the Academy had increased to 40. Between 2010 and 2016, an Environmental Impact Report ("EIR") and Existing Sites Technical Memorandum ("ESTM") were prepared to evaluate the potential impacts associated with bringing the various Academy properties into compliance with the Planning Code and to analyze proposed future growth. On July 28, 2016 the Final EIR was certified and on October 9, 2019 an Addendum to the EIR was published for the Project, which addresses changes made to the project since 2016.

Project changes addressed in the Addendum were made as a result of settlement negotiations. On May 6, 2016 the City Attorney's Office commenced litigation against the Academy and affiliated LLCs. The Academy expressed interest in bringing uses into compliance with the Planning Code, compensating the City for past violations, legalizing or reversing alterations to bring its buildings into compliance with City

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

Reception: 415.558.6378

Fax:

415.558.6409

Planning Information: 415.558.6377 Executive Summary
Hearing Date: November 21, 2019

codes, and working more cooperatively with the City in planning for future growth. On November 15, 2016, the Academy and City entered into a Term Sheet for Global Resolution, later amended by that certain Supplement to Term Sheet for Global Resolution, dated July 10, 2019 (collectively, the "Term Sheet"), intended to provide a basis to resolve land use issues related to the lawsuit.

As contemplated by the Term Sheet, the City, the Academy and its LLCs have entered into a comprehensive Consent Judgment, which consists of:

- 1. Settlement Agreement including obligations of the Academy to make payments to the City, including the affordable housing payment
- 2. Stipulated Injunction provides mechanism for judicial enforcement of the obligations in the Settlement Agreement
- 3. Development Agreement provides mechanism for City approvals consistent with the Settlement Agreement

On July 25, 2019, the Commission accepted as complete the Academy's Institutional Master Plan, which was informed by the Term Sheet and Settlement Agreement. On November 20, 2019, the Historic Preservation Commission considered project approvals, including a Master Certificate of Appropriateness and Master Permit to Alter.

PROJECT DESCRIPTION

The Project is the settlement of the Lawsuit, including payment to the City of a substantial Affordable Housing Public Benefit; payment of Planning Code and UCL penalties for past violations; agreements regarding the Academy's present and future provision of housing to its students; the withdrawal and cessation of all further use at nine (9) of the Academy's properties; legalization of Academy uses at the remaining 31 original properties; and approval of new uses at 3 additional properties. The Project also includes internal and external building modifications to remove, legalize, or modify unpermitted work, to provide a comprehensive signage program including the removal of certain existing signs and placement of new code compliant signage, and to implement the legalization of certain uses. The proposed uses are predominantly either Post-Secondary Education Institutional ("PSEI") or forms of residential student housing; 16 properties fall into each of these two categories. The remaining two properties are ancillary buildings used for storage. The Project does not propose demolition, new construction, or physical building expansion at any of the 34 properties that will remain in use by the Academy.

REQUIRED COMMISSION ACTIONS

The Commission will consider the following items:

- 1. **Adoption of CEQA Findings.** While the FEIR was certified in 2016, the Commission must adopt CEQA Findings, including a Statement of Overriding Considerations, prior to any approval action by the Commission. No action is required on the Addendum.
- 2. **Resolution on Planning Code Amendment and Development Agreement Legislation.** To facilitate the Project in accordance with the Term Sheet and Settlement Agreement, the Commission must adopt a resolution recommending approval to the Board of Supervisors of the proposed ordinance.

Executive Summary
Hearing Date: November 21, 2019

3. **Master Conditional Use Authorization.** As proposed through the above Planning Code Amendment, Project approvals would be consolidated into a single action by the Planning Commission, defined as a Master Conditional Use Authorization (MCUA). The MCUA includes all 34 properties that will remain in use by the Academy, whether or not each property individually might require conditional use, and consolidates other discretionary actions such as waivers, exceptions, or variances that might otherwise be granted by the Zoning Administrator or permitted under the Code.

ENVIRONMENTAL REVIEW

The Final EIR for the Project was certified on July 28, 2016. An Addendum was issued on October 9, 2019 regarding changes to the Project, in which the Planning Department determined that the actions contemplated in the Project comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.); that no supplemental or subsequent environmental review is required, as there are no substantial changes to the proposed Project, or to the circumstances under which the Project will be undertaken, involving new significant environmental effects or a substantial increase in the severity of previously identified environmental effects; and that there is no new information of substantial importance that shows that the Project will have one or more effects not discussed in the FEIR, that the previously identified effects will be more severe, or that there are mitigation measures or alternatives that would reduce such effects, but the Project proponents refuse to adopt them.

BASIS FOR RECOMMENDATION

The Department finds that the Project is, on balance, consistent with the Objectives and Policies of the General Plan and necessary and desirable for the City, as a whole. Approval of the Project brings resolution to more than ten years of enforcement action and litigation brought by the Planning Department and City Attorney's Office. If approved, Academy uses would be authorized at 34 properties, the same number seen in 2007, and reduced from the footprint seen in 2016. The Academy will vacate and terminate all uses at nine (9) existing properties, and bring the remaining 34 properties into compliance with the Planning Code including, where applicable, Articles 10 and 11. The result will be a smaller footprint for the Academy's operations. In addition, as compensation for past violations and the conversion of residential units to student housing, the City would receive public benefits in the way of: (i) payment of an affordable housing benefit of \$37.6 million; (ii) payment of approximately \$8.2 million to the City's Small Sites Fund; (iii) a Housing Metering agreement; (iv) payment of \$1 million in Planning Code penalties and \$6 million in Unfair Competition Law penalties; and (v) impact fees associated with the legalization of uses in excess of \$3.8 million. The City will also receive eight (8) new Residential Guest Rooms subject to Administrative Code Chapter 41 as part of a redesignation of Chapter 41 units from two of the Academy's buildings to a third building on Sutter Street.

In many cases, the Academy's uses would not have been problematic were they to have obtained the necessary permits and entitlements. Where changes of use or building alterations have been problematic, the public benefits above provide an appropriate remedy to the City. The Academy does not propose any building expansion or major construction that might be detrimental to surrounding neighborhoods or properties. Rather, physical work proposed at most properties is focused on the repair and restoration of Academy buildings, including window replacements, sign and awning removals, and the minimization of unpermitted conduits, lighting and security features, particularly at properties of historic significance. The legalization of uses will also result in provision of bike parking at many sites, as well as streetscape

Executive Summary Hearing Date: November 21, 2019

improvements and the addition of open space at several properties. Finally, the settlement will improve the compliance of Academy buildings, individually and collectively, with the Secretary of the Interior's Standards.

The Project also provides mechanisms for the City, through the City Attorney's Office, to ensure compliance with both the Planning Code and the terms of the Settlement Agreement and the Development Agreement, by the entry of a Stipulated Consent Judgment and Injunction.

ATTACHMENTS:

Draft Motion – Adoption of CEQA Findings (includes Attachment A – CEQA Findings and Attachment B – MMRP)

Draft Resolution - Planning Code Amendment and Development Agreement

Attachment C – Proposed Ordinance Text

Draft Motion – Conditional Use Authorization with Conditions of Approval (Exhibit A)

Exhibit B - Project Plans for 34 Sites

Exhibit C - Addendum to EIR, dated October 9, 2019

Exhibit D – Settlement Agreement

Exhibit E - Property Summary Sheets

OTHER RELEVANT INFORMATION:

All of the documents below may be found on the Department's webpage at: sfplanning.org/academy

Institutional Master Plan, accepted July 25, 2019
Term Sheet for Global Resolution, dated November 15, 2016
Supplement to Term Sheet for Global Resolution, dated July 19, 2019
Final Environmental Impact Report
Existing Sites Technical Memorandum
Chapter 41 Permit to Convert Application

Planning Commission Draft Motion CEQA Findings

HEARING DATE: November 21, 2019

Case No.: **2008.0586E**

Project Address: 34 Properties Owned or Leased by the Academy of Art

University ("Academy")

Zoning District: Multiple Zoning Districts
Block/Lot: Multiple Blocks and Lots

Project Sponsor: Jim Abrams

J. Abrams Law, P.C.

One Maritime Plaza, Suite 1900 San Francisco, CA 94111

Property Owner: Multiple LLCs

79 New Montgomery Street, 3rd Floor

San Francisco, CA 94105

Staff Contact: Andrew Perry – (415) 575-9017

andrew.perry@sfgov.org

ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND THE CEQA GUIDELINES INCLUDING FINDINGS OF FACT, FINDINGS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, THE ADOPTION OF A MITIGATION, MONITORING AND REPORTING PROGRAM AND THE ADOPTION OF A STATEMENT OF OVERRIDING CONSIDERATIONS IN CONNECTION WITH APPROVALS FOR THE ACADEMY OF ART UNIVERSITY ("THE ACADEMY") PROJECT TO LEGALIZE USES AND BUILDING MODIFICATIONS AT 34 PROPERTIES OWNED OR LEASED BY THE ACADEMY WITHIN THE CITY AND COUNTY OF SAN FRANCISCO ("CITY"), CONSISTENT WITH THE PROPOSED DEVELOPMENT AGREEMENT AND THE TERM SHEET FOR GLOBAL RESOLUTION BETWEEN THE CITY AND THE ACADEMY.

PREAMBLE

The Academy of Art University (the "Academy") is a private, for-profit post-secondary academic institution that currently occupies, either in part or in full, 40 properties within the City and County of San Francisco for its existing educational programs, recreational activities, and student housing. In 2007, the Academy occupied 34 properties, in 28 of which, the Academy had implemented various tenant improvements and changes of use without benefit of required conditional uses, building permits or other entitlements. In order to evaluate the potential impacts associated with bringing those 28 properties into compliance with the San Francisco Planning Code and to analyze the Academy's then-proposed plans for growth, an Environmental Evaluation application was filed with the Planning Department ("Department") for preparation of an Environmental Impact Report (EIR). The Planning Department published a Notice of Preparation ("NOP") for the project on September 29, 2010.

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

Reception: 415.558.6378

415.558.6409

Planning Information: 415.558.6377 On February 25, 2015, the Department published a Draft Environmental Impact Report (DEIR) for the Academy of Art University Project and published a Notice of Availability (NOA) for the DEIR. The NOA identified a public comment period on the DEIR from February 25, 2015, through April 27, 2015. On April 16, 2015, the Planning Commission conducted a duly advertised public hearing on the DEIR, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for commenting on the EIR ended on April 27, 2015. The Department prepared responses to comments on environmental issues received during the 62 day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected clerical errors in the DEIR.

Between approximately 2010 and 2016, the Academy acquired an additional six properties, bringing the total number of properties owned or occupied by the Academy and its affiliates to 40. On May 4, 2016, the Academy Existing Sites Technical Memorandum (ESTM) was prepared by the Department in connection with the discretionary approvals necessary to legalize the Academy's use of 28 of its 34 existing sites. The ESTM may be used by the Historic Preservation and Planning Commissions for information in considering all the Academy applications to legalize past unauthorized changes and its ongoing operations. Unlike the EIR, the ESTM is not required to go through a certification process by the Planning Commissions, and its recommendations to decision makers are not binding until approval of the conditions as part of any entitlements for each Academy property.

On June 30, 2016, the Department published a Responses to Comments document. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the public review process, any additional information that became available, and the Responses to Comments document, all as required by law. The Responses to Comments document was distributed to the Planning Commission and all parties who commented on the DEIR, and made available to others at the request of Planning Department staff.

On July 28, 2016, the Planning Commission reviewed and considered the FEIR and found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The FEIR was certified by the Commission on July 28, 2016 by adoption of its Motion No. 19704.

On May 6, 2016, the City Attorney of the City and County of San Francisco (the "City Attorney"), on behalf of the City and the People of the State of California, commenced litigation against the Academy and the affiliated LLC Parties in People v. Stephens Institute, et. al, San Francisco Superior Court Number CGC-16-551-832 (the "Lawsuit"). In the Lawsuit, the City Attorney alleged violations of the City's Administrative Code, Planning Code, Building Code, and the State Unfair Competition Law, Business and Professions Code Section 17200 et seq. (the "UCL").

During court-supervised settlement discussions to resolve the Lawsuit, the Academy and the LLC Parties expressed their commitment to bring the Academy's existing uses into compliance with the Planning Code; relocate existing Academy uses or change Academy uses in buildings in accordance with applicable laws in those specific instances where the Planning Department has determined that legalization is not appropriate or the Academy has agreed to withdraw its use; compensate the City for past violations, including providing affordable housing public benefits to the City; legalize or reverse alterations to bring its buildings into compliance City codes, and work cooperatively with the City in planning for future Academy growth in a manner that accounts for the urban nature of the Academy's campus, without

adversely impacting the City's affordable or rent-controlled housing stock, or burdening its transportation system, including, as part of that plan, building new housing for its students on property that is zoned for such use.

As a result of those discussions, and under the auspices of the court, the Academy and the City entered into a non-binding Term Sheet for Global Resolution, dated November 15, 2016, as amended by that certain Supplement to Term Sheet for Global Resolution, dated July 10, 2019 (collectively, the "Term Sheet"), intended to provide a basis to resolve all of the outstanding issues relating to the Lawsuit and other land use matters, and to establish appropriate principles and processes for land use compliance by the Academy.

As contemplated by the Term Sheet, the City, the Academy, and the LLC Parties have entered into a comprehensive consent judgment that they will file with the Superior Court seeking the Court's approval and entry of judgment (the "Consent Judgment"). The Consent Judgment contains four main parts: (1) a Settlement Agreement (the "Settlement Agreement"), which includes obligations of the LLC Parties to make payments to the City (including the Affordable Housing Benefit); (2) a Stipulated Injunction (the "Injunction"), which is an exhibit to the Settlement Agreement and provides a mechanism for judicial enforcement of the Academy's and the LLC Parties' obligations under the Settlement Agreement and this Agreement, and (3) the Development Agreement, which is also an exhibit to the Settlement Agreement. Also critical to the global resolution that the Consent Judgment would achieve is the instrument securing the LLC Parties' financial obligations under the Settlement Agreement and this Agreement. The obligations of the LLC Parties to make the full settlement payments under the Settlement Agreement will be secured by a Guaranty (the "Guaranty") from the Stephens Family Trust, the Elisa Stephens Trust, the Scott Stephens Trust, Elisa Stephens, Scott Stephens, Richard A. Stephens, and Susanne Stephens.

As contemplated by the Term Sheet, the Academy will vacate nine (9) of the previously occupied properties; bring the remaining 31 previously occupied properties owned by the LLC Parties and used by the Academy into compliance with the Planning Code by legalizing previously unpermitted changes in use and alterations and permitting work to revers other previously unpermitted work; and obtain authorization for changes of use and other alterations at three (3) new properties not previously occupied by the Academy. ("Project"). The Project requires the City's approval of a variety of permits and authorizations, including (i) legislation approving the Development Agreement, amending the Planning Code and granting exceptions to the Administrative Code; (ii) approval of a Master Conditional Use authorization by the Planning Commission to reflect the approval of the use of thirty-four (34) properties (primarily in the northeast quadrant of the City) and to grant certain exceptions to the Planning Code, (iii) the approval of a Master Permit to Alter and Master Certificate of Appropriateness by the Historic Preservation Commission, and (iv) a variety of other building alterations and street improvements including without limitation the removal and installation of signage, removal and repair of nonconforming awnings and exterior alterations, the installation Class 1 and Class 2 bike racks, the removal of curb cuts, and the replacement of certain windows.

On October 9, 2019, the Academy filed a complete application with the City's Planning Department for approval of a development agreement relating to the Project Site (the "Development Agreement") under Chapter 56. As set forth in the Development Agreement, the Academy requests legalization of the proposed uses of all 34 properties, and of the previous alterations made to the buildings and facilities on these sites, as well as approval of the work necessary to bring these properties into compliance with the San Francisco Planning Code and, where applicable, the Secretary of the Interior Standards for buildings subject to Planning Code Articles 10 and 11. The Development Agreement requires the Academy to obtain all

necessary permits to perform corrective work at the 34 properties and complete the work to bring these buildings into compliance with the Planning Code pursuant to the Schedule of Performance set forth as Exhibit E to the Development Agreement. While the Development Agreement is between the City, acting primarily through the Planning Department, and Academy, other City agencies retain a role in reviewing and issuing certain later approvals for the Project. Later approvals include approval of building permits, streetscape permits, and permits to allow for the installation of Class 2 bicycle racks. As a result, affected City agencies have consented to the Development Agreement.

On October 9, 2019, the Academy filed complete applications with the City's Planning Department for required entitlements pursuant to the Term Sheet and Development Agreement. These applications are the consolidated master applications for Conditional Use Authorization, Certificate of Appropriateness and Permit to Alter.

On October 9, 2019, the Planning Department issued an Addendum to the FEIR, in which it determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.); that no supplemental or subsequent environmental review is required, as there are no substantial changes to the proposed Project, or to the circumstances under which the Project will be undertaken, involving new significant environmental effects or a substantial increase in the severity of previously identified environmental effects; and that there is no new information of substantial importance that shows that the Project will have one or more effects not discussed in the FEIR, that the previously identified effects will be more severe, or that there are mitigation measures or alternatives that would reduce such effects, but the Project proponents refuse to adopt them.

On November 20, 2019, the City, acting through the Historic Preservation Commission, made and adopted findings of fact and decisions regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, and a statement of overriding considerations ("CEQA Findings"), based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. ("CEQA"), particularly Section 21081 and 21081.5, the Guidelines for Implementation of CEQA, 14 California Code of Regulations Section 15000 et seq. ("CEQA Guidelines"), Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31") pursuant to Motion No. XXXX. The Historic Preservation Commission adopted the CEQA Findings as required by CEQA, separate and apart from the Planning Commission's certification of the Project's Final EIR, which the Planning Commission certified prior to the Historic Preservation Commission's adoption of these CEQA findings.

On November 20, 2019, the Historic Preservation Commission conducted a duly noticed public hearing at a regularly scheduled meeting regarding Master Certificate of Appropriateness and Permit to Alter applications (Planning Record Nos. 2019-012970COA and 2019-012970PTA) and approved these applications by Motion Nos. XXXX and XXXX, having heard and considered the testimony presented to it at the public hearing and further considered written materials and oral testimony presented on behalf of the applicant, Department staff and other interested parties, and the record as a whole. The Historic Preservation Commission also considered and commented upon the legislation approving the Development Agreement between the Academy and City.

On November 21, 2019, the City, acting through the Planning Commission, made and adopted as its own the findings of fact and decisions regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, and a statement of overriding

Draft Motion No. XXXXX November 21, 2019 CASE NO. 2008.0586E Academy of Art University

considerations, based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. contained in the CEQA Findings, pursuant to this Motion No. XXXXX. The Commission adopted these findings as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting these CEQA Findings. The Commission hereby incorporates by reference the CEQA Findings attached hereto as Attachment A as set forth in this Motion No. XXXXX.

On November 21, 2019, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting regarding the proposed Planning Code Amendments and Development Agreement between the Academy and City (Planning Records Nos. 2019-012970PCA and 2019-012970DVA).

On November 21, 2019, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting regarding Conditional Use Authorization Application No. 2019-012970CUA. The Commission heard and considered the testimony presented to it at the public hearing and further considered written materials and oral testimony presented on behalf of the applicant, Department staff and other interested parties, and the record as a whole.

The Planning Department's Commission Secretary is the custodian of records; all pertinent documents are located in the File for Case No. 2019-012970PRJ, at 1650 Mission Street, Fourth Floor, San Francisco, California.

MOVED, that the Planning Commission hereby adopts findings under the California Environmental Quality Act, including rejecting alternatives as infeasible and adopting a Statement of Overriding Considerations, and adopts the MMRP attached as Attachment B, based on the findings attached to this Motion as Attachment A as though fully set forth in this Motion, and based on substantial evidence in the entire record of this proceeding.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of November 21, 2019.

Commission	Secretary
AYES:	
NAYS:	
ABSENT:	
DATE:	November 21, 2019

Ionas P. Ionin

Attachment A

California Environmental Quality Act Findings

PREAMBLE

In determining to approve the project described in Section I, Project Description below, the City, acting through the Planning Commission ("Commission"), makes and adopts the following findings of fact and decisions regarding mitigation measures and alternatives, and adopts the statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and under the California Environmental Quality Act, California Public Resources Code Sections 21000 et seq. ("CEQA"), particularly Sections 21081 and 21081.5, the Guidelines for Implementation of CEQA, California Code of Regulations, Title 14, Sections 15000 et seq. ("CEQA Guidelines"), particularly Sections 15091 through 15093, and Chapter 31 of the San Francisco Administration Code. The Commission adopts these findings in conjunction with the Approval Actions described in Section I(c), below, as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting these CEQA findings.

These findings are organized as follows:

Section I provides a description of the project (the "Proposed Project") as analyzed in the Final Environmental Impact Report for the Project ("FEIR"), as well as the revisions to the project (the "Revised Project") as described in the Addendum to the Environmental Impact Report ("Addendum"; the Proposed Project, together with the revisions described the Revised Project, hereinafter, the "Project"), the environmental review process for the Project, and the approval actions to be taken and the location of records;

Section II identifies the impacts found not to be significant that do not require mitigation;

Section III identifies potentially significant impacts that can be avoided or reduced to less-than significant levels through mitigation and describes the mitigation measures;

Section IV identifies significant impacts that cannot be avoided or reduced to less-than-significant levels and describes any applicable mitigation measures;

Section V evaluates the different Project alternatives and the economic, legal, social, technological, and other considerations that support approval of the Project and the rejection of the alternatives, or elements thereof; and

Section VI presents a statement of overriding considerations setting forth specific reasons in support of the Commission's actions and its rejection of the alternatives not incorporated into the Project.

The Mitigation Monitoring and Reporting Program ("MMRP") for the mitigation measures that have been proposed for adoption is attached with these findings as Attachment B to this Motion. The MMRP is required by CEQA Section 21081.6 and CEQA Guidelines Section 15091. Attachment B provides a table setting forth each mitigation measure listed in the FEIR, as revised by the Addendum, that is required to reduce or avoid a significant adverse impact. Attachment B also specifies the agency responsible for implementation of each measure and establishes monitoring actions and a monitoring schedule. The full text of the mitigation measures is set forth in Attachment B. These findings are based upon substantial evidence in the entire record before the Commission. The references set forth in these findings to certain pages or sections of the Draft Environmental Impact Report ("DEIR") or the Responses to Comments document ("RTC" or "Responses to Comments") in the FEIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

I. PROJECT DESCRIPTION AND PROCEDURAL BACKGROUND

A. Project Description

a. Project Location

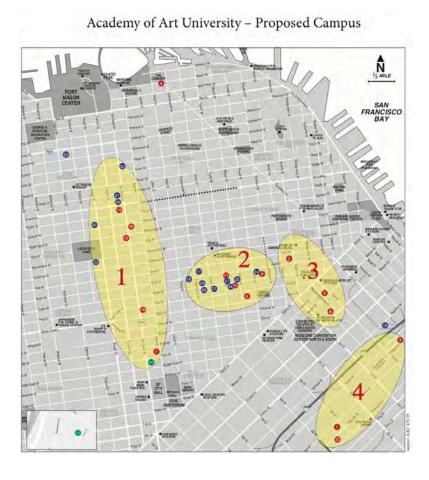
The Academy of Art University ("Academy"), located within the City and County of San Francisco (the "City"), is a private for-profit postsecondary academic institution established in 1929 that currently occupies 40 buildings in the City (predominantly in the northeast quadrant) for its existing educational programs, recreational activities, and student housing. In 2007, the Academy occupied 34 buildings; in 28 of those buildings, the Academy had implemented various tenant improvements and changes of use without obtaining required building permits or other entitlements. In order to evaluate the potential impacts associated with bringing these 28 buildings into compliance with the San Francisco Planning Code and to analyze Academy's then-proposed plans for growth, an environmental impact report was prepared between 2010 and 2016. During this period, affiliates of the Academy acquired an additional six buildings beyond the 34 already occupied, bringing the total number of properties owned or occupied by Academy and its affiliates to 40. The Planning Commission certified the FEIR, which analyzed the 40 properties, on July 28, 2016. The 40 properties are identified on Table 1 below:

	Table 1: Properties Analyzed in the FEIR					
#	Property	#	Property			
1.	2340 Stockton Street	21.	1900 Jackson Street			
2.	2295 Taylor Street	22.	1916 Octavia Street			
3.	2151 Van Ness Avenue	23.	1153 Bush Street			
4.	1849 Van Ness Avenue	24.	1080 Bush Street			
5.	950 Van Ness Avenune	25.	860 Sutter Street			
6.	1069 Pine Street	26.	817-825 Sutter Street			
7.	740 Taylor Street	27.	736 Jones Street			
8.	625-629 Sutter Street	28.	1055 Pine Street			
9.	491 Post Street	29.	680-688 Sutter Street			
10.	540 Powell Street	30.	620 Sutter Street			
11.	410 Bush Street	31.	655 Sutter Street			
12.	77-79 New Montgomery Street	32.	560 Powell Street			
13.	180 New Montgomery	33.	575 Harrison Stree			

14.	58-60 Federal Street	34.	168 Bluxome Streett
15.	601 Brannan Street	35.	2801 Leavenworth Street
16.	460 Townsend Street	36.	700 Montgomery Street
17.	466 Townsend Street	37.	625 Polk Street
18.	1727 Lombard Street	38.	150 Hayes Street
19.	2211 Van Ness Avenue	39.	121 Wisconsin Street
20.	2209 Van Ness Avenue	40.	2225 Jerrold Avenue

As part of the Project, the Academy intends to vacate nine of its existing campus properties, and convert and occupy three new properties, and thereby occupy a total of 34 properties in the City (predominantly in the northeast quadrant) for education programs, recreational activities, and student housing. The Academy's San Francisco campus under the Project, will be comprised of 34 properties is shown on Figure 1.

Figure 1. Proposed Academy Campus



Institutional Sites

- 1. 601 Brannan St.
- 2. 410 Bush St.
- 3. 58-60 Federal St.
- 4. 2801 Leavenworth St.
- 5. 77-79 New Montgomery St.
- 6. 180 New Montgomery St.
- 7. 625 Polk St.
- 8. 491 Post St.
- 9. 540 Powell St.
- 10. 625-629 Sutter St.
- 11. 740 Taylor St.
- 12. 466 Townsend St.
- 13. 1849 Van Ness Ave.
- 14. 2151 Van Ness Ave.
- 15. 1946 Van Ness Ave.
- 16. 1142 Van Ness Ave.

Residential Sites

- 17. 1080 Bush St.
- 18. 1153 Bush St.
- 19, 575 Harrison St.
- 20. 1900 Jackson St.
- 21. 736 Jones St.
- 22. 1727 Lombard St.
- 23. 1916 Octavia St.
- 24. 560 Powell St.
- 25. 620 Sutter St.
- 26. 655 Sutter St. 27. 680-688 Sutter St.
- 28. 817-831 Sutter St.
- 29. 860 Sutter St.
- 30. 2209 Van Ness Ave.
- 31. 2211 Van Ness Ave.
- 32. 2550 Van Ness Ave.

Other

33. 2225 Jerrold Ave.

(Commercial Storage & Private Parking Garage (and lot) with Accessory Office; Community Facility)

34. 950 Van Ness Ave./963 O'Farrell St.

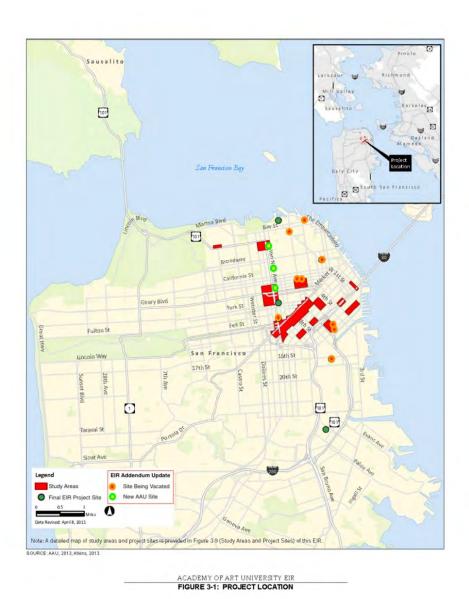
Private Parking Garage with groundfloor classic car museum ancillary to museum located at 1849 Van Ness Ave.

Clusters

- 1. Van Ness Transit Corridor
- 2. Union Square
- 3. Financial District
- 4. South of Market

In addition to the existing Academy properties, the DEIR identified 12 geographic areas ("Study Areas") where the Academy could occupy existing buildings to accommodate the program-level growth described below. The DEIR analyzed all Study Areas in its programmatic analysis of the Proposed Project. The 12 Study Areas generally included the following: Study Area ("SA") 1: Lombard Street/Divisadero Street; SA-2: Lombard Street/Van Ness Avenue; SA-3: Mid Van Ness Avenue; SA-4: Sutter Street/Mason Street; SA-5: Mid-Market Street; SA-6: Fourth Street/Howard Street; SA-7: Rincon Hill East; SA-8: Third Street/Bryant Street; SA-9: Second Street/Brannan Street; SA-10: Fifth Street/Brannan Street; SA-11: Sixth Street/Folsom Street; and SA-12: Ninth Street/Folsom Street. The Study Areas are shown on Figure 2.

Figure 2. Study Areas



5

b. Proposed Project Description

The Proposed Project analyzed in the DEIR consisted of four general components: program-level growth, project-level growth, legalization of prior unauthorized changes, and shuttle expansion, as explained below:

- 1. Program-level growth consisted of approximately 110,000 net square feet ("sf") of additional residential uses (to house approximately 400 students, equivalent to about 220 rooms) and 669,670 sf of additional institutional space in the 12 Study Areas.
- 2. Project-level growth consisted of six additional buildings that had been occupied, identified, or otherwise changed by the Academy since publication of the September 2010 Notice of Preparation ("NOP") for the DEIR, but for which one or more City approvals had not yet been issued. These six project sites included 393,537 sf of institutional uses and 17,533 sf of recreational uses. The six project sites included the following addresses: Project Site 1 ("PS-1"): 2801 Leavenworth Street (The Cannery); PS-2: 700 Montgomery Street; PS-3: 625 Polk Street; PS-4: 150 Hayes Street; PS-5: 121 Wisconsin Street; and PS-6: 2225 Jerrold Avenue.
- 3. The legalization of pre-NOP changes through the necessary approvals ("Legalization Approvals"). The list of analyzed approvals can be found in the DEIR: Table 3-2, Existing Institutional Facilities, p. 3-9; Table 3-3, Existing Residential Facilities, p. 3-10; and Section 3.6, Intended Uses of the EIR, p. 3-148.2. The DEIR analyzed the existing conditions, in which the Academy had already changed the applicable use or appearance of the building which required the Legalization Approvals, and therefore such legalizations were found to have had no impact.
- 4. The shuttle expansion consisted of an extension of the Academy's shuttle service, under its Shuttle Bus Service Policy, to four of the project sites and potential extension to the 12 study areas in which program-level growth is anticipated.

c. Revised Project

The Academy has revised the Proposed Project, as analyzed by the Planning Department in the Addendum. The Proposed Project changed in light of a Term Sheet for Global Resolution entered into by the City and the Academy on November 15, 2016, as updated by a Supplement to Term Sheet dated July 10, 2019 (collectively, "Term Sheet"), the Academy's withdrawal and cessation of all further use at nine (9) of the Academy's properties, and the decrease in Academy student enrollment as compared to the projected increase that was studied by the Planning Department in the DEIR. Specifically, where the Department's analysis in the FEIR was based on an increase in the Academy's on-site student enrollment of approximately 6,100 students (or approximately five percent (5%) per year) and an anticipated increase of 1,220 staff members by 2020, the actual total reported on-site student enrollment for 2018 was 6,710 students. This number represents a decline of 4,471 students from the FEIR's project enrollment figure, and less than one half of the 16,062 on-site students that were projected in the Proposed Project for 2020. To account for these disparete enrollment numbers, the Addendum revised its projected enrollment increases to a three percent (3%) annual growth rate, resulting in a total on-site enrollment of 7,119 students in 2020, less than one half of the 17,282 students projected for in the Proposed Project.

The Revised Project would result in the reduced Academy San Francisco campus shown and described in Figure 1 above. In addition, the Revised Project consists of four general components as follows:

- 1. The program-level growth in the Proposed Project of 669,670 net sf of additional institutional uses and 110,000 net sf of additional residential uses has not yet occurred and under the Revised Project is not proposed to occur.
- 2. Project-level growth consisting of the addition of three buildings the Academy intends to convert to Academy use. These three project sites include 75,261 sf of institutional uses and 76,402 sf of recreational uses. The addresses of the three additional buildings are: 1946 Van Ness Avenue, 1142 Van Ness Avenue, and 2550 Van Ness Avenue. Under the Revised Project, 2801 Leavenworth Street and 2225 Jerrold Avenue, analyzed in the FEIR, would remain part of the Academy campus, but the ground floor of 2801 Leavenworth would contain no institutional uses and 2225 Jerrold Avenue would include a new community facility.
- 3. The legalization of pre-NOP changes through the necessary approvals ("Legalization Approvals"). The Legalization Approvals would result in the full legalization of all 34 Academy campus sites described and shown in Figure 1 above. The comprehensive list of the 34 Academy properties and the corresponding proposed changes and/or modifications are identified on Appendix A of the Addendum.
- 4. The revised project would modify some elements of the existing shuttle service provided by the Academy. Existing shuttle service stops would be removed at 150 Hayes Street, 2340 Stockton Street, 168 Bluxome Street, 1069 Pine Street and 1055 Pine Street due to the Academy vacating these properties. However, the Academy would add new shuttle stops to the "M" route at 1604 Broadway and 1916 Octavia Street. In addition, the Academy has prepared a Shuttle Management Plan in compliance with the EIR Mitigation Measure M-TR-3.1 Shuttle Demand, Service Monitoring, and Capacity Utilization Performance Standard and EIR Improvement Measure I-TR-2 the Academy Shuttle Activities Monitoring.

B. Project Objectives

The FEIR discusses several Project objectives identified by the Academy. The objectives are as follows:

- Project Objective #1 Operate in an urban context, where academic programs can contribute to and draw from the cultural wealth of the local communities.
- Project Objective #2 Create opportunities for students to interact with the urban community (i.e., facilitate the "urban experience") by maintaining facilities throughout the City rather than creating a consolidated campus.
- Project Objective #3 Offer on-site residential housing for new full-time students who desire to live in Academy housing.
- Project Objective #4 Consolidate administrative and classroom functions for each academic
 discipline in the same buildings so that students and faculty do not have to travel from building to
 building unnecessarily.

- Project Objective #5 Manage facilities in a flexible manner to ensure availability of space to meet changing needs of academic programs.
- Project Objective #6 Enable long-range programs and service planning to meet the needs of the community.
- Project Objective #7 Occupy and use space in buildings and properties near existing Academy facilities, where possible.
- Project Objective #8 Locate future facilities to:
 - a. Provide proximity between buildings so students can walk between classes.
 - b. Provide a sense of campus unity while still maintaining the benefits of a dispersed urban campus as the learning environment for Academy students.
 - c. Locate the Academy facilities so that they are easily accessible to all Academy students and faculty/staff, allowing professors to teach and work in close proximity to students' daily activities.
- Project Objective #9 Locate future facilities in proximity to existing Academy shuttle stops or public transit to discourage use of private automobiles.
- Project Objective #10 Occupy and utilize space in existing historic or culturally interesting buildings in need of renovation and/or revitalization.

C. Project Approvals

The Project requires the following Board of Supervisors approvals:

- Review and approval of an ordinance approving a Development Agreement, finding conformity
 with or waiving provisions of Administrative Code Sections 41 and 56; and adopting Planning
 Code Text Amendments.
- Adopting CEQA findings (including a Statement of Overriding Considerations), and a Mitigation Monitoring and Reporting Program

The Project requires the following Planning Commission approvals:

- Adopting CEQA findings (including a Statement of Overriding Considerations), and a Mitigation Monitoring and Reporting Program
- Approval of a Master Conditional Use Authorization, and a determination that the Project is consistent with the General Plan and complies with the City's Priority Policy Findings.

Review and recommendation to the Board of Supervisors of an ordinance approving a
Development Agreement, finding conformity with or waiving provisions of Administrative Code
Sections 41 and 56; and adopting Planning Code Text Amendments

The Project requires the following Historic Preservation Commission approvals:

- Approval of a Master Certificate of Appropriateness
- Approval of a Master Permit to Alter
- Review and provide comments on an ordinance approving a Development Agreement, finding conformity with or waiving provisions of Administrative Code Sections 41 and 56; and adopting Planning Code Text Amendments.

Actions by Other City Departments and State Agencies

- San Francisco Department of Public Works
 - o Various permits and approvals related to streetscape improvement plans
- San Francisco Department of Building Inspection
 - o Building permits for each property described in Figure 1 above
- San Francisco Municipal Transportation Agency
 - o Various permits and approvals related to curb striping and Class 2 bike rack installation.

D. Environmental Review

Pursuant to and in accordance with the requirements of Section 21094 of the Public Resources and Sections 15063 and 15082 of the CEQA Guidelines, the San Francisco Planning Department, as lead agency, prepared a Notice of Preparation ("NOP") on September 29, 2010. The NOP was distributed to the State Clearinghouse and mailed to governmental agencies with potential interest, expertise, and/or authority over the Project; interested members of the public; and occupants and owners of real property surrounding the project area.

The Planning Department held a Public Scoping Meeting on October 26, 2010 to receive oral comments on the scope of the EIR. In total, during the scoping period the Planning Department received comments from two agencies, three non-governmental organizations, and three individuals. The Notice of Preparation, Revised NOP, and Summary of NOP Comments are included as Appendix A to the DEIR.

A Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on February 25, 2015.

On February 25, 2015, the Planning Department published the DEIR and circulated the same to local, state, and federal agencies and to interested organizations and individuals. The DEIR was made available for public review at the following locations: (i) San Francisco Planning Department, Planning Information

Draft Motion No. XXXXX November 21, 2019

Counter, 1660 Mission Street; (ii) San Francisco Main Library, 100 Larkin Street; (iii) San Francisco State University Library, 1630 Holloway Avenue; and (iv) Hastings College of Law-Library, 200 McAllister Street. Electronic copies were also available for review or download on the Planning Department's web page.

Also, on February 25, 2015, the Planning Department distributed notices of availability of the DEIR by (i) publishing notice in a newspaper of general circulation in San Francisco; (ii) posting the notice of availability at the San Francisco County Clerk's office; and (iii) posting notices at locations near the project sites. The distribution list for the DEIR, as well as all documents referenced in the DEIR, were also available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California 94103.

On April 8, 2015, the Planning Department distributed revised notices of availability of the DEIR, published revised notification of its availability in a newspaper of general circulation in San Francisco, posted the revised notice of availability at the San Francisco County Clerk's office, and posted revised notices at locations near the Proposed Project and in a 300-foot buffer of 2550 Van Ness Avenue. The notice was revised to address a specific site in Study Area 2 (Lombard/Van Ness Avenue) at 2550 Van Ness Avenue (Assessor's block/lot: 0526/021). This additional site is within the proposed identified uses in Study Area 2 of up to 220 rooms or 400 beds, as described in the DEIR.

During the DEIR public review period, the Planning Department received written comments from five public agencies, one Planning Commission member, 45 non-governmental organizations, and 35 individuals (or groups of individuals). During the public review period, the Department conducted a public hearing to receive verbal comments on the DEIR. Verbal comments were received from five Planning Commission members, nine non-governmental organizations, and 13 individuals (or groups of individuals). The public hearing was held before the San Francisco Planning Commission on April 16, 2015, at San Francisco City Hall.

The San Francisco Planning Department then prepared the responses to comments on environmental issues received during the 62-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and correct errors in the DEIR. That document, which also includes written responses to each comment received on the DEIR, was published on June 30, 2016.

The Department prepared the FEIR consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document as required by law.

The Planning Commission reviewed and considered the FEIR and all of the supporting information and certified the FEIR on July 28, 2016. In certifying the FEIR, this Planning Commission found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the Administrative Code. Further, the Planning Commission determined that the FEIR does not add significant new information to the DEIR that would require recirculation of the FEIR under CEQA, because the FEIR contains no information revealing (1) any new significant environmental impact that would result from the Project or from a new mitigation measure proposed to be implemented, (2) any substantial increase in the severity of a previously

identified environmental impact, (3) any feasible project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the environmental impacts of the Project, but that was rejected by the Project's proponents, or (4) that the DEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

In addition to the above documents, the Planning Department also prepared an Existing Sites Technical Memorandum ("ESTM") on May 4, 2016. The ESTM evaluates the Academy's use at the 34 properties that were occupied by the Academy at the time of publication of the NOP. The Commission may use the ESTM for information in considering all Academy applications to legalize past, unauthorized changes and its ongoing operations, as consistent with the Settlement Agreement. Unlike the FEIR, however, the ESTM is not required to go through a certification process by the Commission, and its recommendations to decision makers are not binding until approval of the conditions as part of any entitlements for each Academy property.

Prior to considering approval of the Project, the Commission must determine that the Project proposed for approval has been sufficiently assessed under CEQA. Changes to the project have been proposed since the Planning Commission certified the FEIR on July 28, 2016. Once an EIR has been certified, CEQA Section 21166 and CEQA Guidelines Section 15162 provide the rules for determining whether the certified EIR provides a sufficient analysis of the modified Project or if subsequent assessment is required. If such analysis is sufficient, but certain changes to a certified EIR are needed, the changes can be in the form of an addendum to the certified EIR. An "addendum" can be used if some changes or additions to the certified EIR are necessary but none of the conditions described in Section 15162 above have occurred. An addendum need not be circulated for public review and comment, and public participation in the decision to utilize an addendum (rather than a supplement or subsequent EIR) is not required. The Planning Department determined the Revised Project qualified for analysis through the addendum process and issued the Addendum on October 9, 2019.

E. Content and Location of Record

The record upon which all findings and determinations related to the adoption of the proposed Project are based include the following:

- The FEIR, and all documents referenced in or relied upon by the FEIR, including the Addendum;
- All information (including written evidence and testimony) provided by City staff to the City relating to the FEIR and Addendum, the proposed approvals and entitlements, the Project, and the alternatives set forth in the FEIR;
- All information (including written evidence and testimony) presented to the City by the
 environmental consultant and subconsultants who prepared the FEIR and Addendum, or
 incorporated into reports presented to the City;
- All information (including written evidence and testimony) presented to the City from other public agencies relating to the Project, the FEIR, or Addendum;

- All applications, letters, testimony, and presentations presented to the City by the Project Sponsor and its consultants in connection with the Project;
- All information (including written evidence and testimony) presented at any public hearing related to the EIR;
- The MMRP;
- the ESTM, and,
- All other documents comprising the record pursuant to Public Resources Code Section 21167.6(e).

The public hearing transcripts and audio files, a copy of all letters regarding the FEIR received during the public review period, the administrative record, and background documentation for the FEIR are located at the Planning Department, 1650 Mission Street, 4th Floor, San Francisco. The Planning Department, Jonas P. Ionin, is the custodian of these documents and materials.

F. Findings About Significant Environmental Impacts of the Project and Mitigation Measures

The following Sections II, III and IV set forth the City's findings about the FEIR, as modified by the Addendum, determinations regarding significant environmental impacts of the project and the mitigation measures proposed to address them. These findings provide the written analysis and conclusions of the City regarding the environmental impacts of the Project and the mitigation measures included as part of the FEIR and Addendum and adopted by the City as part of the Project. To avoid duplication and redundancy, and because the Commission agrees with, and hereby adopts, the conclusions in the FEIR and Addendum, these findings will not repeat the analysis and conclusions in either the FEIR or Addendum, but instead incorporates them by reference herein and relies upon them as substantial evidence supporting these findings.

In making these findings, the City has considered the opinions of Planning Department and other City staff and experts, other agencies, and members of the public. The Commission finds that: the determination of significance thresholds is a judgment decision within the discretion of the City and County of San Francisco; the significance thresholds used in the FEIR, as modified by the Addendum, are supported by substantial evidence in the record, including the expert opinion of the EIR preparers and City staff; and the significance thresholds used in the FEIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project.

These findings do not attempt to describe the full analysis of each environmental impact contained in the FEIR and Addendum. Instead, a full explanation of these environmental findings and conclusions can be found in the FEIR and Addendum and these findings hereby incorporate by reference the discussion and analysis in the FEIR and Addendum supporting the determination regarding the Project impacts and mitigation measures designed to address those impacts. In making these findings, the City ratifies, adopts and incorporates in these findings the determinations and conclusions of the FEIR and Addendum relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

As set forth below, the City adopts and incorporates the mitigation measures set forth in the FEIR, the Addendum, and the attached MMRP to substantially lessen or avoid the potentially significant and significant impacts of the Project. The City intends to adopt the mitigation measures proposed in the FEIR, as revised in the Addendum. Accordingly, in the event a mitigation measure recommended in the FEIR, as revised in the Addendum, has inadvertently been omitted in these findings or the MMRP, such mitigation measure is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in these findings or the MMRP fails to accurately reflect the mitigation measures in the FEIR, as revised in the Addendum, due to a clerical error, the language of the policies and implementation measures as set forth in the FEIR, as revised in the Addendum, shall control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the FEIR, as revised by the Addendum.

In the Sections II, III and IV below, the same findings are made for a category of environmental impacts and mitigation measures. Rather than repeat the identical finding dozens of times to address each and every significant effect and mitigation measure, the initial finding obviates the need for such repetition because in no instance is the Planning Commission rejecting the conclusions of the FEIR, and Addendum, or the mitigation measures recommended in the FEIR, as revised by the Addendum, for the Project.

II. IMPACTS OF THE PROJECT FOUND NOT TO BE SIGNIFICANT AND THUS DO NOT REQUIRE MITIGATION

Under CEQA, no mitigation measures are required for impacts that are less than significant (Pub. Resources Code, § 21002; CEQA Guidelines, §§ 15126.4, subd. (a)(3), 15091.). Based on the evidence in the whole record of this proceeding, the City finds that, the Project described in the DEIR, and as revised in the Addendum, will not result in any significant impacts, on a Program-Level, Project-Level, or Proposed-Project Level, in the below areas and that these impact areas therefore do not require mitigation.

Land Use

- Impact LU-1.1/1.2/1.3: Physically divide an established community.
- Impact LU-2.1/2.2/2.3: Result in a substantial adverse impact on the existing character of the vicinity.
- Impact LU-3.1/3.2/3.3: Conflict with any applicable land use plans, policies, or regulations of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental impact.
- **Impact C-LU-1**: Cumulative impact on land use resulting from implementation of the Project, in combination with past, present, and reasonably foreseeable future projects in the vicinity.

Aesthetics

- Impact AE-1.1/1.2/1.3: Result in a substantial adverse effect on a scenic vista.
- Impact AE-2.1/2.2/2.3: Substantially damage visual resources, including, but not limited to, tree, rock outcroppings, and other features of the built or natural environment which contribute to a scenic public setting.
- Impact AE-3.1/3.2/3.3: Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area or which would substantially impact other people or properties
- Impact C-AE-1: The implementation of the Project, in combination with other past, present, and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to a significant aesthetic impact.

Population, Housing, and Employment

- Impact PH-1.1/1.2/1.3: Induce substantial population growth in an area, either directly or indirectly.
- Impact PH-2.2: The Proposed Project, including growth at the six project sites, would not displace substantial numbers of people or existing housing units or create demand for additional housing, necessitating the construction of replacement housing elsewhere, or displace a substantial number of businesses or employees.

Cultural and Paleontological Resources

- Impact CP-1.1/1.2/1.3: Cause a substantial adverse change in the significance of a historical architectural resource
- **Impact CP-2.2:** The Proposed Project, including growth at the six project sites, would not cause a substantial adverse change in the significance of archaeological resources pursuant to Section 15064.5.
- Impact CP-3.1/3.2/3.3: Directly or indirectly destroy a unique paleontological resource or site or unique geological feature.
- **Impact CP-4.2:** The Proposed Project, including growth at the six project sites would not disturb any human remains, including those interred outside of formal cemeteries.
- Impact C-CP-1: The Project, in combination with past, present, and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to a significant cumulative historical, archeological, or paleontological resources impact, or to a significant cumulative disturbance of human remains.

Transportation and Circulation

- Impact TR-1.1/1.2/1.3: Result in a substantial adverse impact at any of the study intersections during the peak hours, or cause major traffic hazards.
- Impact TR-2.1/2.2/2.3: Result in a substantial increase in local or regional transit demand that could not be accommodated by local or regional transit demand that could not be accommodated by local or regional transit capacity; nor would it affect transit operating conditions such that adverse impacts to local or regional transit service could occur.
- **Impact TR-4.1/4.2/4.3:** Result in substantial overcrowding on public sidewalks or otherwise interfere with pedestrian accessibility, or create potentially hazardous conditions for pedestrians.
- **Impact TR-5.1/5.2/5.3:** Result in potentially hazardous conditions for bicyclists, nor otherwise substantially interfere with bicycle accessibility to the site and adjoining areas.
- **Impact TR-6.1/6.2/6.3:** Would not substantially increase loading demand and would, therefore, have a less-than-significant commercial loading impact.
- **Impact TR-7.1/7.2/7.3:** Would not substantially increase parking demand nor would it cause unsafe or delayed conditions for other transportation activities.
- **Impact TR-8:** Result in inadequate emergency access.
- **Impact TR-9:** Result in construction-related transportation impacts because of their temporary and limited duration.
- Impact C-TR-1.1/1.2/1.3: The Project, in combination with past, present, and reasonably foreseeable future projects, would not cumulatively result in a substantial adverse impact at any of the study intersections, or cause major traffic hazards.
- Impact C-TR-2.1b/2.2b/2.3b: The Project, in combination with past, present, and reasonably foreseeable future projects, would not result in a cumulatively substantial increase in regional transit demand that could not be accommodated by regional transit capacity under 2035 Cumulative plus Project conditions.

Implementation of the following improvement measures will ensure the above impacts remain less-than-significant:

Improvement Measure I-TR-1 – Implement Transportation Demand Management Strategies to Reduce Single-Occupancy Vehicle Trips.

Improvement Measure I-TR-2 – Academy Shuttle Activities Monitoring.

Improvement Measure I-TR-3 – Improvement of Pedestrian Conditions at PS-6, 2225 Jerrold Avenue.

Improvement Measure I-TR-4 – Improvement of Bicycle Parking Conditions at Academy Facilities.

Improvement Measure I-TR-5 – Academy Monitoring of Commercial Loading Activities.

Improvement Measure I-TR-6 – Construction Truck Deliveries during Off-Peak Periods.

Improvement Measure I-TR-7 – Additions to the Construction Management Plan.

Noise

- Impact NO-1.1/1.2/1.3: Cause a temporary increase in noise levels substantially in excess of ambient levels resulting from construction activities.
- Impact NO-2.2: Expose persons to or generate noise levels in excess of standards established in the San Francisco General Plan or Noise Ordinance (Police Code Article 29) or result in a substantial permanent increase in ambient noise levels.
- **Impact NO-3.1/3.2/3.3:** Create excessive groundborne vibration levels in existing residential neighborhoods adjacent to the study area.

Air Quality

- Impact AQ-1.1/1.2/1.3: Generate fugitive dust or criteria air pollutants, from construction activities, that would violate an air quality standard, contribute substantially to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants.
- Impact AQ-3.1/3.2: Result in emissions of criteria air pollutants from operations but not at levels that would violate an air quality standard, contribute to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants.
- Impact AQ-4.2: Generate new emissions of toxic air contaminants from operation, including diesel particulate matter, and therefore would not expose sensitive receptors to substantial air pollutant concentrations.
- Impact AQ-5.1/5.2/5.3: Conflict with, or obstruct implementation of, the 2010 Clean Air Plan.
- Impact AQ-6.1/6.2/6.3: Create objectionable odors that would affect a substantial number of people.

Greenhouse Gas Emissions

• Impact C-GG-1.1/1.2/1.3: Generate greenhouse gas emissions at levels that would result in a cumulatively considerably impact on the environment or conflict with any policy, plan, or regulation adopted for the purpose of reducing greenhouse gas emissions.

Wind and Shadow

- Impact WS-1.1/1.2/1.3: Alter wind in a manner that would substantially affect public areas.
- Impact WS-2.1/2.2/2.3: Create new shadow in a manner that could substantially affects outdoor recreation facilities or other public areas.

Recreation

• Impact RE-1.1/1.2/1.3: Increase the use of or physically degrade existing recreational facilities such that substantial physical deterioration of those facilities would occur or be accelerated or require construction or expansion of recreational facilities in a way that would adversely affect the environment.

• **Impact C-RE-1:** Considerably contribute to a significant cumulative impact on recreational use to existing public parks or recreational facilities.

Utilities and Services Systems

- Impact UT-1.1/1.2/1.3: Require or result in the construction of substantial new water treatment facilities, and the City would have sufficient water supply available to serve the project from existing entitlements and resources, and would not require new or expanded water supply resources or entitlements.
- Impact UT-2.1/2.2/2.3: Require or result in the expansion or construction of new wastewater treatment or stormwater facilities, exceed capacity of the wastewater treatment provider when combined with other commitments, or exceed wastewater treatment requirements of the Regional Water Quality Control Board.
- Impact UT-3.1/3.2/3.3: Result in increased generation of solid waste that could not be accommodated by
 existing landfill capacity and comply with federal, state and local statues and regulations related to solid
 waste.
- Impact C-UT-1: The implementation of the Proposed Project, in combination with past, present, and reasonably foreseeable future projects in the vicinity, would not contribute considerably to a significant cumulative impact on utilities.

Public Services

- Impact PS-1.1/1.2/1.3: Result in substantial adverse physical impacts associated with the provision of, or the need for, new or physically altered fire or police protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire and police protection.
- Impact PS-2.1/2.2/2.3: Result in substantial adverse physical impacts associated with the provision of, or
 the need for, new or physically altered school facilities, the construction of which could cause significant
 environmental impacts, in order to maintain acceptable service ratios or other performance objectives for
 schools.
- Impact PS-3.1/3.2/3.3: Result in substantial adverse physical impacts associated with the provision of, or the need for, new or physically altered library facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios or other performance objectives for libraries.
- **Impact C-PS-1:** The implementation of the Project, in combination with past, present, and reasonably foreseeable future projects in the vicinity, would not contribute considerably to a significant cumulative impact on public services.

Biological Resources

- Impact BI-1.1/1.2/1.3: Have a substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife, or U.S. Fish and Wildlife Service.
- Impact BI-2.1/2.2/2.3: Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- **Impact C-BI-1:** Implementation of the Project, in combination with past, present, and reasonably foreseeable future projects in the vicinity, could make a considerable contribution to a significant cumulative impact on biological resources.

Geology and Soil

• Impact GE-1.1/1.2/1.3: Expose people or structures to the risk of loss, injury, or death involving strong seismic groundshaking and seismic-related ground failure such as liquefaction.

- Impact GE-2.1/2.2/2.3: Would not be located on geologic or soil units that are unstable, or that could become unstable as a result of the Proposed Project.
- **Impact GE-3.1/3.2/3.3:** Would not be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, and, therefore, would not create substantial risks to life or property.
- **Impact C-GE-1:** The implementation of the Proposed Project, in combination with past, present, and reasonably foreseeable future projects in the vicinity, would not contribute considerably to a cumulative impact on geology and soils.

Hydrology and Water Quality

- **Impact HY-1.1/1.2/1.3:** Violate water quality standards or waste discharge requirements or otherwise substantially degrade water quality.
- Impact HY-2.1/2.2/2.3: Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on site or off site, or create or contribute runoff water that would exceed the capacity of existing or planned storm sewer systems or provide substantial additional sources of polluted runoff.
- Impact HY-3.1/3.2/3.3: Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other authoritative flood hazard delineation map, or place within a 100-year flood hazard area structures that would impede or redirect flood flows.
- Impact HY-4.1/4.2/4.3: Expose people or structures to inundation by tsunami.
- **Impact C-HY-1:** The implementation of the Proposed Project, in combination with past, present, and reasonably foreseeable future projects in the vicinity, would not contribute considerably to a cumulative impact on hydrology and water quality.

Hazards and Hazardous Materials

- **Impact HZ-1.1/1.2/1.3:** Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.
- Impact HZ-3.1/3.2/3.3: Expose the public or the environment to unacceptable levels of known or newly discovered hazardous materials as a result of a site being located on a hazardous materials list site.
- **Impact HZ-4.1/4.2/4.3:** Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

Mineral and Energy Resources

- Impact ME-1.1/1.2/1.3: Encourage activities that result in the use of large amounts of fuel, water, or energy, or use these in a wasteful manner.
- Impact C-ME-1: Result in a cumulatively considerable contribution to wasteful use of energy.

Agriculture and Forest Resources

Project will have no impact on agricultural or forest resources.

III. FINDINGS OF POTENTIALLY SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL THROUGH MITIGATION

CEQA requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potential significant impacts if such measures are feasible (unless mitigation to such levels is achieved through adoption of a project alternative). The findings in this Section

III and in Section IV concern mitigation measures set forth in the EIR. These findings discuss mitigation measures identified in the DEIR to mitigate the potentially significant impacts of the proposed project. As described in Section 4 of the Addendum, the severity of the impacts of the Revised Project is the same or less than for the Proposed Project, and as described in this Section the potentially significant impacts of the project also would be mitigated to a less-than-significant level by the same mitigation measures identified in the DEIR for the Original Project (or minor variations of the same mitigation measures to be specific to the Revised Project). The full text of the mitigation measures is contained in the FEIR, Addendum and in Attachment B, the Mitigation Monitoring and Reporting Program. The City finds that the impacts of the Revised Project identified in this Section III would be reduced to a less-than-significant level through implementation of the mitigation measures contained in the FEIR and Addendum, included in the Revised Project, or imposed as conditions of approval and set forth in Attachment B.

This Commission recognizes that some of the mitigation measures are partially within the jurisdiction of other agencies. The Commission urges these agencies to assist in implementing these mitigation measures, and finds that these agencies can and should participate in implementing these mitigation measures.

Impact CP-2.1: With mitigation, the Proposed Project, including growth in the 12 study areas, would not cause a substantial adverse change in the significance of archaeological resources pursuant to Section 15064.5.

Impact CP-2.3: With mitigation, the Proposed Project, including growth in the 12 study areas and at the six project sites, would not cause a substantial adverse change in the significance of archaeological resources pursuant to Section 15064.5.

In the Proposed Project the Academy would revises the utilization of its City campus through occupation and change of use of existing buildings for institutional and student residential uses. The FEIR conservatively estimated that as a result of the occupation and change of use some of the existing buildings may require seismic retrofits or other renovations or modifications to be compatible with the proposed use, which in turn may require minor excavation causing ground-disturbing activities. Mitigation Measure M-CP-2.1, requiring a project-specific preliminary archaeological assessment for individual project components involving ground-disturbing activities within the 12 studies areas, reduces the Proposed Project's impact on archaeological resources to a less than significant level. The Addendum found the Revised Project did not change these facts and conclusions.

Mitigation Measure M-CP-2.1 – Project-Specific Preliminary Archaeological Assessment

Impact CP-4.1: With mitigation, the Proposed Project, including growth in the 12 study areas, would likely not disturb human remains including those interred outside of formal cemeteries.

Impact CP-4.3: With mitigation, the Proposed Project, including growth in the 12 study areas and at the six project sites, would likely not disturb human remains, including those interred outside of formal cemeteries.

As explained above, the Proposed Project is unlikely to cause any ground disturbances outside of shallow depth excavation associated with any potential seismic retrofits or renovations and modifications

compatible with proposed building use. In the outside chance such ground disturbances could disturb human remains, Mitigation Measure M-CP-2.1, requiring a project-specific preliminary archaeological assessment for individual project components involving ground-disturbing activities within the 12 studies areas, reduces the Proposed Project's impact to a less than significant level. The Addendum found the Revised Project did not change these facts and conclusions.

Mitigation Measure M-CP-2.1 – Project-Specific Preliminary Archaeological Assessment

Impact C-TR-3: With mitigation, the Proposed Project, including growth in the 12 study areas and at the six project sites, in combination with past, present, and reasonably foreseeable future projects in the vicinity of the study areas and project sites, would likely not have less-than-significant with mitigation cumulative Academy shuttle impact.

Impact TR-3.1: With mitigation, the Proposed Project, including growth within the 12 study areas, would likely not result in a substantial increase in shuttle demand that could not be accommodated by planned shuttle capacity so as to avoid an impact to the City's transit or transportation system; and would not cause substantial conflicts with traffic, public transit, pedestrian, bicycles, or commercial loading.

Impact TR-3.2: With mitigation, the Proposed Project, including growth at the six project sites, would likely not result in a substantial increase in shuttle demand that could not be accommodated by planned shuttle capacity so as to avoid an impact to the City's transit or transportation system; but would not cause substantial conflicts with traffic, public transit, pedestrian, bicycles, or commercial loading.

Impact TR-3.3: With mitigation, the Proposed Project, including growth within the 12 study areas and at the six project sites, would likely not result in a substantial increase in shuttle demand that could not be accommodated by planned shuttle capacity so as to avoid an impact to the City's transit or transportation system; but would not cause substantial conflicts with traffic, public transit, pedestrian, bicycles, or commercial loading.

As existing in 2010, the capacity of the Academy's shuttle routes are not adequate to accommodate all Project development as envisioned by the projected growth in the Proposed Project. Such growth could therefore result in an increased burden on the City's transit or transportation system. Specifically, the Proposed Project projects growth in the 12 study areas to generate a demand of up to 642 PM peak hour shuttle bus trips. Growth in individually study areas would range from 15 (in SA-12) to 502 PM peak hour shuttle trips (in SA-5). Maximum demand for several study areas could exceed 100 PM peak hour shuttle trips, depending on the conceptual development option of the shuttle program, including SA-5 (up to 502), SA-7 (up to 296), SA-4 (up to 168), SA-6 (up to 140), SA-2 (up to 147), and SA-3 (up to 131 PM peak hour shuttle trips).

The above projected growth could therefore result in an increased burden on the City's transit or transportation system. The implementation of Mitigation Measure M-TR-3.1 – Shuttle Demand, Service Monitoring and Capacity Utilization Performance Standard, along with the ongoing analysis and monitoring to meet an established performance standard would ensure that the shuttle demand could be met and any impact to the City's transit or transportation system would be reduced to a less-than-significant level.

As analyzed in the Addendum, the growth projected in the Proposed Project, reiterated above, has not occurred and future projected growth has been significantly reduced to three percent per year. The Addendum found the Revised Project did not change the facts and conclusions in the FEIR as analyzed in connection with Impact TR-3.1.

Mitigation Measure M-TR-3.1 – Shuttle Demand, Service Monitoring, and Capacity Utilization Performance Standard.

Impact NO-2.1: With mitigation, the Proposed Project, including growth in the 12 study areas would like not expose persons to or generate noise levels in excess of standards established in the San Francisco General Plan or Noise Ordinance (Police Code Article 29) or result in a substantial permanent increase in ambient noise levels.

Impact NO-2.3: With mitigation, the Proposed Project, including growth in the 12 study areas and at the six project sites, would likely not expose persons to or generate noise levels in excess of standards established in the San Francisco General Plan or Noise Ordinance (Police Code Article 29) or result in a substantial permanent increase in ambient noise levels.

As part of the Proposed Project, the Academy could propose changes of use of currently nonresidential buildings in study areas to residential use, thereby placing noise-sensitive land uses in a noise environment that may be incompatible with that sensitive use. Specifically, the traffic-generated noise levels along most major streets throughout the Proposed Project area exceed 70 dBA, above the San Francisco General Plan guidelines of 60 dBA. The majority of the new residential units would be subject to state Title 24 noise requirements contained in the California Noise Insulation Standards, thus such units would have interior noise levels at 45dBA. For residential development not subject to the California Noise Insulation Standards, where traffic noise in the Project Area has the potential to result in a significant effect, implementation of Mitigation Measures M-NO-2.1a – Interior Noise Levels for Residential Uses and M-NO-2.1b – Siting of Noise-Sensitive Uses, would reduce the impact of exposure to noise levels in excess of the San Francisco General Plan recommendations to a less-than-significant level.

The Academy uses in the study area could add fixed noise sources such as pumps, fans, air-conditioning apparatus or refrigeration machines. Section 2909 of the City's Noise Ordinance prohibits "any machine or device, music or entertainment or any combination of same" located on residential or commercial/industrial property from emitting noise that is 5 dBA or 8 dBA (commercial/industrial) above the local ambient noise at any point outside the property plan of use containing noise source, as well has allowing any fixed noise source to cause noise level measured inside any sleeping or living room in any dwelling unit located on residential property to exceed 45 dBA between the hours of 10:00pm to 7:00am or 55 dBA between the hours of 7:00 am to 10:00 pm with windows open. The Academy intends to comply with all such guidelines in all designs, but without such adequate designs, significant impact on such uses could result from noise levels generated by fixed sources. Implementation of Mitigation Measure M-NO-2.1c – Siting of Noise-Generating Equipment would reduce this impact to less-than-significant level.

The Addendum found the Revised Project did not change the facts and conclusions in the FEIR as analyzed in connection with Impacts NO-2.1 and NO-2.3.

Mitigation Measure M-NO-2.1a – Interior Noise Levels for Residential Uses.

Mitigation Measure M-NO-2.1b – Siting of Noise-Sensitive Uses.

Mitigation Measure M-NO-2.1c – Siting of Noise-Generating Equipment.

Impact C-NO-1: With mitigation, the implementation of the Proposed Project, in combination with past, present, and reasonably foreseeable future projects in the vicinity, would not contribute considerably to a cumulative impact associated with noise and vibration.

Without mitigation the Proposed Project, in combination with past, present, and reasonably would have a less than significant impact associated with vibration and noise caused by cumulative traffic noise or construction activities. It is not anticipated that the Academy stationary noise sources would cause significant off-noise impacts to off-site receptors in the study areas due to the City's Noise Ordinance and anticipated consistency with the San Francisco General Plan, but significant impacts from such uses could occur without adequate design. Implementation of Mitigation Measure M-NO-2.1c – Siting of Noise-Generating Equipment would reduce this impact to a less-than-significant level.

It is possible that with cumulative development, the ambient noise level will increase in study areas where the Academy might seek changes of use to accommodate student housing. For residential development not subject to the California Noise Insulation Standards, traffic noise in the Project Area has the potential to result in a significant effect. Implementation of Mitigation Measures M-NO-2.1a – Interior Noise Levels for Residential Uses and M-NO-2.1b – Siting of Noise Sensitive Uses the potential conflict between the cumulative noise environment and the Academy residential uses would be reduced to less-than-significant levels.

The Addendum found the Revised Project did not change the facts and conclusions in the FEIR as analyzed in connection with Impact C-NO-1.

Mitigation Measure M-NO-2.1a – Interior Noise Levels for Residential Uses.

Mitigation Measure M-NO-2.1b – Siting of Noise-Sensitive Uses.

Mitigation Measure M-NO-2.1c – Siting of Noise-Generating Equipment.

Impact AQ-2.1: With mitigation, construction in the 12 study areas would likely not generate toxic air contaminants, including diesel particulate matter that would expose sensitive receptors to substantial pollutant concentrations.

Impact AQ-2.2: With mitigation, construction at the six project sites, would likely not generate toxic air contaminants, including diesel particulate matter, but would not expose sensitive receptors to substantial pollutant concentrations.

Impact AQ-2.3: With mitigation, construction of the Proposed Project, including growth in the 12 study areas and at the six project sites, would generate toxic air contaminants, including diesel particulate matter, that would expose sensitive receptors to substantial pollutant concentrations.

Several Study Areas are located completely or partially in areas that already experience poor air quality and tenant improvements associated with the Proposed Project would general additional air pollution, adversely affecting nearby sensitive receptors that are already exposed to high levels of air pollution. Uncontrolled diesel equipment operating in connection with this construction would cause a significant impact. Compliance with Mitigation Measure M-AQ-2.1 – Construction Emissions Minimization with an Air Pollutant Exposure Zone requires cleaner diesel equipment and would reduce the impact form renovation activities on nearby sensitive receptors to a less-than-significant level.

The Addendum found the Revised Project did not change the facts and conclusions in the FEIR as analyzed in connection with Impacts AQ-2.1, AQ 2.2, and AQ 2.3.

Mitigation Measure M-AQ-2.1 – Construction Emissions Minimization within an Air Pollutant Exposure Zone.

Impact AQ-3.3: With mitigation, operation of the Proposed Project, including growth in the 12 study areas and at the six project sites, would result in emissions of criteria air pollutants, but not at levels that would violate an air quality standard, contribute to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants.

The Academy renovations of 200,000 sf of development is a significant source of ROG emissions due to architectural coating, but implementation of Mitigation Measure M-AQ-3.3 – Maximum Daily Construction Activities would reduce emissions of ROGs to less-than significant levels by limiting construction activities to the renovation (including architectural coasting) of a maximum of 100,000 sf of building space at a time.

The Addendum found the Revised Project did not change the facts and conclusions in the FEIR as analyzed in connection with Impact AQ-3.3.

Mitigation Measure M-AQ-3.3 – Maximum Daily Construction Activities.

Impact AQ-4.1: With mitigation, operation of the 12 study areas would likely not generate toxic air contaminants, including diesel particulate matter, and could expose sensitive receptors to substantial air pollutant concentrations.

Impact AQ-4.3: With mitigation, operation of the Proposed Project, including growth in the 12 study areas and at the six project sites, would likely not generate toxic air contaminants, including diesel particulate matter, and could expose sensitive receptors to substantial air pollutant concentrations.

There is a potential for Academy buildings, in the Study Areas, will require the installation of a new emergency back-up generator or a boiler, both of which have the potential to add pollutant concentrations. Generations of such additional pollutants within the Air Pollutant Exposure Zones would be a significant impact, but implementation of Mitigation Measures M-AQ-4.1a – Best Available Control Technology for Diesel Generators, and M-AQ-4.1b – Best Available Control Technology for Boilers, at study area sites within Air Pollutant Exposure Zones when the occupation of that site requires the installation of a new generator or boiler will reduce impacts from new stationary sources to less-than-significant levels. When the Academy occupies a new site within study area that is partially within an Air Pollutant Exposure Zone, the Planning Department will review the specific location to determine applicability of Mitigation Measure M-AQ-2.1 – Construction Emissions Minimization within an Air Pollutant Exposure Zone.

Six of the Study Areas have the potential to house resident students which is considered a sensitive land use, or these, five study areas have the potential to place student residences partially within Air Pollutant Exposure Zones. Siting sensitive land use within Air Pollutant Exposure Zones could expose residents within student housing to elevated levels of air pollution, resulting in a significant impact, but implementation of Mitigation Measure M-AQ-4.1c – Air Filtration Measures within an Air Pollutant Exposure Zone, would reduce impacts to new sensitive receptors to less-than-significant levels.

The Addendum found the Revised Project did not change the facts and conclusions in the FEIR as analyzed in connection with Impacts AQ-4.1 and AQ-4.3.

Mitigation Measure M-AQ-4.1a – Best Available Control Technology for Diesel Generators.

Mitigation Measure M-AQ-4.1b – Best Available Control Technology for Boilers.

Mitigation Measure M-AQ-4.1c – Air Filtration Measures within an Air Pollutant Exposure Zone.

Impact C-AQ-1: With mitigation, the Proposed Project, in combination with past, present, and reasonably foreseeable future projects, would likely not result in a considerable contribution to a cumulative regional criteria air pollutant impact.

The project-level thresholds for criteria air pollutants are based on levels at which new sources are not anticipated to contribute to an air quality violation or result in a considerable net increase in criteria air pollutants. The Proposed Project's construction and operational emissions would not exceed the project-level thresholds for criteria air pollutants NOx, PM10, and PM2.5. However unmitigated emissions under Impact AQ-3.3 would exceed ROG thresholds. With the implementation of Mitigation Measure M-AQ-3.3 – Maximum Daily Construction Activities impacts from ROG for Impact AQ-3.3 would be reduced to below the significance thresholds; therefore, the Proposed Project would not be considered to result in a cumulatively considerable contribution to regional air quality impacts.

The Addendum found the Revised Project did not change the facts and conclusions in the FEIR as analyzed in connection with Impact C-AQ-1.

Mitigation Measure M-AQ-3.3 – Maximum Daily Construction Activities.

Impact C-AQ-2: With mitigation, the Proposed Project, in combination with past, present, and reasonably foreseeable future projects, would likely not contribute considerably to cumulative health risk impacts.

The Proposed Project would add new sensitive land uses and new sources of TACs (e.g., construction, new shuttle trips and potentially stationary sources) within some areas already adversely affected by air quality, resulting in a contribution to cumulative health risk impacts on sensitive receptors. This would be a significant cumulative impact, but the Proposed Project would be required to implement Mitigation Measure M-AQ-2.1 – Construction Emissions Minimization within Air Pollutant Exposure Zone, which could reduce construction period emissions by as much as 94 percent; Mitigation Measure M-AQ-4.1a – Best Available Control Technology for Diesel Generators, which requires best available control technology

to limit emissions from any new emergency back-up generator; Mitigation Measure M-AQ-4.1b – Best Available Control Technology for Boilers, which limits emissions from any new boilers; and Mitigation Measure M-AQ-4.1c – Air Filtration Measures Within an Air Pollutant Exposure Zone, which requires that enhanced ventilation be provided for buildings converted to residential use, designed to reduce outdoor infiltration of fine particulate matter indoors by 80 percent. Implementation of these mitigation measures would minimize the Proposed Project's contribution to cumulative air quality impacts, and other projects in the vicinity would be required to implement similar measures to avoid or minimize their contributions to the degradation of air quality. Therefore, with mitigation this impact would be less than significant.

The Addendum found the Revised Project did not change the facts and conclusions in the FEIR as analyzed in connection with Impacts C-AQ-2.

Mitigation Measure M-AQ-2.1 – Construction Emissions Minimization within Air Pollutant Exposure Zone.

Mitigation Measure M-AQ-4.1a – Best Available Control Technology for Diesel Generators.

Mitigation Measure M-AQ-4.1b – Best Available Control Technology for Boilers.

Mitigation Measure M-AQ-4.1c – Air Filtration Measures Within an Air Pollutant Exposure Zone.

Impact HZ-2.1: With mitigation, the Proposed Project, including the growth in the 12 study areas, would likely not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous building materials into the environment, including within 0.25 mile of a school.

Impact HZ-2.2: With mitigation, the Proposed Project, including growth at the six project sites, would likely not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous building materials into the environment, including within 0.25 mile of a school.

Impact HZ-2.3 The Proposed Project, including growth in 12 study areas and at the six project sites, could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous building materials into the environment, including within 0.25 mile of a school.

The Proposed Project, including the growth within the 12 study areas, would involve the occupation and change of use of existing buildings. Most construction activities would consist of interior tenant improvements. Growth in the study areas could also involve some limited ground disturbance to complete exterior seismic upgrades. Therefore, the Proposed Project could result in a reasonably foreseeable upset or accident conditions, including limited disturbance of hazardous building materials and contaminated soil. Materials containing PCBs could pose both a human health and environmental hazard which would be a significant impact, but implementation of Mitigation Measure M-HZ-2.1 would reduce this impact of the Proposed Project, including growth in the 12 study areas, to a less-than-significant level.

The Addendum found the Revised Project did not change the facts and conclusions in the FEIR as analyzed in connection with Impacts HZ-2.1, HZ-2.2, and HZ-2.3.

Mitigation Measure M-HZ-2.1 – Testing and Removal of Hazardous Building Materials.

Impact C-HZ-1: With mitigation, the Proposed Project, in combination with past, present, and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to a significant cumulative hazard and hazardous materials impacts.

Implementation of the Proposed Project, with incorporation of Mitigation Measure M-HZ-2.1 – Testing and Removal of Hazardous Building Materials, would have a less-than-significant hazardous materials impact on the public and the environment in the vicinity of the study areas and project sites. Any other development in the Project vicinity would be required to comply with the same or similar regulatory framework as the Proposed Project. Adherence to these regulations would minimize exposure and ultimately result in removing hazardous materials from the region. Therefore, the Proposed Project would not contribute considerably to any significant cumulative impacts with respect to hazardous materials.

The Addendum found the Revised Project did not change the facts and conclusions in the FEIR as analyzed in connection with Impact C-HZ-1.

Mitigation Measure M-HZ-2.1 – Testing and Removal of Hazardous Building Materials.

IV. SIGNIFICANT IMPACTS THAT CANNOT BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL

Based on substantial evidence in the whole record of these proceedings, the Commission finds that, where feasible, changes or alterations have been required, or incorporated into, the Project to reduce the significant environmental impacts as identified in the FEIR, Addendum and listed below. The Commission finds that the mitigation measures in the FEIR, Addendum and described below are appropriate, and that changes have been required in, or incorporated into, the Project that, pursuant to Public Resources Code Section 21002 and CEQA Guidelines Section 15091, may substantially lessen, but do not avoid (i.e., reduce to less-than-significant levels), the potentially significant environmental effects associated with implementation of the Project that are described below. The Commission adopts all of the mitigation measures and improvement measures set forth in the Mitigation Monitoring and Reporting Plan (MMRP), attached as Attachment B. The Commission further finds, however, for the impacts listed below, despite the implementation of feasible mitigation measures, the effects remain significant and unavoidable.

Based on the analysis contained within the FEIR, Addendum, other considerations in the record, and the significance criteria identified in the FEIR and Addendum, the Commission finds that because some aspects of the Revised Project could cause potentially significant impacts for which feasible mitigation measures are not available to reduce the impact to a less-than-significant level, those impacts are significant and unavoidable. The Commission recognizes that for certain significant impacts, although mitigation measures are identified in the FEIR and Addendum that would reduce those impacts to a less-than-significant level, the measures are uncertain or infeasible for reasons set forth below, and therefore those impacts remain significant and unavoidable or potentially significant and unavoidable.

The Commission determines that the following significant impacts on the environment, as reflected in the FEIR and Addendum, are unavoidable, but under Public Resources Code Section 21081(a)(3) and (b), and

Draft Motion No. XXXXX November 21, 2019

CEQA Guidelines 15091(a)(3), 15092(b)(2)(B), and 15093, the Commission determines that the impacts are acceptable due to the overriding considerations described in Section VII below. This finding is supported by substantial evidence in the record of this proceeding.

Impact PH-2.1: The Proposed Project, including growth in the 12 study areas, would displace substantial numbers of people, or existing housing units, or create demand for additional housing, necessitating the construction of replacement housing elsewhere, or displace a substantial number of businesses or employees.

Impact PH-2.3: The Proposed Project, including growth in the 12 study areas and at the six project sites, would displace substantial numbers of people, or existing housing units or create demand for additional housing, necessitating the construction of replacement housing elsewhere, or displace a substantial number of businesses or employees.

Impact C-PH-1: The implementation of the Proposed Project, in combination with past, present, and reasonably foreseeable future projects in the vicinity, would contribute considerably to a cumulative impact on population and housing.

Based on the growth projections of the Proposed Project, the FEIR projected the Proposed Project would result in 4,209 new student residents and 525 new faculty/staff residents in San Francisco. The FEIR projects 2,203 units of housing within San Francisco are required to accommodate this population growth. The 2,203 units of housing were in addition to The Academy's projected growth of 400 Academy supplied student housing beds. The FEIR concludes that this population growth would not displace substantial numbers of people, or existing housing units, or displace a substantial number of businesses or employees, and that as to each of those elements the Proposed Project's impact is less than significant.

The FEIR concludes that Proposed Project would not result in displacement of existing residents because Planning Code Section 317 prohibits the conversion of existing residential uses, and change of use of group housing and SROs to student housing. In addition, Ordinance 188-12 prohibits the conversion of residential housing stock into student housing in most cases. Displacement of employees could occur if the Academy were to occupy a nonvacant building whose employees were not able to relocate within the city or region, however, given the regions current prospective job growth employees are likely to be able to find replacement jobs or relocate with the city or region.

The Proposed Project's projected growth requiring 2,203 units of houses would create demand for additional housing that is significant and unavoidable. The FEIR notes the 2010 vacancy rate is about 31,250 units of housing. Additionally, the FEIR notes approximately 58,000 new units that could be developed under various areawide planning efforts and redevelopment plans identified in the 2009 Housing Element. The FEIR notes that it is unknown whether these vacant units and new developments could accommodate the increased demand. There is no feasible mitigation for this impact, and it would therefore be significant and unavoidable.

The Addendum does not disagree with the FEIR's conclusion, but notes the substantial reduction of projected growth from the level analyzed in the FEIR. This reduced projected growth reduces demand for additional housing.

In addition to such a reduction, the Academy has agreed to commit to the provision of student housing to 36 percent of its full-time student population (students taking up to one class online) by July 1, 2022, 38 percent of its full time student population (students taking up to one class online) by July 1, 2023 and to use good faith efforts to house 45 percent of its full-time students (students taking up to one class online) by July 1, 2023. Further, the Academy would provide an affordable housing benefit to the city in the form of an in-lieu fee for the equivalent of 160 units of affordable housing (anticipated to be \$37,600,000.00). The Revised Project would continue to create a substantial demand for additional housing, although the demand would be less than what was analyzed in the FEIR due to the decreases in existing and projected enrollment. As with the Proposed Project, the addition of residential uses to sufficiently mitigate this impact or reduction of institutional growth sufficient to avoid any increase in housing demand would fundamentally alter the Revised Project. There is no feasible mitigation for this impact. Therefore, as with the Proposed project, the Revised Project's impact on housing demand would be significant and unavoidable. The Revised Project would not change the conclusions reached in the FEIR regarding housing demand.

Impact C-TR-2.1a: Even with mitigation, the Proposed Project, including growth in the 12 study areas, in combination with past, present, and reasonably foreseeable future projects in the vicinity of the study areas, could result in a substantial increase in local transit demand that could not be accommodated by adjacent Muni transit capacity at the Kearny/Stockton and Geary corridors under 2035 Cumulative plus Project conditions.

Impact C-TR-2.2a: Even with mitigation, the Proposed Project, including growth at the six project sites, in combination with past, present, and reasonably foreseeable future projects in the vicinity of the project sites, could result in a substantial increase in local transit demand that could not be accommodated by adjacent Muni transit capacity at the Kearny/Stockton corridor and Geary corridor under 2035 Cumulative plus Project conditions.

Impact C-TR-2.3a: Even with mitigation, the Proposed Project, including growth in the 12 study areas and at the six project sites, in combination with past, present, and reasonably foreseeable future projects in the vicinity of the study areas and project sites, could result in a substantial increase in local transit demand that could not be accommodated by adjacent Muni transit capacity at the Kearny/Stockton corridor and Geary Corridor under 2035 Cumulative plus Project conditions.

The FEIR concluded that the Proposed Project would result in significant impacts on local transit demand on the Kearny/Stockton corridor and Geary corridor due to increases in capacity utilization exceeding 85 percent. Therefore, Mitigation Measure C-M-TR-2.1a would be applicable and would require the Academy to make a fair share contribution to corridor. However, because the source or sources of additional funding for transit service improvements are unknown at this time the feasibility of these improvements are uncertain the project-related impacts on local transit demand at the Kearny/Stockton corridor and Geary corridor would remain significant and unavoidable with mitigation.

The Addendum found the Revised Project did not change the facts and conclusions in the FEIR as analyzed in connection with Impacts C-TR-2.1a, C-TR-2.2a, and C-TR-2.3a.

Mitigation Measure C-M-TR-2.1a – The Academy Fair Share Contribution to Cumulative Transit Impact.

V. EVALUATION OF PROJECT ALTERNATIVES

This section describes the EIR alternatives and the reasons for rejecting the alternatives as infeasible. The CEQA Guidelines, section 15126.6(a), state that an EIR must describe and evaluate a reasonable range of alternatives to the Project that would feasibly attain most of the Project's basic objectives, but that would avoid or substantially lessen any identified significant adverse environmental effects of the project. An EIR is not required to consider every conceivable alternative to a proposed project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation.

The Planning Department considered a range of alternatives in Chapter 6 of the FEIR. The FEIR analyzed the No Project Alternative ("Alternative A"), the Centralized Growth Alternative ("Alternative B"), the Reduced Growth Alternative (Alternative C), and the Reduced Institutional Growth Alternative (Alternative D). Each alternative is discussed and analyzed in these findings, in addition to being analyzed in Chapter 6 of the FEIR.

The Commission certifies that it has independently reviewed and considered the information on the alternatives provided in the FEIR and in the record. The FEIR reflects the City's independent judgment as to the alternatives.

The City rejects the alternatives listed below because the Commission finds that there is substantial evidence, including evidence of economic, legal, social, technological, and other considerations described in this Section, in addition to those described below under CEQA Guidelines Section 15091(a)(3), that make these alternatives infeasible. In making these determinations, the Commission is aware that CEQA defines "feasibility" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors." The Commission is also aware that under CEQA case law the concept of "feasibility" encompasses (i) the question of whether a particular alternative promotes the underlying goals and objectives of a project; and (ii) the question of whether an alternative is "desirable" from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors. The Commission finds that the Revised Project provides the best balance between satisfaction of Project objectives and mitigation of environmental impacts to the extent feasible, as described and analyzed in the FEIR and as modified by the Addendum.

A. Alternatives Considered and Rejected

The following alternatives were considered during the EIR scoping period, but, for the reasons set forth in the FEIR and in these findings, these alternatives were not carried forward for full analysis in the EIR.

1. Alternative Location

CEQA Guidelines section 15126.6(f)(2) states that alternative locations should be considered if they would avoid or substantially lessen any of the significant effects.

• Other Locations within the City Alternative. This alternative consists of locating all of the Academy's future growth in areas not analyzed in the FEIR and requires the Academy to vacate project sites requiring a change of use authorization. The study areas analyzed in the FEIR are those most suited to future Academy growth within the city. Given the Academy's practice of occupying buildings similar to the ones that would be vacated, any feasible alternative location is likely already within the study areas. For most impacts, occupancy of alternative study areas or project site locations would likely be similar to those of the Proposed Project and would by necessity be located further from the existing Academy facilities. Given this increased distance, transportation needs may have greater impacts as compared to the Proposed Project. Therefore, development at other locations within the City would not avoid or substantially lessen the impacts identified for the Proposed Project. For these reasons this alternative was rejected from further consideration.

Other Locations outside the City Alternative. This alternative consists of the Academy providing all future growth outside of San Francisco. Such growth area would be limited by the Academy's need to be situated in a major city with a thriving arts and cultural community. This alternative would likely require that the Academy create two distinctly separate campuses and may force the Academy to organize its coursework along disciplines across those separate campuses, diminishing the interaction of students from various art disciplines. This alternative would not avoid or substantially lessen most of the Proposed Project's identified significant impacts because these impacts would likely occur in any new location adequately suited to the Academy's operations. This alternative may worsen transportation-related environmental impacts if students and staff were required to commute the increased distances between such campuses. The reduced campus cohesion also fails to meet the following basic project objectives: Objective 1, 5, 7, 8, and 9. For these reasons this alternative was rejected from further consideration.

The Commission concurs with the findings in the EIR and rejects these location alternatives because they would not (i) avoid significant impacts of the Revised Project, and (ii) fails to meet several of the Project's basic objectives.

2. Commitment to Only Interior Construction Activities in the Study Areas Alternative

This alternative was identified to address public concerns regarding the effect on historic resources and other Academy occupied buildings. It requires the Academy not make any exterior modifications to future occupied buildings in the study areas. Instead, improvements would be limited to interior construction activities, fire sprinkler/fire alarm upgrades, and seismic retrofit work. Under this alternative the Academy could not implement San Francisco Building Code ("SFBC") life safety requirements. This concept was rejected due to regulatory limitations which could require exterior modifications consisted with the SFBC or to promote safety. Additionally, this alternative would not reduce or avoid any identified significant impacts.

The Commission concurs with the findings in the EIR and rejects this alternative because it (i) would not avoid significant impacts of the Project, and (ii) is infeasible due to the requirements of the SFBC.

3. Building Construction Growth Alternative

This alternative was identified to address public concerns that (i) the Academy converts existing housing into student housing reducing the supply of housing in the City and (ii) the Academy is not developing its own facilities. It requires the Academy to accommodate the Project's projected growth by either (i) acquiring a large parcel and developing a number of new buildings, or (ii) accumulating contiguous parcels, demolishing the existing buildings, and developing a number of new buildings

There does not appear to currently be a large enough parcel in San Francisco capable of accommodating the Project's projected growth, making this alternative infeasible. If this alternative involves demolition and replacement of existing buildings, it could cause greater impacts to archaeological resources, historical architectural resources, and human remains; result in increased generation of toxic air contaminants, criteria air pollutant emissions and greenhouse gases, and increase releases of hazardous building materials into the environment compared to the Proposed Project. Therefore, this alternative was rejected from further consideration.

The Commission concurs with the findings in the EIR, and rejects this alternative because it (i) would not avoid significant impacts of the Project, and (ii) could create nor or greater physical impacts

B. Alternatives Considered in the EIR

The following Alternatives were fully considered and compared in the FEIR:

1. Alternative 1: No Project Alternative

As required by CEQA Guidelines section 15126.6(e), a no project alternative is provided to allow decision-makers to compare the environmental effects of approving the proposed project with the effects of not approving the project. The no project alternative is "the circumstance in which the Project does not proceed." (CEQA Guidelines section 15126.6(e)(3)(B).)

Under Alternative 1, the Academy would not occupy and change the use of 110,000 sf (220 rooms) of residential uses, 669,670 sf of institutional uses, and 17,533 sf of community facility use. Alternative 1 would result in a net loss of occupied space by the Academy of 225,460 sf of institutional uses at three project sites and 164 to 399 rooms. The Academy would continue to operate in its existing 27 sites (34 existing sites minus the seven potentially vacated residential sites) and at three of the six project sites.

Alternative 1 would not fulfill the Project's basic objectives. Specifically, the alternative would not meet Objectives 3, 4, 5, 6, 7, 8, 9, and 10. Alternative 1 prohibits the Academy from occupying the facilities necessary for its growth and would severely hamper its ability to accommodate its current enrolled students. While Alternative 1 could provide an avenue for future Academy growth as individual projects are proposed (each subject to future environmental review, compliance with the City's zoning code, and any IMP requirements), such avenue is infeasible in the near future due to the disruption caused by the City's requirement to vacate several buildings while simultaneously prohibiting student housing use at many of the Academy's current properties applicable in the Alternative 1 scenario. Without the growth provided in the Project, the Academy would be unable to provide accessible world class art education to all students seeking it and would be forced to reduce admissions. The reduction in future art students

would significantly reduce the amount of artistic activity occurring in San Francisco, as well as limited opportunities for the Academy students' integration into the city.

The Academy would also be unable to meet the student housing demand associated with any growth in enrollment, potentially increasing housing demand in the broader city. In addition, under Alternative 1, the Academy would not provide commitments to the City to house a larger percentage of its full-time student population than any other higher education institution in the city. The Academy would also not provide the large affordable housing in-lieu payment to the City. It is assumed, however, that this alternative would meet the objectives related to the Academy's operation in an urban context

The Commission concurs with these findings in the EIR, and rejects this alternative as infeasible because it fails to meet several of the basic Project Objectives. For this reason the Commission rejects Alternative 1 in favor of the Revised Project.

2. Alternative 2: Centralized Growth Alternative

Alternative 2 would focus 110,000 sf of residential (400 rooms serving 220 students), and 669,670 sf of institutional, of the Academy's future growth along transit corridors including Market, Mission and Fourth Streets as well as the Van Ness Avenue corridor. This alternative would consolidate the Academy's residential and institutional program-level growth in: SA-3 – Mid Van Ness Avenue; SA-4 – Sutter Street/Mason Street; SA-5 – Mid Market Street; SA-6 – Fourth Street/Howard Street; and SA-10 – Fifth Street/Brannan Street. Residential growth would be limited to SA-3 and SA-4, and institutional growth would be limited to SA-4, SA-5, SA-6, and SA-10. The rationale for locating the future Academy campus in the study areas proposed under Alternative 2 include: (i) creation of a more compact Academy campus, and (ii) permitting students to walk or use transit instead of cars or an expanded shuttle system.

Alternative 2 would not avoid any significant impact identified for the Project, although it would lessen the severity of the following impact, reducing a portion of it from significant and unavoidable to less than significant:

 Significant and unavoidable cumulative impacts on local transit in the Kearny/Stockton Corridor, but not in the Geary Corridor, would be reduced to less than significant due to the reduction in transit trips.

Alternative 2 would not meet Objectives 5, and 6, preventing the Academy from managing facilities in a flexible manner to ensure availability of space to meet changing needs of academic programs, and to enabling long-range programs and service planning to meet the needs of the community. The alternative would meet Objectives 1, 2, 3, 4, 7, 8, 9, and 10.

As analyzed in the Addendum, under the Revised Project the Academy would immediately vacate nine of its existing 40 campus properties. In addition to the 31 existing properties set to continue as Academy use, three properties not currently occupied by the Academy would be converted to Academy use for educational programs and student housing. The Revised Project increases the centralization of the Academy's campus to existing buildings on the Van Ness corridor. The Revised Project is also consolidates the Academy's campus into four clusters, identified in the IMP, which generally correspond to: (i) Van Ness Transit Corridor, (ii) Union Square, (iii) Financial District, and (iv) South of Market. While these

clusters do not align with the Alternative 2 study areas, they centralized the Academy's campus compared to the Proposed Project. This centralization accomplishes Alternative 2's rationales by created a more compact campus and by increasing predestrian walk trips. Under the Revised Project therefore, the objectives of Alternative 2 have, in part, been met.

The Commission concurs with these findings in the EIR, and rejects this alternative as infeasible because it (i) would fail to avoid several significant and unavoidable impacts of the Project, (ii) fails to meet some of the Project Objectives to the same extent as the Project, and (iii) the Revised Project accomplished significant centralization of the Academy campus. For these reasons, each of which is independently sufficient, the Commission rejects Alternative 2 in favor of the Project.

3. Alternative 3: Reduced Growth Alternative

Alternative 3 would reduce program-level growth by 50 percent in 12 study areas, resulting in a maximum growth of 110 beds/200 rooms, 335,000 sf of institutional use and 17,533 sf of community facility use in the 12 study areas, with the use and improvements at the project sites remaining the same as under the Proposed Project.

The 50 percent reduction in growth in Alternative 3 would also reduce the cumulative impacts on local transit in the Kearny/Stockton Corridor by a comparable 50 percent reduction of local transit trips. This reduction of local transit trips would result in reducing this impact from significant and avoidable to less-than-significant. Such reduction, however, would not extend to the cumulative transit impacts of the Geary Corridor, which would remain a significant and unavoidable impact. Alternative 4 would also not avoid any other significant impact identified for the Project, all of which would remain substantially similar.

The Reduced Growth Alternative would meet most of the Project objectives, including Objectives 1, 2, 4, 7, 8, 9, and 10. However, it would not meet any of the Project's primary objectives relating to occupying new buildings to provide flexibility in programming due to the reduce growth allowance.

The Commission concurs with these findings in the EIR and rejects this alternative as infeasible because it (1) would fail to avoid significant and unavoidable impacts of the Project, and (2) would fail to meet some of the Project Objectives to the same extent as the Project. For these reasons, each of which is independently sufficient, the Commission rejects Alternative 3 in favor of the Project.

4. Alternative 4: Reduced Institutional Growth Alternative

Alternative 4 would reduce program-level institutional growth by 50 percent in 12 study areas, resulting in growth of 110,000 sf (400 beds/220 rooms) of residential use and 335,000 sf of institutional use, with the use and improvements at the project sites remaining the same as under the Proposed Project. This alternative would result in approximately 72 percent of the total growth (including half the institutional growth in the study areas, all the residential growth in the study areas, and all of the growth at the project sites) compared to the Proposed Project.

Under Alternative 4, the housing demand impact would be reduced because the Academy would provide the same number of residences as under the Proposed Project, but the reduced institutional use would reduce student, faculty, and staff housing demands. However, the reduced student, faculty, and staff housing demands would not reduce the cumulative impacts related to housing demand to a less-thansignificant level. Alternative 4 would also not avoid any other significant impact identified for the Project, all of which would remain substantially similar, although it would lessen the severity of the following impact, reducing a portion of it from significant and unavoidable to less than significant:

• Significant and unavoidable cumulative impacts on local transit in the Kearny/Stockton Corridor, but not in the Geary Corridor, would be reduced to less than significant due to the reduction in transit trips.

Alternative 4 would meet, or partially meet, most of the Project objectives, including Objectives 1, 2, 3, 4, 7, 8, 9, and 10. However, it would not meet any of the Project's primary objectives relating to occupying new buildings to provide flexibility in programming due to the reduce industrial growth allowance.

The Commission concurs with these findings in the EIR and rejects this alternative as infeasible because it (1) would fail to avoid significant and unavoidable impacts of the Project, and (2) would fail to meet some of the Project Objectives to the same extent as the Project. For these reasons, each of which is independently sufficient, the Commission rejects Alternative 4 in favor of the Project.

VI. STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to CEQA section 21081 and CEQA Guideline 15093, the Commission hereby finds, after consideration of the FEIR, Addendum, and the evidence in the record, that each of the specific overriding economic, legal, social, technological and other benefits of the Project as set forth below independently and collectively outweighs the significant and unavoidable impacts and is an overriding consideration warranting approval of the Project. Any one of the reasons for approval cited below is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Commission will stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this Section, and in the documents found in the Record of Proceedings, as defined in Section I.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, the Commission specially finds that there are significant benefits of the Project in spite of the unavoidable significant impacts, and therefore makes this Statement of Overriding Considerations. The Commission further finds that, as part of the process of obtaining Project approval, all significant effects on the environment from implementation of the Project have been eliminated or substantially lessened where feasible. The Commission has determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to the specific overriding economic, technical, legal, social and other considerations set forth below.

The Project will include the following benefits:

1. Resolve extended enforcement and related litigation concerning past noncompliance by the Academy with the Planning Code at its properties, including the provision of a Consent Judgment and Injunction to provide enforcement mechanisms for any future noncompliance;

- 2. Payment by the Academy of an anticipated \$37,600,000.00 in-lieu affordable housing benefit to the City as well as payment by the Academy of an estimated \$8.2 million into the City's Small Sites Program to assist low-moderate income tenants;
- 3. Preservation of historic properties in a manner generally consistent with the Secretary of the Interior's Standards for Treatment of Historic Properties;
- 4. Addition of approximately 29 student housing beds to the City's housing stock helping the City to meet its housing demand;
- 5. Addition of 8 Single Room Occupancy hotel room units regulated under Chapter 41 of the San Francisco Administrative Code;
- 6. Commitment by the Academy that (i) by July 1, 2022, the Academy will house in San Francisco at least 36 percent of its full-time students taking up to one class online; (ii) by July 1, 2023, the Academy will house in San Francisco at least 38 percent of it full time students taking no more than one class online; (iii) after July 1, 2023, the Academy will use good faith efforts to house in San Francisco at least 45 percent of its full-time students taking no more than one class online;
- 7. The legalization of, and compliance by the Academy with, the agreed upon Existing Sites Technical Memorandum conditions of approval correcting any previously unauthorized changes of use and/or alterations;
- 8. Development and implementation of a Shuttle Demand Management Plan intended to address the Academy meeting the peak hour transportation needs of Academy students and staff through its shuttle service such that unmet shuttle demand does not impact the city's transit and transportation system, submittal by the Academy of an annual report documenting actual travelled shuttle routes, ridership numbers, and received complaints, and implementation of a Transportation Demand Management Program that seeks to minimize the number of single-occupancy vehicle trips generated by the Project for the lifetime of the Project;
- 9. Development of a more consolidated and "clustered" Academy campus that will contribute to walking, bicycling and use of public transportation, and minimize the impacts and use of private automobiles due to the withdrawal of the Academy from nine existing Academy properties, resulting in a footprint that is the same size as that occupied by the Academy in 2007;
- 10. Implementation of all EIR mitigation measures, and improvement measures, in accordance with the approved Mitigation Monitoring and Reporting Program.

Having considered the above, the Commission finds that the benefits of the Project outweigh the unavoidable adverse environmental effects identified in the FEIR and Addendum, and that those adverse environmental effects are therefore acceptable.

Attachment B Mitigation Monitoring and Reporting Program

EXHIBIT 2: MITIGATION MONITORING AND REPORTING PROGRAM

	MONITORING AND REPORTING PROGRAM				
Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
MITIGATION MEASURES AGREED TO BY PROJECT SPONSO	OR .				
CULTURAL AND PALEONTOLOGICAL RESOURCES					
Mitigation Measure M-CP-2.1 – Project-Specific Preliminary Archaeological Assessment. [Applies to growth in the 12 study areas: Impacts C-4.1 and CP-4.3] This archeological mitigation measure shall apply to any project involving any soils-disturbing or soils-improving activities including excavation, utilities installation, grading, soils remediation, compaction/chemical grouting to a depth of two feet below ground surface (bgs) or greater within the following study areas: SA-2, Lombard Street/Van Ness Avenue, SA-5, Mid Market Street; SA-6, Fourth Street/Howard Street; SA-7, Rincon Hill East; SA-8, Third Street/Bryant Street; SA-9, Second Street/Brannan Street; and SA-12, Ninth Street/Folsom Street; to a depth of four feet bgs or greater and located within properties within the remaining study areas (SA-1, Lombard Street/Divisadero Street; SA-3, Mid Van Ness Avenue; SA-4, Sutter Street/Mason Street; SA-10, Fifth Street/Brannan Street; and SA-11, Sixth Street/Folsom Street); or to the thresholds identified in the Area Plan EIR Archeological Mitigation Zones outlined in Table 4.5-2, Area Plan EIR Archeological Resources Mitigation Measures, p. 4.5-59, for projects covered by those Zones.	Planning Department archeologist or qualified archeological consultant; Environmental Review Officer	Prior to any soil disturbing activities	Project-specific Preliminary Archaeological Assessment	Project sponsor, archaeologist and Environmental Review Officer (ER0)	The project archeologist to consult with the ERO as indicated. Considered complete after review and approval of the Final Archeological Resources Report by the ERO.
Projects to which this mitigation measure applies shall be subject to Preliminary Archeology Review (PAR) by the San Francisco Planning Department archeologist, or a Preliminary Archeological Sensitivity Study (PASS) may be required in consultation with the San Francisco Planning Department archeologist. The PASS shall be prepared by an archeological consultant from the pool of qualified archeological consultants maintained by the Planning Department archeologist. The PASS shall contain the following:					

	MONITORING AND REPORTING PROGRAM				
	Responsibility			Monitoring/	
	for	Mitigation	Mitigation	Reporting	Monitoring
Adopted Mitigation Measures	Implementation	Schedule	Action	Responsibility	Schedule

- Determine the historical uses of the project site based on any previous archeological documentation and Sanborn maps.
- Determine types of archeological resources/properties that may have been located at the project site and whether the archeological resources/property types would potentially be eligible for listing on the California Register.
- Determine if 19th- or 20th-century soils-disturbing activities may have adversely affected the identified potential archeological resources.
- Assess potential project effects in relation to the depth of any identified potential archeological resource.
- Provide a conclusion that assesses whether any California Register-eligible archeological resources could be adversely affected by the Proposed Project and recommends appropriate further action.

Based on the PAR or PASS, the Environmental Review Officer (ERO) shall determine if an Archeological Research Design Treatment Plan (ARDTP) shall be required to more definitively identify the potential for California Register-eligible archeological resources to be present at the project site and determine the appropriate action necessary to reduce the potential effect of the project on archeological resources to a less-than-significant level. The scope of the ARDTP shall be determined in consultation with the ERO and consistent with the standards for archeological documentation established by the Office of Historic Preservation (OHP) for purposes of compliance with CEQA (OHP Preservation Planning Bulletin No. 5). If the PAR or PASS adequately identifies the potential for California Register-eligible archeological resources to be present at the project site, the ERO shall determine the appropriate action necessary to reduce the potential effect of

	MONITORING AND REPORTING PROGRAM				
Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
the project on archeological resources to a less-than-significant level. Actions may include an archeological testing program, archeological monitoring program, archeological data recovery program, accidental discovery measures/worker training, final reporting, curation, consultation with descendant communities, and interpretation undertaken in consultation with the Planning Department archeologist by an archeological consultant from the pool of qualified archeological consultants maintained by the Planning Department archeologist.					
TRANSPORTATION AND CIRCULATION					
Mitigation Measure M-TR-3.1 – Shuttle Demand, Service Monitoring, and Capacity Utilization Performance Standard. [Applies to growth in the 12 study areas and at the six project sites: Impacts TR-3.1, TR-3.2, TR-3.3, and C-TR-3] AAU shall develop, implement, and provide to the City a shuttle management plan to address meeting the peak hour shuttle demand needs of its growth. The shuttle management plan shall address the monitoring, analysis, and potential correction such that unmet shuttle demand would not impact the City's transit and transportation system. Analysis of shuttle bus demand and capacity utilization shall occur at least on an annual basis, or as		Submitted Annually	Development, submittal, and approval of shuttle management plan Update shuttle management	ERO or designee; MTA	Annually
needed to address shuttle demand. Specifically, analysis and adjustments shall be made on any AAU shuttle routes to reduce shuttle peak hour capacity utilization when the performance standard of 100 percent capacity utilization is regularly observed to be exceeded on any of the AAU shuttle routes. Additionally, the shuttle management plan shall address how shuttle demand at the six project sites will be provided. As additional project sites are added the shuttle management plan would be adjusted to reflect up-to-date shuttle routes, stops and services, as well as a capacity			plan, as needed, to address capacity utilization performance standard and as additional project sites are added or prior		

¹ The 100 percent performance standard was derived from the local and regional transit operational performance standards. Since AAU's vehicles and operations vary from transit service (e.g., not all shuttle buses allow for standing passengers), AAU may propose alternate performance standards that could equivalently meet this goal while addressing the specific design of their fleet.

		MONITORING	AND REPORTIN	IG PROGRAM	
Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
utilization analysis, as needed to, indicate that the proposed demand for shuttle services could be met and avoid potential mode shifts to other travel modes. AAU shall report annually to the City on capacity utilization and alter its schedules and/or capacity, as necessary to avoid regular exceedances of the capacity utilization standard.			to issuance of a building permit.		
Mitigation Measure C-M-TR-2.1a – AAU Fair Share Contribution to Cumulative Transit Impact. [Applies to growth in the 12 study areas and at the six project sites: Impacts C-TR-2.1a, C-TR-2.2a, and C-TR-2.3a] AAU shall be required to make a fair share contribution to mitigate the cumulative transit demand impact related to AAU growth in transit ridership on the Kearny/Stockton corridor of the Northeast screenline and on the Geary corridor of the Northwest screenline to SFMTA.	, ·	Prior to issuance of a building permit	-		Ongoing
AAU's fair share contribution shall be made in addition to the applicable Transportation Sustainability Fee (TSF) for Non-Residential, except Hospitals and Health Services, 800-99,999 GSF and Non-Residential, except Hospitals and Health Services, all GSF above 99,999 GSF and for Residential or any successor fee that supersedes this fee.					
AAU's fair share contribution fee will be calculated by determining the discount for existing uses that would otherwise be permitted by Section 411A.4, or any successor fee ordinance. Rather than discount such amounts, the amount of such discount will be paid as a fair share contribution fee ("Fair Share Fee"). The Fair Share Fee will be calculated based on the total square footage of use in the EIR for each project site and for the proposed square footage of use when a project in one of the study areas is proposed. Payment of the Fair Share Fee is due prior to the issuance of a building permit for the project or portion of the project. The City shall account for the expenditure of funds to support additional transit in the affected corridors. The payment					

	MONITORING AND REPORTING PROGRAM				
		Monitoring/	Manitanina		
Adopted Mitigation Measures	for Implementation	Mitigation Schedule	Mitigation Action	Reporting Responsibility	Monitoring Schedule
of the Fair Share Fee shall satisfy the AAU's fair share contribution obligations for all projects where the mitigation measure applies.					
A A I I may apply to the EPO to reduce adjust, or modify this fee					

AAU may apply to the ERO to reduce, adjust, or modify this fee prior to a project approval based on substantial evidence supporting the absence of any reasonable relationship between the impact of the AAU use on cumulative transit demand and the amount of fee charged.

NOISE

Mitigation Measure M-NO-2.1a - Interior Noise Levels for Project spo Residential Uses. [Applies to growth in the 12 study areas: qualified Impacts NO-2.1a, NO-2.3, and C-NO-1] For new development acoustical including conversion of non-noise-sensitive to noise-sensitive uses consultant located along streets with noise levels above 60 dBA (Ldn), where such development is not already subject to the California Noise Insulation Standards in California Code of Regulations Title 24, the project sponsor of future individual developments within the study areas shall conduct a detailed analysis of noise reduction requirements. Such analysis shall be conducted by person(s) qualified in acoustical analysis and/or engineering. Noiseinsulation features identified and recommended by the analysis shall be included in the design, as specified in the San Francisco General Plan Land Use Compatibility Guidelines for Community Noise to reduce potential interior noise levels to the maximum extent feasible. Additional noise attenuation features may need to be incorporated into the building design where noise levels exceed 70 dBA (Ldn) to ensure that acceptable interior noise levels can be achieved.

onsor;	During project	Detailed	Planning	Considered
	design	analysis of noise reduction	Department; Department of	complete upon approval of
t		requirements	Building Inspection	building permit plans
			nopecuon	Pilling

		MONITORING	AND REPORTIN	G PROGRAM	
	Responsibility for	Mitigation	Mitigation	Monitoring/ Reporting	Monitoring
Adopted Mitigation Measures	Implementation	Schedule	Action	Responsibility	Schedule
Mitigation Measure M-NO-2.1b – Siting of Noise-Sensitive	Project sponsor:	Prior to issuance of	Analysis of site	Project sponsor;	Considered
Uses. [Applies to growth in the 12 study areas: Impacts NO-2.1a,	, .	a building permit	•	, .	complete upon
NO-2.3, and C-NO-1] To reduce potential conflicts between	•	61	uses	Department	approval of
existing noise-generating uses and new sensitive receptors, for	*			_F	building permit
new residential development and development that includes other	•				plans
noise-sensitive uses (primarily, residences, and also including					1
schools and child care, religious, and convalescent facilities and					
the like), the San Francisco Planning Department shall require the					
preparation of an analysis that includes, at a minimum, a site					
survey to identify potential noise-generating uses within 900 feet					
of, and that have a direct line-of-sight to, the project site, and					
including at least one 24-hour noise measurement (with average					
and maximum noise level readings taken so as to be able to					
accurately describe maximum levels reached during nighttime					
hours) prior to the first project approval action. The analysis shall					
be prepared by persons qualified in acoustical analysis and/or					
engineering and shall demonstrate with reasonable certainty that					
Title 24 standards, where applicable, can be met, and that there are					
no particular circumstances about the individual project site that					
appear to warrant heightened concern about noise levels in the					
vicinity. Should the Planning Department conclude that such					
concerns be present, the Planning Department may require the					
completion of a detailed noise assessment by person(s) qualified in					
acoustical analysis and/or engineering prior to the first project					
approval action, in order to demonstrate that acceptable interior					
noise levels consistent with those in the Title 24 standards can be					
attained.					

		MONITORING	AND REPORTIN		
Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
Mitigation Measure M-NO-2.1c – Siting of Noise-Generating Equipment. [Applies to growth in the 12 study areas: Impacts NO-2.1a, NO-2.3, and C-NO-1] If AAU proposes, as part of a change of use new (as opposed to replacement) mechanical equipment or ventilation units that would be expected, to increase ambient to noise levels by 5 dBA or more, either short-term, at nighttime, or as 24-hour average, in the proposed Project site vicinity, the San Francisco Planning Department shall require the preparation of an analysis that includes, at a minimum, a site survey to identify potential noise-sensitive uses (primarily, residences, and also including schools and child care, religious, and convalescent facilities and the like) within 900 feet of, and that have a direct line-of-sight to, the project site, and at least one 24-hour noise measurement (with average and maximum noise level readings taken so as to be able to accurately describe maximum levels reached during nighttime hours), prior to the first project approval action. The analysis shall be conducted prior to issuance of a building permit. The analysis shall be prepared by persons qualified in acoustical analysis and/or engineering and shall demonstrate with reasonable certainty that the proposed equipment would not cause a conflict with the use compatibility requirements in the San Francisco General Plan and would not violate Noise Ordinance Section 2909. If necessary to meet these standards, the proposed equipment shall be replaced with quieter equipment, deleted entirely, or mitigated through implementation of site-specific noise reduction features or strategies.	Planning Department; qualified acoustical consultant	Prior to issuance of a building permit	•	, .	Considered complete upon approval of building plans

	MONITORING AND REPORTING PROGRAM				
Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
AIR QUALITY					
Mitigation Measure M-AQ-2.1 – Construction Emission Minimization within an Air Pollutant Exposure Zone. [Applie to growth in the 12 study areas and at PS-1, P-S-3, and PS-4 Impacts AQ-2.1, AQ-2.2, and AQ-2.3] This mitigation measure i applicable to renovation activities occurring within an Ai Pollutant Exposure Zone and where off-road diesel powered equipment is required and would operate for more than 20 total hours over the duration of construction at any one site.	s contractor(s). t: s r d	Prior to construction activities requiring the use of off-road equipment.	Submit certification statement.	Project sponsor / contractor(s) and the ERO.	Considered complete on submittal of certification statement.
A. Construction Emissions Minimization Plan. Prior to issuance of a construction permit, the project sponsor shall submit a Construction Emissions Minimization Plan (Plan) to the Environmental Review Officer (ERO) for review and approval by an Environmental Planning Air Quality Specialist. The Plan shall detail project compliance with the following requirements:	it and contractor e d y	Prior to issuance of a permit specified in Section 106A.3.2.6 of the Francisco Building Code.	•	Project sponsor/ contractor(s) and the ERO.	Considered complete on findings by ERO that Plan is complete.
 All off-road equipment greater than 25 hp and operating for more than 20 total hours over the entire duration of construction activities shall meet the following requirements: 	e				
 a) Where access to alternative sources of power i available, portable diesel engines shall b prohibited. 					
b) All off-road equipment shall have:					
 Engines that meet or exceed either U.S Environmental Protection Agency (USEPA or California Air Resources Board (ARB Tier 2 off-road emission standards, and 	.)				
ii. Engines that are retrofitted with an ARI Level 3 Verified Diesel Emissions Control					

		MONITORING AND REPORTING PROGRAM				
	Responsibility			Monitoring/		
	for	Mitigation	Mitigation	Reporting	Monitoring	
Adopted Mitigation Measures	Implementation	Schedule	Action	Responsibility	Schedule	

Strategy (VDECS).²

c) Exceptions:

- Exceptions to A(1)(a) may be granted if the project sponsor has submitted information providing evidence to the satisfaction of the ERO that an alternative source of power is limited or infeasible at the project site and that the requirements of this exception provision apply. Under this circumstance, the sponsor shall submit documentation of compliance with A(1)(b) for on-site power generation.
- ii. Exceptions to A(1)(b)(ii) may be granted if the project sponsor has submitted information providing evidence to the satisfaction of the ERO that a particular piece of off-road equipment with an ARB Level 3 VDECS is (1) technically not feasible, (2) would not produce desired emissions reductions due to expected operating modes, (3) installing the control device would create a safety hazard or impaired visibility for the operator, or (4) there is a compelling emergency need to use off-road equipment that are not retrofitted with an ARB Level 3 VDECS and the sponsor has submitted documentation to the ERO that the requirements of this exception provision apply. If granted an exception to A(1)(b)(ii), the project sponsor must comply with the requirements of

² Equipment with engines meeting Tier 4 Interim or Tier 4 Final emission standards automatically meet this requirement, therefore a VDECS would not be required.

MONITORING AND REPORTING PROGRAM						
Responsibility			Monitoring/			
for	Mitigation	Mitigation	Reporting	Monitoring		
Implementation	Schedule	Action	Responsibility	Schedule		

A(1)(c)(iii).

Adopted Mitigation Measures

iii. If an exception is granted pursuant to A(1)(c)(ii), the project sponsor shall provide the next cleanest piece of off-road equipment as provided by the step down schedules in Table 4.8-13, Off-Road Equipment Step-Down Compliance Schedule.

Table 4.8-13 Off-Road Equipment Compliance Step-Down Schedule

Compliance Alternative	Engine Emission Standard	Emissions Control
1	Tier 2	ARB Level 2 VDECS
2	Tier 2	ARB Level 1 VDECS
3	Tier 2	Alternative Fuel*

How to use the table: If the requirements of (A)(1)(b) cannot be met, then the project sponsor would need to meet Compliance Alternative 1. Should the project sponsor not be able to supply off-road equipment meeting Compliance Alternative 1, then Compliance Alternative 2 would need to be met. Should the project sponsor not be able to supply offroad equipment meeting Compliance Alternative 2, then Compliance Alternative 3 would need to be met.

- Alternative fuels are not a VDECS.
- 2. The project sponsor shall require the idling time for off-road and on-road equipment be limited to no more than two minutes, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment. Legible and visible signs shall be posted

			MONITORING AND REPORTING PROGRAM				
		Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
		in multiple languages (English, Spanish, Chinese) in designated queuing areas and at the construction site to remind operators of the two minute idling limit.					
	3.	The project sponsor shall require that construction operators properly maintain and tune equipment in accordance with manufacturer specifications.					
	4.	The Plan shall include estimates of the construction timeline by phase with a description of each piece of off-road equipment required for every construction phase. Off-road equipment descriptions and information may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For VDECS installed: technology type, serial number, make, model, manufacturer, ARB verification number level, and installation date and hour meter reading on installation date. For off-road equipment using alternative fuels, reporting shall indicate the type of alternative fuel being used.					
	5.	The Plan shall be kept on-site and available for review by any persons requesting it and a legible sign shall be posted at the perimeter of the construction site indicating to the public the basic requirements of the Plan and a way to request a copy of the Plan. The project sponsor shall provide copies of Plan to members of the public as requested.					Considered
В.	ind info	porting. Monthly reports shall be submitted to the ERO licating the construction phase and off-road equipment formation used during each phase including the formation required in A(4). In addition, for off-road	, .	Monthly	Submit monthly reports.	Project sponsor/ contractor(s) and the ERO.	

		MONITORING AND REPORTING PROGRAM				
	Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
	equipment using alternative fuels, reporting shall include the actual amount of alternative fuel used.					implemented.
	Within six months of the completion of construction activities, the project sponsor shall submit to the ERO a final report summarizing construction activities. The final report shall indicate the start and end dates and duration of each construction phase. For each phase, the report shall include detailed information required in A(4). In addition, for off-road equipment using alternative fuels, reporting shall include the actual amount of alternative fuel used.					
C.	Certification Statement and On-Site Requirements. Prior to the commencement of construction activities, the project sponsor must certify (1) compliance with the Plan and (2) all applicable requirements of the Plan have been incorporated into contract specifications.					
Mitigation Measure M-AQ-3.3 – Maximum Daily Construction Activities. [Applies to growth in the 12 study areas and at the six project sites: Impacts AQ-3.3 and C-AQ-2] Construction activities shall be limited to the renovation (including architectural coating) of a maximum of 100,000 square feet of building space at a time.		, 1	Ongoing during construction	Maximum daily construction activities	Project Sponsor; Contractor; Planning Department; and the ERO	Considered complete after construction activities have ended
Mitigation Measure M-AQ-4.1a – Best Available Control Technology for Diesel Generators. [Applies to growth in the 12 study areas: Impacts AQ-4.1 and AQ-4.3]All new (i.e., not replacement) diesel generators shall have engines that (1) meet Tier 4 Final or Tier 4 Interim emission standards, or (2) meet Tier 2 emission standards and are equipped with a California Air Resources Board (ARB) Level 3 Verified Diesel Emissions Control Strategy (VDECS).		and contractor	Prior to issuance of permit for backup diesel generator from City agency.	Submittal of plans detailing compliance and documentation of compliance with BAAQMD Regulation 2, Rules 2 and 5.	Project sponsor and the ERO.	Considered complete approval of plans detailing compliance.

	MONITORING AND REPORTING PROGRAM				
Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
Mitigation Measure M-AQ-4.1b – Best Available Control Technology for Boilers [Applies to growth in the 12 study areas: Impacts AQ-4.1 and AQ-4.3] All new (i.e., not replacement) boilers shall be natural gas operated. If infeasible, all boilers shall be equipped with Best Available Control Technologies, such as fuel gas filters, or baghouse or electrostatic precipitators. BACTs shall be approved by BAAQMD through the permitting process.	and contractor	Prior to issuance of permit for boiler from City agency	Submittal of plans detailing compliance and documentation of compliance with BAAQMD Regulation	Project sponsor and the ERO.	Considered complete approval of plans detailing compliance.
Mitigation Measure M-AQ-4.1c – Air Filtration Measures within an Air Pollutant Exposure Zone. [Applies to growth in the 12 study areas: Impacts AQ-4.1 and AQ-4.3] Air Filtration and Ventilation Requirements for Sensitive Land Uses. Prior to receipt of a building permit for a change of use to a sensitive land use, the project sponsor shall submit an enhanced ventilation plan for the proposed building(s). The enhanced ventilation plan shall be prepared and signed by, or under the supervision of, a licensed mechanical engineer or other individual authorized by the California Business And Professions Code Sections 6700-6799. The enhanced ventilation plan shall show that the building ventilation system will be capable of achieving protection from particulate matter (PM2.5) equivalent to that associated with a Minimum Efficiency Reporting Value (MERV) 13 filtration, as defined by American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) standard 52.2. The enhanced ventilation plan shall explain in detail how the project will meets the MERV-13 performance standard identified in this measure. Maintenance Plan. Prior to receipt of a building permit for a change of use to a sensitive land use, the project sponsor shall present a plan that ensures ongoing maintenance for the ventilation and filtration systems.	and contractor	Prior to receipt of a building permit	Enhanced Ventilation Plan; Maintenance Plan; disclosure to buyers and renters	· •	Ongoing during operation
Disclosure to Renters. The project sponsor shall also ensure the disclosure to buyers (and renters) that the building is located in an area with existing sources of air pollution and as such, the					

	MONITORING AND REPORTING PROGRAM				
Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
building includes an air filtration and ventilation system designed to remove 80 percent of outdoor particulate matter and shall inform occupants of the proper use of the installed air filtration system.					
HAZARDS AND HAZARDOUS MATERIALS					
Mitigation Measure M-HZ-2.1 – Testing and Removal of Hazardous Building Materials. [Applies to growth in the 12 study areas and at PS-1, PS-2, PS-3, PS-4, and PS-6: Impacts HZ-2.1, HZ-2.2, HZ-2.3, and C-HZ-1] AAU shall ensure that for any existing building where tenant improvements are planned, the building is surveyed for hazardous building materials including PCB-containing electrical equipment, fluorescent light ballasts containing PCBs or DEHP, and fluorescent light tubes containing mercury vapors. The results of testing shall be provided to DBI. The materials not meeting regulatory standards shall be removed and properly disposed of prior to the start of tenant improvements for buildings in the study areas. Old light ballasts that are removed during renovation shall be evaluated for the presence of PCBs. In the case where the presence of PCBs in the light ballast cannot be verified, the light ballast shall be assumed to contain PCBs and handled and disposed of as such, according to applicable laws and regulations. Any other hazardous building materials identified either before or during demolition or renovation shall be abated according to federal, state, and local laws and regulations.	and contractor	Prior to building improvements	Ensure hazardous materials are properly disposed	Project sponsor; contractor; Department of Building Inspection (DBI)	Considered complete when equipment containing PCBs or DEHP or other hazardous materials are properly disposed

Planning Commission Draft Resolution

HEARING DATE: NOVEMBER 21, 2019

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

Reception: 415.558.6378

Fax: 415.558.6409

Planning Information: 415.558.6377

Case No.: 2019-012970PCADVA

Project Name: 34 Properties Owned or Leased by the Academy of Art

University ("Academy")

Zoning: Multiple Zoning Districts Block/Lot: Multiple Blocks and Lots

Project Sponsor: Jim Abrams

J. Abrams Law, P.C.

One Maritime Plaza, Suite 1900

San Francisco, CA 94111

Property Owner(s): Multiple LLCs

79 New Montgomery Street, 3rd Floor

San Francisco, CA 94105

Staff Contact: Andrew Perry – (415) 575-9017

andrew.perry@sfgov.org

RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND THE STEPHENS INSTITUTE (ACADEDMY OF ART UNIVERSITY) AND ITS AFFILIATED ENTITIES, AS TO THE ACADEMY'S PROPERTIES, WHICH AGREEMENT PROVIDES FOR VARIOUS PUBLIC BENEFITS, INCLUDING, AMONG OTHERS, AN "AFFORDABLE HOUSING PAYMENT" OF \$37,600,000 AND A PAYMENT OF APPROXIMATELY \$8,200,000 TO THE CITY'S SMALL SITES FUND; AMENDING THE PLANNING CODE TO PROVIDE REVIEW PROCEDURES FOR LARGE NONCONTIGUOUS POST-SECONDARY EDUCATIONAL INSTITUTIONS; WAIVING CONFLICTING PROVISIONS IN THE PLANNING AND ADMINISTRATIVE CODES; CONFIRMING COMPLIANCE WITH OR WAIVING CERTAIN PROVISIONS OF ADMINSITRATIVE CODE CHAPTERS 41 AND 56; AND RATIFYING CERTAIN ACTIONS TAKEN IN CONNECTION WITH THE DEVELOPMENT AGREEMENT AND AUTHORIZING CERTAIN ACTIONS TO BE TAKEN CONSISTENT WITH THE DEVELOPMENT AGREEMENT; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND FINDINGS OF CONFORMITY WITH THE GENERAL PLAN AND WITH THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1(B); AND ADOPTING FINDINGS OF PUBLIC CONVENIENCE, NECESSITY, AND WELFARE **UNDER PLANNING CODE SECTION 302.**

WHEREAS, California Government Code Section 65864 et seq. authorizes any city, county, or city and county to enter into an agreement for the development of real property within the jurisdiction of the city, county, or city and county.

WHEREAS, Chapter 56 of the San Francisco Administrative Code ("Chapter 56") sets forth certain procedures by which a request for a development agreement will be processed and approved in the City and County of San Francisco.

WHEREAS, the Stephens Institute, dba Academy of Art University ("Stephens Institute") is a private for-profit postsecondary academic institution that currently occupies 40 buildings in the City (predominantly in the northeast quadrant) for its educational programs, recreational activities, and student housing. The buildings are owned or leased by the Stephens Institute from affiliated entities (collectively, the "LLC Parties"). This ordinance sometimes refers to the Stephens Institute and the LLC Parties, collectively and individually, as the "Academy."

WHEREAS, in 2007, the Stephens Institute occupied 34 buildings. In 28 of those buildings, the Academy had implemented various tenant improvements and changes of use without benefit of required conditional uses, building permits, or other entitlements. To evaluate the potential impacts associated with bringing these 28 buildings into compliance with the Planning Code and to analyze the Academy's then-proposed plans for growth, an Environmental Impact Report ("EIR") and an Existing Sites Technical Memorandum ("ESTM") were prepared between 2010 and 2016. During this period, one or more LLC Parties acquired an additional six buildings beyond the 34 already occupied, bringing the total number of properties owned or occupied by the Academy to 40. Collectively, the 40 properties described in this paragraph are referred to as the "Academy Properties;" the Academy Properties are more particularly described in the July 5, 2019 Academy of Art University Institutional Master Plan, a copy of which is on file with the Planning Department in File No. 2019-012970IMP. The Planning Commission approved the ESTM and certified the Final Environmental Impact Report ("FEIR"), which analyzed the 40 properties, on July 28, 2016.

WHEREAS, on May 6, 2016, the City Attorney of the City and County of San Francisco, on behalf of the City and the People of the State of California, commenced litigation against the Academy and certain LLC Parties in People v. Stephens Institute, et. al, San Francisco Superior Court Number CGC-16-551832 (the "Lawsuit"). In the Lawsuit, the City and state alleged violations of the City's Administrative Code, Planning Code, Building Code and the State Unfair Competition Law, California Business and Professions Code Sections 17200 et seq. (the "UCL").

WHEREAS, during court-supervised settlement discussions to resolve the Lawsuit, the Academy expressed its commitment to bring its existing uses into compliance with the Planning Code; relocate existing Academy uses or change Academy uses in buildings in accordance with applicable laws in those instances where the Planning Department has determined that legalization is not appropriate or the Academy has agreed to withdraw its use; compensate the City for past violations, including providing affordable housing public benefits to the City; legalize or reverse prior alterations performed without required permits or approvals in order to bring its properties into compliance with City codes; and work cooperatively with the City in planning for future Stephens Institute growth in a manner that accounts for the urban nature of the Stephens Institute campus, without adversely impacting the City's affordable or rent-controlled housing stock, or burdening its transportation system, including, as a part of that plan, building new housing for its students on property zoned for such use.

WHEREAS, as a result of those settlement discussions, and under the auspices of the Superior Court, the Academy and the City (collectively "Parties") entered into a non-binding Term Sheet for Global Resolution, dated November 15, 2016 (the "Initial Term Sheet"), as later supplemented by the Parties under the

Superior Court's supervision in the Supplement to Term Sheet for Global Resolution, dated July 10, 2019 (the "Supplement"). This ordinance refers to the Initial Term Sheet and the Supplement collectively as the "Term Sheet". The Term Sheet was intended to provide a basis to resolve all of the outstanding issues relating to the Lawsuit with respect to land use matters, and to establish appropriate principles and processes for land use compliance by the Academy. The Parties made the Term Sheet public, each time with the Court's consent, and the Planning Commission held public hearings relating to the matters addressed in the Term Sheet.

WHEREAS, as contemplated by the Term Sheet, the Parties will enter into a comprehensive consent judgment that they will file with the Superior Court seeking the Court's approval and entry of judgment (the "Consent Judgment"). The Consent Judgment contains four main parts: (1) a Settlement Agreement (the "Settlement Agreement"), which is subject to approval by the Board of Supervisors and includes obligations of the LLC Parties to make payments to the City (including the Affordable Housing Public Benefit, defined below); (2) a Stipulated Injunction (the "Injunction"), which is an exhibit to the Settlement Agreement and provides a mechanism for judicial enforcement of the Academy's obligations under the Settlement Agreement and the Development Agreement; and (3) the Development Agreement, which is also an exhibit to the Settlement Agreement. Also critical to the global resolution that the Consent Judgment would achieve is the instrument securing the LLC Parties' financial obligations under the Settlement Agreement and the Development Agreement. The obligations of the LLC Parties to make the full settlement payments under the Settlement Agreement will be secured by a Guaranty (the "Guaranty") from the Stephens Family Revocable Trust, the Elisa Stephens Revocable Trust, the Scott Alan Stephens Revocable Trust, Elisa Stephens, Scott Alan Stephens, and Susanne Stephens.

WHEREAS, as contemplated by the Term Sheet, the Academy proposes to withdraw from, and cease any Stephens Institute operations at, nine of the 40 Academy Properties referenced in subsection (d), to occupy three additional properties, and to bring all of the remaining 34 properties owned by the LLC Parties and used by the Stephens Institute or intended for future Stephens Institute use into compliance with the Planning Code ("Project"). The Project requires the City's approval of a variety of permits and authorizations, including: (1) approval of a conditional use authorization by the Planning Commission to reflect the approval of the use of 34 properties (primarily in the northeast quadrant of the City) and to grant certain exceptions to the Planning Code, (2) the approval of permits to alter and certificates of appropriateness by the Historic Preservation Commission, (3) amendment of the Planning Code to permit uses that are currently not permitted at certain properties, and (4) building permits and associated approvals from other City departments for a variety of other building alterations and street improvements including without limitation the removal and installation of signage, the removal and repair of nonconforming awnings and exterior alterations, the installation of Class 1 and Class 2 bike racks, the removal of curb cuts, and the replacement of certain windows.

WHEREAS, the Stephens Institute filed an application with the Planning Department for approval of a development agreement relating to the Project (the "Development Agreement") under Chapter 56.

WHEREAS, as set forth in the Development Agreement, the Academy requests legalization of certain previously unpermitted alterations and changes in use at the Academy Properties. The Academy also seeks approval of the work necessary to correct or reverse other previously unpermitted alterations and changes, and to bring these properties into compliance with the Planning Code including, where applicable, Planning Code Articles 10 and 11.

WHEREAS, the Development Agreement requires the Academy to obtain all necessary permits to perform corrective work at the 34 properties referenced in subsection (i) and complete all work necessary to bring these buildings into compliance with the Planning Code pursuant to the Schedule of Performance Schedule set forth as Exhibit E to the Development Agreement.

WHEREAS, while the Development Agreement is between the City, acting primarily through the Planning Department, and the Academy, other City agencies retain a role in reviewing and issuing certain later approvals for the Project, including approval of building permits. All affected City agencies have consented or will consent to the Development Agreement.

WHEREAS, concurrently with adopting this ordinance, the Board will take a number of actions in furtherance of the Project, including approval of a Settlement Agreement, Consent Judgment, Stipulated Injunction and Guaranty, and other approvals as generally described in the Development Agreement, including Exhibit D to the Development Agreement (the "Approvals").

WHEREAS, public benefits to the City from the Project includes: (1) an "Affordable Housing Benefit" defined as the cash payment by the LLC Parties of \$37,600,000 to the City to be used solely for affordable housing purposes, with a first priority for uses related to the creation or preservation of single room occupancy (SRO) units in those supervisorial districts in which the City alleges the Academy unlawfully converted SRO buildings to student housing, in such manner as the City, acting by and through the Mayor's Office of Housing and Community Development, may determine in its sole discretion; (2) a cash payment by the LLC Parties to the City's Small Sites Fund approximately \$8,200,000; (3); an agreement by the Stephens Institute to meet all future housing needs for its students through new construction on property that is zoned for such use, or conversion of existing non-residential, non-PDR (not zoned or operated as production, distribution and repair businesses) structures to student housing use, to not promise new students more housing units than the number of lawful units that are at its disposal, to not temporarily house its students in non-Academy facilities with limited exceptions, and to increase the percentage of housing it provides to On Campus Students (defined as on-site, full-time undergraduate and graduate students taking no more than one course online per semester) pursuant to a "Housing Metering" formula agreed to by the Parties; (4) payment by the LLC Parties to the Planning Department of Planning Code penalties totaling \$1,000,000; and (5) payment by the LLC Parties to the City Attorney's Office of Unfair Competition Law penalties totaling \$6,000,000. In addition, the Academy will pay impact, fair share, and in lieu fees totaling in excess of \$3,500,000. The total of all payments detailed in this subsection will be approximately \$58,000,000. Further, the Academy will pay permit fees and the City's administrative costs in connection with the processing of the Development Agreement.

WHEREAS, on July 28, 2016, by Motion No. 19704, the Planning Commission certified as adequate, accurate, and complete the FEIR for the Project pursuant to the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA").

WHEREAS, on October 9, 2019, the Planning Department issued an Addendum to the FEIR ("Addendum"), in which it determined that the actions contemplated in this ordinance comply with CEQA; that no supplemental or subsequent environmental review is required, as there are no substantial changes to the proposed Project, or to the circumstances under which the Project will be undertaken, involving new significant environmental effects or a substantial increase in the severity of previously identified

environmental effects; and that there is no new information of substantial importance that shows that the Project will have one or more effects not discussed in the FEIR, that the previously identified effects will be more severe, or that there are mitigation measures or alternatives that would reduce such effects, but the Project proponents refuse to adopt them.

WHEREAS, on November 5, 2019, pursuant to Planning Code section 302(b), Supervisor Aaron Peskin introduced an ordinance to approve a Development Agreement between the City and County of San Francisco and the Stephens Institute (Academy of Art University) and its affiliated entities, and amend the Planning Code to provide review procedures for Large Noncontiguous Post-Secondary Educational Institutions, to waive conflicting provisions in the Planning and Administrative Codes, and confirm compliance with or waive certain provisions of Administrative Code Chapters 41 and 56, in order to implement the Academy of Art University Project (the "Ordinance").

WHEREAS, the Ordinance would enable the Project. The Project involves the withdrawal of all Academy use from nine (9) properties and the legalization and/or establishment of uses associated with the Academy at 34 properties within the City and County of San Francisco. Also included in the Project are building modifications, both internal and external, that have either been made by the Academy and require legalization, are required for purposes of establishing Academy uses at these various properties, or are required to bring the buildings into conformance with the Planning Code including, where applicable, Articles 10 and 11 of the Planning Code. The Project also includes signage proposals for all properties. The Project does not propose any demolition, new construction, or physical expansion of a building at any of the 34 properties, or at the sites to be withdrawn from Academy use. In total, the Project will establish a Post-Secondary Educational Institution ("PSEI") use at 16 properties, with a total of approximately 1,137,108 square feet of institutional space. An additional 16 properties will be used by the Academy for residential student housing uses (and incidental PSEI space located in some of the properties, such as student activity centers, recreation spaces and cafeterias), with some authorized as dwelling units and others as group housing; one building within this category includes legal nonconforming live/work units. These residential buildings comprise approximately 462,448 square feet and include 143 dwelling units, 579 group housing rooms, and 33 live/work units, resulting in a total available count of 1,843 beds at the 16 properties. Also included in the residential square footage discussed above are areas proposed for nonaccessory private parking uses to be used by Academy faculty and staff totaling 100 spaces at four properties - 575 Harrison St., 1727 Lombard St., 1900 Jackson St., and 2550 Van Ness Ave. The two remaining sites will be authorized for multiple uses including a private parking garage, commercial storage, and a community facility. As discussed in the Institutional Master Plan (IMP) for the Academy, three of the thirty-four properties will include newly approved Academy uses and were not otherwise used by the Academy prior to approval.

WHEREAS, the Ordinance would add Planning Code Sections 304.6 and 304.7 to establish comprehensive and consolidated public review processes and procedures for Large Noncontiguous Post-Secondary Educational Institutions that meet prescribed criteria and would otherwise be subject to multiple approval processes and hearings. Any number of individual Conditional Use Authorizations, Certificates of Appropriateness, or Permits to Alter may be sought by a Large Noncontiguous Post-Secondary Educational Institution under a single application for a Master Conditional Use Authorization, a Master Certificate of Appropriateness, or a Master Permit to alter, respectively. In making a determination on a Master Conditional Use Authorization, the Commission is authorized to grant exceptions to Code requirements subject to the criteria of Planning Code Section 303(c). Under Section 304.6, no application for

Certificate of Appropriateness or Permit to Alter shall be considered a Minor Alteration under either Section 1006.2 or 1111.1 of the Planning Code. Additionally, where the City enters into a Development Agreement with a Large Noncontiguous Post-Secondary Educational Institution the following shall apply: (1) where such Development Agreement compensates the City for the loss of Residential Units, the restrictions of Section 317(e) may be waived by the Master Conditional Use Authorization; and (2) where such Development Agreement authorizes the conversion of no more than one property from an industrial use subject to Section 202.8 to an institutional use, the requirements and restrictions of Section 202.8 shall be met by application for a Master Conditional Use Authorization; and (3) where such Development Agreement would expand the number of residential hotel rooms subject to the provisions of Administrative Code Chapter 41, the density limitations of Article 2 of the Planning Code shall not apply to the property where expansion occurs.

WHEREAS, on November 20, 2019, by Motion No. XXXX, the Historic Preservation Commission adopted CEQA findings; on November 21, 2019, by Motion No. XXXXX, the Planning Commission adopted CEQA findings (the "CEQA Findings"), including a statement of overriding considerations and a mitigation monitoring and reporting program (MMRP), pursuant to CEQA.

WHEREAS, this Resolution recommending the approval of the Ordinance is a companion to other legislative approvals relating to the Project, including the Master Conditional Use Authorization, Master Certificate of Appropriateness and Master Permit to Alter to authorize the Project (Motion Nos. XXXXX, XXXX, and XXXX). The approval of the Development Agreement under this ordinance is contingent on the Board of Supervisors' approval of the companion ordinance approving the Settlement Agreement.

WHEREAS the Planning Department Commission Secretary is the Custodian of Records, located in Case No. 2019-012970PRJ, at 1650 Mission Street, Fourth Floor, San Francisco,

WHEREAS, on November 21, 2019, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on the proposed Ordinance.

NOW THEREFORE BE IT RESOLVED, that the Commission has reviewed and considered the FEIR certified in Motion No. 19704, and adopts and incorporates by reference as though fully set forth herein, the findings, including the statement of overriding considerations and the MMRP, adopted by the Commission in Motion No. XXXXX on November 21, 2019;

AND BE IT FURTHER RESOLVED, that the Commission recommends approval of the Development Agreement, in substantially the form attached hereto as Exhibit D, subject to any additions and modifications that may be made by the Board of Supervisors.

AND BE IT FURTHER RESOLVED, that the Commission finds that the application, public notice, Planning Commission hearing, and Planning Director reporting requirements regarding the Development Agreement negotiations contained in Administrative Code Chapter 56 have been substantially satisfied in light of the meetings held for the last three years, the public hearings by the Planning Department staff at the Planning Commission, the provision of required public notices, and the information contained in the Director's Report.

AND BE IT FURTHER RESOLVED, that pursuant to Planning Code section 302, the Planning Commission hereby finds that the Ordinance promotes the public welfare, convenience and necessity for the following reasons:

- The Ordinance would facilitate the Academy of Art University Project, which resolves extended
 enforcement and related litigation concerning past noncompliance by the Academy with the
 Planning Code at its properties, including the provision of a Consent Judgment and Injunction to
 provide enforcement mechanisms for any future noncompliance.
- 2. The Ordinance would facilitate the Academy of Art University Project, which results in payment by the Academy of an anticipated \$37,600,000 in-lieu affordable housing benefit to the City, as well as payment by the Academy of an estimated \$8.2 million into the City's Small Sites Program to assist low-moderate income tenants.
- 3. The Ordinance would facilitate the Academy of Art University Project, which includes the preservation of historic properties in a manner generally consistent with the Sectary of the Interior's Standards for Treatment of Historic Properties.
- 4. The Ordinance would facilitate the Academy of Art University Project, which results in the addition of approximately 29 student housing beds to the City's housing stock, and the addition of 8 Single Room Occupancy hotel room units regulated under Chapter 41 of the Administrative Code.

The Commission hereby recommends approval of the Ordinance and adopts this resolution to that effect.

AND BE IT FURTHER RESOLVED, that the Commission finds that the Development Agreement and proposed Ordinance are consistent with the Objectives and Policies of the General Plan and the eight priority policies in Planning Code section 101.1(b) for the reasons set forth in the findings in the Master Conditional Use Authorization, Motion No. XXXXX, which are incorporated by reference as though fully set forth herein.

AND BE IT FURTHER RESOLVED, that the Commission authorizes the Planning Director to take such actions and make such changes as deemed necessary and appropriate to implement this Commission's recommendation of approval and to incorporate recommendations or changes from other City agencies and/or the Board of Supervisors, provided that such changes do not materially modify the proposed legislation approved by the Commission, or materially increase any obligations of the City or materially decrease any benefits to the City contained in the Development Agreement attached as Exhibit D.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on November 21, 2019.

Jonas P. Ionin					
Commission Secretary					
November 21, 2019					

Attachment C Proposed Ordinance Text

1	[Planning, Administrative Codes - Approval of Development Agreement, Conditional Use Procedures for Large Noncontiguous Post-Secondary Educational Institutions, Planning and				
2	Administrative Code Waivers]				
3					
4	Ordinance approving a Development Agreement between the City and County of San				
5	Francisco and the Stephens Institute (Academy of Art University) and its affiliated				
6	entities, as to the Academy's properties, which agreement provides for various public				
7	benefits, including, among others, an "affordable housing payment" of \$37,600,000 and				
8	a payment of approximately \$8,200,000 to the City's Small Sites Fund; amending the				
9	Planning Code to provide review procedures for Large Noncontiguous Post-Secondary				
10	Educational Institutions; waiving conflicting provisions in the Planning and				
11	Administrative Codes, including Planning Code Section 169; confirming compliance				
12	with or waiving certain provisions of Administrative Code, Chapters 41 and 56; and				
13	ratifying certain actions taken in connection with the Development Agreement and				
14	authorizing certain actions to be taken consistent with the Development Agreement;				
15	affirming the Planning Department's determination under the California Environmental				
16	Quality Act and findings of conformity with the General Plan, and with the eight priority				
17	policies of Planning Code, Section 101.1(b); and adopting findings of public				
18	convenience, necessity, and welfare under Planning Code, Section 302.				
19	NOTE: Unchanged Code text and uncodified text are in plain Arial font.				
20	Additions to Codes are in <u>single-underline italics Times New Roman font</u> . Deletions to Codes are in <u>strikethrough italics Times New Roman font</u> .				
21	Board amendment additions are in double-underlined Arial font. Board amendment deletions are in strikethrough Arial font.				
22	Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.				
23					
24	Be it ordained by the People of the City and County of San Francisco:				
25	Section 1. General Background and Findings.				

- (a) California Government Code Sections 65864 et seq. authorizes any city, county, or city and county to enter into an agreement for the development of real property within the jurisdiction of the city, county, or city and county.
- (b) Chapter 56 of the San Francisco Administrative Code ("Chapter 56") sets forth certain procedures for the processing and approval of development agreements in the City and County of San Francisco (the "City").
- (c) The Stephens Institute, dba Academy of Art University ("Stephens Institute") is a private for-profit postsecondary academic institution that currently occupies 40 buildings in the City (predominantly in the northeast quadrant) for its educational programs, recreational activities, and student housing. The buildings are owned or leased by the Stephens Institute from affiliated entities (collectively, the "LLC Parties"). This ordinance sometimes refers to the Stephens Institute and the LLC Parties, collectively and individually, as the "Academy."
- (d) In 2007, the Stephens Institute occupied 34 buildings. In 28 of those buildings, the Academy had implemented various tenant improvements and changes of use without benefit of required conditional uses, building permits, or other entitlements. To evaluate the potential impacts associated with bringing these 28 buildings into compliance with the Planning Code and to analyze the Academy's then-proposed plans for growth, an Environmental Impact Report ("EIR") and an Existing Sites Technical Memorandum ("ESTM") were prepared between 2010 and 2016. During this period, one or more LLC Parties acquired an additional six buildings beyond the 34 already occupied, bringing the total number of properties owned or occupied by the Academy to 40. Collectively, the 40 properties described in this paragraph are referred to as the "Academy Properties"; the Academy Properties are more particularly described in the July 5, 2019 Academy of Art University Institutional Master Plan, a copy of which is on file with the Planning Department in File No. 2019-012970IMP. The Planning Commission approved the ESTM and certified the Final Environmental Impact

Report ("FEIR"), which analyzed the 40 properties, on July 28, 2016.

- (e) On May 6, 2016, the City Attorney of the City and County of San Francisco (the "City Attorney"), on behalf of the City and the People of the State of California, commenced litigation against the Academy and certain LLC Parties in People v. Stephens Institute, et. al, San Francisco Superior Court Number CGC-16-551832 (the "Lawsuit"). In the Lawsuit, the City Attorney alleged violations of the City's Administrative Code, Planning Code, Building Code and the State Unfair Competition Law, California Business and Professions Code Sections 17200 et seq. (the "UCL").
 - (f) During court-supervised settlement discussions to resolve the Lawsuit, the Academy expressed its commitment to bring its existing uses into compliance with the Planning Code; relocate existing Academy uses or change Academy uses in buildings in accordance with applicable laws in those instances where the Planning Department has determined that legalization is not appropriate or the Academy has agreed to withdraw its use; compensate the City for past violations, including providing affordable housing public benefits to the City; and work cooperatively with the City in planning for future Stephens Institute growth in a manner that accounts for the urban nature of the Stephens Institute campus, without adversely impacting the City's affordable or rent-controlled housing stock, or burdening its transportation system, including, as a part of that plan, building new housing for its students on property zoned for such use.
 - (g) As a result of those settlement discussions, and under the auspices of the Superior Court, the Academy and the City (collectively "Parties") entered into a non-binding Term Sheet for Global Resolution, dated November 15, 2016 (the "Initial Term Sheet"), as later supplemented by the Parties under the Superior Court's supervision in the Supplement to Term Sheet for Global Resolution, dated July 10, 2019 (the "Supplement"). This ordinance refers to the Initial Term Sheet and the Supplement collectively as the "Term Sheet". The

- Term Sheet was intended to provide a basis to resolve all of the outstanding issues relating to the Lawsuit with respect to land use matters, and to establish appropriate principles and processes for land use compliance by the Academy. The Parties made the Term Sheet public, each time with the Court's consent, and the Planning Commission held public hearings relating to the matters addressed in the Term Sheet.
 - (h) As contemplated by the Term Sheet, the Parties will enter into a comprehensive consent judgment that they will file with the Superior Court seeking the Court's approval and entry of judgment (the "Consent Judgment"). The Consent Judgment contains four main parts: (1) a Settlement Agreement (the "Settlement Agreement"), which is subject to approval by the Board of Supervisors in the ordinance in File No. _____ and includes obligations of the LLC Parties to make payments to the City (including the Affordable Housing Public Benefit, defined below); (2) a Stipulated Injunction (the "Injunction"), which is an exhibit to the Settlement Agreement and provides a mechanism for judicial enforcement of the Academy's obligations under the Settlement Agreement and the Development Agreement; and (3) the Development Agreement, which is also an exhibit to the Settlement Agreement. Also critical to the global resolution that the Consent Judgment would achieve is the instrument securing the LLC Parties' financial obligations under the Settlement Agreement and the Development Agreement. The obligations of the LLC Parties to make the full settlement payments under the Settlement Agreement will be secured by a Guaranty (the "Guaranty") from the Stephens Family Revocable Trust, the Elisa Stephens Revocable Trust, the Scott Alan Stephens Revocable Trust, Elisa Stephens, Scott Alan Stephens, and Susanne Stephens.
 - (i) As contemplated by the Term Sheet, the Academy proposes to withdraw from, and cease any Stephens Institute operations at nine of the 40 Academy Properties referenced in subsection (d), to occupy three additional properties, and to bring all of the remaining 34

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

- properties owned by the LLC Parties and used by the Stephens Institute or intended for future Stephens Institute use into compliance with the Planning Code ("Project"). The Project requires the City's approval of a variety of permits and authorizations, including: (1) approval of a conditional use authorization by the Planning Commission to reflect the approval of the use of 34 properties (primarily in the northeast quadrant of the City) and to grant certain exceptions to the Planning Code, (2) the approval of permits to alter and certificates of appropriateness by the Historic Preservation Commission, (3) amendment of the Planning Code to permit uses that are currently not permitted at certain properties, and (4) building permits and associated approvals from other City departments for a variety of other building alterations and street improvements including without limitation the removal and installation of signage, the removal and repair of nonconforming awnings and exterior alterations, the installation of Class 1 and Class 2 bike racks, the removal of curb cuts, and the replacement of certain windows.
 - (j) The Stephens Institute filed an application with the Planning Department for approval of a development agreement relating to the Project (the "Development Agreement") under Chapter 56. A copy of the Development Agreement is on file with the Clerk of the Board of Supervisors in File No. ______.
 - (k) As set forth in the Development Agreement, the Academy requests legalization of certain previously unpermitted alterations and changes in use at the Academy Properties. The Academy also seeks approval of the work necessary to correct or reverse other previously unpermitted alterations and changes, and to bring these properties into compliance with the Planning Code including, where applicable, Planning Code Articles 10 and 11.
 - (I) The Development Agreement requires the Academy to obtain all necessary permits to perform corrective work at the 34 properties referenced in subsection (i) and complete all work necessary to bring these buildings into compliance with the Planning Code

- pursuant to the Schedule of Performance Schedule set forth as Exhibit E to the Development Agreement.
 - (m) While the Development Agreement is between the City, acting primarily through the Planning Department, and the Academy, other City agencies retain a role in reviewing and issuing certain later approvals for the Project, including approval of building permits. All affected City agencies have consented to or will consent to the Development Agreement.
 - (n) Concurrently with this ordinance, the Board is taking a number of actions in furtherance of the Project, including approval of a Settlement Agreement, Consent Judgment, Stipulated Injunction and Guaranty, and other approvals as generally described in the Development Agreement, including Exhibit D to the Development Agreement (the "Approvals").
 - (o) Public benefits to the City from the Project include: (1) an "Affordable Housing Benefit" defined as the cash payment by the LLC Parties of \$37,600,000 to the City to be used by the City solely for affordable housing purposes, with a first priority for uses related to the creation or preservation of single room occupancy (SRO) units in those supervisorial districts in which the City alleges the Academy unlawfully converted SRO buildings to student housing, in such manner as the City, acting by and through the Mayor's Office of Housing and Community Development, may determine in its sole discretion; (2) a cash payment by the LLC Parties to the City's Small Sites Fund approximately \$8,200,000; (3); an agreement by the Stephens Institute to meet all future housing needs for its students through new construction on property that is zoned for such use, or conversion of existing non-residential, non-PDR (not zoned or operated as production, distribution and repair businesses) structures to student housing use, to not promise new students more housing units than the number of lawful units that are at its disposal, to not temporarily house its students in non-Academy facilities with limited exceptions, and to provide housing to increase the percentage of housing it provides to

1 On Campus Students (defined as on-site, full-time undergraduate and graduate students 2 taking no more than one course online per semester) pursuant to a "Housing Metering" 3 formula agreed to by the Parties; (4) payment by the LLC Parties to the Planning Department of Planning Code penalties totaling \$1,000,000; and (5) payment by the LLC Parties to the 4 City Attorney's Office of Unfair Competition Law penalties totaling \$6,000,000. In addition, the 5 6 Academy will pay impact, fair share, and in lieu fees totaling in excess of \$3,500,000. The 7 total of all payments detailed in this subsection (o) will exceed \$58,000,000. Further, the 8 Academy will pay permit fees and the City's administrative costs in connection with the 9 processing of the Development Agreement. Section 2: Environmental Findings. 10 On July 28, 2016, by Motion No. 19704, the Planning Commission certified as 11 (a) 12 adequate, accurate, and complete the FEIR for the Project pursuant to the California 13 Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA"). A copy of Planning Commission Motion No. 19704 is on file with the Clerk of the 14 15 Board of Supervisors in File No. ______. On October 9, 2019, the Planning Department issued an Addendum to the FEIR 16 (b) 17 ("Addendum"), in which it determined that the actions contemplated in this ordinance comply 18 with CEQA. The Addendum is on file with the Clerk of the Board of Supervisors in File No. and is incorporated herein by reference. The Board affirms this determination. 19 On November 20, 2019, by Motion No. _____, the Historic Preservation 20 (c) 21 Commission adopted CEQA findings; on November 21, 2019, by Motion No. _____, the Planning Commission adopted findings (the "CEQA Findings"). These motions are on file with 22 the Clerk of the Board of Supervisors in File No. _____. In accordance with the actions 23 contemplated in this ordinance, the Board has reviewed the FEIR, the Addendum, and related 24 documents, and adopts as its own and incorporates by reference as though fully set forth 25

1	herein the CEQA Findings, including the statement of overriding considerations, and the
2	MMRP.
3	Section 3. Planning Code Findings.
4	(a) On November 7, 2019, the Planning Commission, in Resolution No.
5	, adopted findings that the actions contemplated in this ordinance are consistent,
6	on balance, with the City's General Plan and eight priority policies of Planning Code Section
7	101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with
8	the Clerk of the Board of Supervisors in File No, and is incorporated herein by
9	reference.
10	(b) Pursuant to Planning Code Section 302, the Board finds that these Planning
11	Code amendments will serve the public necessity, convenience, and welfare for the reasons
12	set forth in Planning Commission Resolution No, and the Board incorporates
13	such reasons herein by reference. A copy of said Resolution is on file with the Board of
14	Supervisors in File No
15	Section 4. Article 3 of the Planning Code is hereby amended by adding Sections 304.6
16	and 304.7, to read as follows:
17	SEC. 304.6. REVIEW PROCEDURES FOR LARGE NONCONTIGUOUS POST-
18	SECONDARY EDUCATIONAL INSTITUTIONS.
19	(a) Intent. This Section 304.6 establishes a comprehensive and consolidated public review
20	process through which the Planning Commission shall review proposals involving Post-Secondary
21	Educational Institutions that meet prescribed criteria and would otherwise be subject to multiple
22	approval processes and hearings.
23	(b) Applicability. This Section 304.6 applies to all properties owned, occupied, or operated, in
24	any capacity, by a Large Noncontiguous Post-Secondary Educational Institution. For purposes of this
25	Section, a Large Noncontiguous Post-Secondary Educational Institution is an organization or entity

1	that, regardless of certification by the Western Association of Schools and Colleges or primary course
2	of study, meets all other requirements for a Post-Secondary Educational Institution, and satisfies all of
3	the following conditions:
4	(1) is subject to the Institutional Master Plan requirements of Section 304.5 of this
5	<u>Code;</u>
6	(2) is a for-profit institution; and
7	(3) owns, occupies, or operates, in any capacity, 10 or more properties that are located
8	in three or more non-overlapping Clusters anywhere in the City. For purposes of this subsection (b)(3),
9	a Cluster is a circular area with a 1/4-mile diameter that encompasses one or more properties. Clusters
10	shall be drawn so that the fewest number of Clusters are required to encompass all such properties,
11	without any one Cluster overlapping with any other.
12	(c) Master Conditional Use Authorization. Any number of individual Conditional Use
13	Authorizations or building permits sought by a Large Noncontiguous Post-Secondary Educational
14	Institution under this Section 304.6 may be sought under a single application for Conditional Use
15	Authorization, also referred to as a "Master Conditional Use Authorization," and may be acted on in a
16	single action of the Planning Commission, regardless of the number of distinct properties involved.
17	Determination on such Master Conditional Use Authorization shall be made pursuant to the criteria in
18	Section 303(c) of this Code. In considering such Master Conditional Use Authorization, the
19	Commission may consider such exceptions to the Planning Code as may be necessary to implement the
20	Master Conditional Use Authorization.
21	(d) Master Certificate of Appropriateness. Any number of individual Certificates of
22	Appropriateness may be sought by a Large Noncontiguous Post-Secondary Educational Institution
23	under a single application for a Certificate of Appropriateness, also referred to as a "Master
24	Certificate of Appropriateness," and acted on by single action of the Historic Preservation
25	Commission, regardless of the number of distinct properties involved. Determination on such Master

1	Certificate of Appropriateness shall be made as set forth in Section 1006.6 of this Code and in other
2	provisions of the Municipal Code, as applicable. Additionally, no application made under this Section
3	304.6 shall be considered a Minor Alteration under Section 1006.2 of this Code.
4	(e) Master Permit to Alter. Any number of individual Permits to Alter may be sought by a
5	Large Noncontiguous Post-Secondary Educational Institution under a single application for a Permit
6	to Alter, also referred to as a "Master Permit to Alter," and acted on by single action of the Historic
7	Preservation Commission, regardless of the number of distinct properties involved. Determination on
8	such Master Permit to Alter shall be made as set forth in Section 1111 of this Code and in other
9	provisions of the Municipal Code, as applicable. Additionally, no application made under this Section
10	304.6 shall be considered a Minor Alteration under Section 1111.1 of this Code.
11	(f) No Discretionary Review. No requests for Discretionary Review shall be accepted by the
12	Planning Department or heard by the Planning Commission for any permits or other applications
13	subject to this Section 304.6(c).
14	(g) Sunset. This Section 304.6 shall remain in effect until the later of: (1) the date on which all
15	work has been completed as required pursuant to the Schedule of Performance (Exhibit E) of the
16	Development Agreement by and among the City and County of San Francisco and the Stephens
17	Institute, dba Academy of Art University and the LLC Parties, and (2) January 1, 2025.
18	SEC. 304.7. ADDITIONAL PROVISIONS APPLICABLE TO LARGE
19	NONCONTIGUOUS POST-SECONDARY EDUCATIONAL INSTITUTIONS.
20	In cases where the City enters into a Development Agreement with a Large Noncontiguous
21	University, all of the following additional provisions apply:
22	(a) where such Development Agreement provides the City compensation for the loss of specific
23	Residential Units that are not Student Housing units, the restrictions of Section 317(e) of this Code may
24	be waived through a Master Conditional Use Authorization under Section 304.6;
25	(b) where such Development Agreement authorizes the conversion of no more than one property

1	from an industrial use subject to Section 202.8 of this Code to an Institutional Use, the Conditional Use						
2	Authorization requirements and other restrictions of Section 202.8 shall be met by application for a						
3	Master Conditional Use Authorization under Section 304.6; and						
4	(c) where such Development Agreement would expand the number of guest rooms subject to the						
5	provisions of Chapter 41 of the Administrative Code, the density limitations of Article 2 of this Code						
6	shall not apply to the property with the expanded number of guestrooms.						
7	Section 5. Development Agreement.						
8	(a) The Board of Supervisors approves all of the terms and conditions of the						
9	Development Agreement, in substantially the form on file with the Clerk of the Board of						
10	Supervisors in File No						
11	(b) The Board of Supervisors approves and authorizes the execution, delivery and						
12	performance by the City of the Development Agreement as follows: (1) the Director of						
13	Planning is authorized to execute and deliver the Development Agreement, and (2) the						
14	Director of Planning and other applicable City officials are authorized to take all actions						
15	reasonably necessary or prudent to perform the City's obligations under the Development						
16	Agreement in accordance with the terms of the Development Agreement.						
17	(c) The Director of Planning, at the Director's discretion and in consultation with the						
18	City Attorney, is authorized to enter into any additions, amendments, or other modifications to						
19	the Development Agreement that the Director of Planning determines are in the best interests						
20	of the City and that do not materially increase the obligations or liabilities of the City or						
21	materially decrease the benefits to the City as provided in the Development Agreement.						
22	(d) The approval of the Development Agreement under this ordinance is contingent						
23	on the Board of Supervisors' approval of the companion ordinance approving the Settlement						
24	Agreement, in Board of Supervisors File No						
25							

- (a) By approving the Development Agreement, the Board of Supervisors authorizes the Controller and City Departments to accept the funds paid by the Academy as set forth therein, and to appropriate and use the funds for the purposes described therein. The Board expressly approves the use of the Impact Fees as described and set forth in the Development Agreement.
- (b) The Board of Supervisors waives or overrides any provision in Article 4 of the Planning Code and Chapter 10 of the Administrative Code that would conflict with the uses of these funds as described in the Development Agreement.
 - Section 7. Administrative Code Conformity and Waivers.

In connection with the Development Agreement, the Board of Supervisors finds that the City has substantially complied with the requirements of Administrative Code Chapters 41 and 56, and waives any requirement to the extent not strictly followed. The Development Agreement shall prevail in the event of any conflict between the Development Agreement and Administrative Code Chapters 41 and 56, and without limiting the generality of the foregoing, the following provisions of Administrative Code Chapter 56 are waived or deemed satisfied as follows:

- (a) The Project comprises 43 discrete properties located throughout the City and is the type of large multi-phase and/or mixed-use development contemplated by the Administrative Code and therefore satisfies the provisions of Chapter 56, Section 56.3(g).
- (b) Any provisions of the Development Agreement that conflict with the provisions of Administrative Code Chapter 56 shall apply.
- (c) The provisions of the Development Agreement regarding any amendment or termination, including those relating to "Material Change," shall apply in lieu of the provisions

of Chapter 56, Sections 56.15 and Section 56.18.

- (d) The provisions of Chapter 56, Section 56.20 have been satisfied by agreement set forth in the Settlement Agreement and Development Agreement for the reimbursement of City costs.
- (e) The Board of Supervisors waives the applicability of Section 56.4 ("Application,Forms, Initial Notice, Hearing") and Section 56.10 ("Negotiation Report and Documents").
 - (f) The Board of Supervisors waives the applicability of Section 56.3(b) ("Applicant/Developer").
 - Section 8. Planning Code Waivers.
 - (a) The Board of Supervisors finds that the Impact Fees due under the Development Agreement will provide greater benefits to the City than the impact fees and exactions under Planning Code Article 4 and waives the application of, and to the extent applicable exempts the Project from, impact fees and exactions under Planning Code Article 4 on the condition that Developer pays the Impact Fees due under the Development Agreement.
 - (b) The Board of Supervisors finds that the Transportation Management Plan ("TMP") attached as Exhibit H to the Term Sheet includes provisions requiring that the Academy develop, implement, and provide a shuttle management plan, and provide bicycle parking, and other provisions that meet the goals of the City's Transportation Demand Management Program in Planning Code Section 169, and waives the application of Section 169 to the Project on the condition that the Academy implements and complies with the TMP.
 - Section 9. Ratification.
 - All actions taken by City officials in preparing and submitting the Development

 Agreement to the Board of Supervisors for review and consideration are hereby ratified and

1	confirmed, and the Board of Supervisors hereby authorizes all subsequent action to be taken
2	by City officials consistent with this ordinance.
3	Section 10. Effective Date. This ordinance shall become effective 30 days after
4	enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
5	ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
6	of Supervisors overrides the Mayor's veto of the ordinance.
7	Section 11. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
8	intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
9	numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
10	Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
11	additions, and Board amendment deletions in accordance with the "Note" that appears under
12	the official title of the ordinance.
13	
14	
15	APPROVED AS TO FORM:
16	DENNIS J. HERRERA, City Attorney
17	By: KRISTEN A. JENSEN
18	Deputy City Attorney
19	n:\legana\as2019\2000164\01404439.docx
20	
21	
22	
23	
24	
25	

Planning Commission Draft Motion

HEARING DATE: NOVEMBER 21, 2019

Record No.: 2019-012970CUA

Project Address: 34 Properties Owned or Leased by the Academy of Art

University ("Academy")

Zoning: Multiple Zoning Districts Multiple Blocks and Lots *Block/Lot:*

Project Sponsor: Jim Abrams

J. Abrams Law, P.C.

One Maritime Plaza, Suite 1900

San Francisco, CA 94111

Property Owner(s): Multiple LLCs

79 New Montgomery Street, 3rd Floor

San Francisco, CA 94105

Staff Contact: Andrew Perry - (415) 575-9017

andrew.perry@sfgov.org

FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

ADOPTING FINDINGS TO APPROVE A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 304.6, TO LEGALIZE USES AND BUILDING MODIFICATIONS AND PERMIT WORK TO BRING BUILDINGS AT 34 PROPERTIES OWNED OR LEASED BY THE ACADEMY OF ART UNIVERSITY ("ACADEMY") WITHIN THE CITY AND COUNTY OF SAN FRANCISCO ("CITY") INTO CONFORMANCE WITH THE PLANNING CODE, CONSISTENT WITH THE PROPOSED DEVELOPMENT AGREEMENT AND THE TERM SHEET FOR GLOBAL RESOLUTION BETWEEN THE CITY AND THE ACADEMY, AND TO ADOPT

PREAMBLE

The Academy of Art University ("Academy") is a private, for-profit post-secondary academic institution that currently occupies, either in part or in full, 40 properties within the City and County of San Francisco for its existing educational programs, recreational activities, and student housing. In 2007, the Academy occupied 34 properties, in 28 of which, the Academy had implemented various tenant improvements and changes of use without benefit of required conditional uses, building permits or other land use entitlements. In order to evaluate the potential impacts associated with bringing those 28 properties into compliance with the San Francisco Planning Code and to analyze the Academy's then-proposed plans for growth, an Environmental Impact Report (EIR) and an Existing Sites Technical Memorandum (ESTM) were prepared between 2010 and 2016. On July 28, 2016, by Motion No. 19704, the Planning Commission certified as adequate, accurate and complete the Final Environmental Impact Report ("FEIR") for the Project pursuant to the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) ("CEQA").

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

Reception: 415.558.6378

415.558.6409

Planning Information: 415.558.6377 During this same time period, however, affiliates of the Academy acquired an additional six properties bringing the total number of properties owned or occupied by the Academy and its affiliates to 40.

On May 6, 2016, the City Attorney of the City and County of San Francisco (the "City Attorney"), on behalf of the City and the People of the State of California, commenced litigation against the Academy and the affiliated LLC Parties in *People v. Stephens Institute*, *et. al*, San Francisco Superior Court Number CGC-16-551-832 (the "Lawsuit"). In the Lawsuit, the City and the State alleged violations of the City's Administrative Code, Planning Code, Building Code, and the State Unfair Competition Law, Business and Professions Code Section 17200 et seq. (the "UCL").

During court-supervised settlement discussions to resolve the Lawsuit, the Academy and the LLC Parties expressed their commitment to bring the Academy's existing uses into compliance with the Planning Code; relocate existing Academy uses or change Academy uses in buildings in accordance with applicable laws in those specific instances where the Planning Department has determined that legalization is not appropriate or the Academy has agreed to withdraw its use; compensate the City for past violations, including providing affordable housing public benefits to the City; legalize or reverse prior alterations performed without required permits or approvals in order to bring its properties into compliance with City codes, and work cooperatively with the City in planning for future Academy growth in a manner that accounts for the urban nature of the Academy's campus, without adversely impacting the City's affordable or rent-controlled housing stock, or burdening its transportation system, including, as part of that plan, building new housing for its students on property that is zoned for such use.

As a result of those discussions, and under auspices of the court, the Academy and the City entered into a non-binding Term Sheet for Global Resolution, dated November 15, 2016, as amended by that certain Supplement to Term Sheet for Global Resolution, dated July 10, 2019 (collectively, the "Term Sheet"), intended to provide a basis to resolve all of the outstanding issues relating to the Lawsuit and other land use matters, and to establish appropriate principles and processes for land use compliance by the Academy.

As contemplated by the Term Sheet, the City, the Academy, and the LLC Parties have entered into a comprehensive consent judgment that they will file with the Superior Court seeking the Court's approval and entry of judgment (the "Consent Judgment"). The Consent Judgment contains four main parts: (1) a Settlement Agreement (the "Settlement Agreement"), which includes obligations of the LLC Parties to make payments to the City (including the Affordable Housing Benefit); (2) a Stipulated Injunction (the "Injunction"), which is an exhibit to the Settlement Agreement and provides a mechanism for judicial enforcement of the Academy's and the LLC Parties' obligations under the Settlement Agreement and this Agreement, and (3) the Development Agreement, which is also an exhibit to the Settlement Agreement. Also critical to the global resolution that the Consent Judgment would achieve is the instrument securing the LLC Parties' financial obligations under the Settlement Agreement and this Agreement. The obligations of the LLC Parties to make the full settlement payments under the Settlement Agreement will be secured by a Guaranty (the "Guaranty") from the Stephens Family Trust, the Elisa Stephens Trust, the Scott Stephens, Richard A. Stephens, and Susanne Stephens.

As contemplated by the Term Sheet, the Parties propose to bring the properties owned by the LLC Parties and used by the Academy or intended for future Academy use, which consists of the original forty (40) properties, and three additional properties - 1142 Van Ness Ave., 1946 Van Ness Ave., and 2550 Van Ness Ave. - that the Academy wishes to occupy, for a total of forty-three (43) properties and associated improvements located throughout San Francisco (the "Academy Properties"), as more particularly described in the July 5, 2019 Academy of Art University Institutional Master Plan, into compliance with the Planning Code ("Project"). The Project, as authorized by the Development Agreement, requires the City's approval of a variety of permits and authorizations, including (i) approval of a conditional use authorization by the Planning Commission to reflect the approval of the use of thirty-four (34) properties (primarily in the northeast quadrant of the City) and to grant certain exceptions to the Planning Code, (ii) the approval of permits to alter and certificates of appropriateness by the Historic Preservation Commission, (iii) amendment of the Planning Code to permit uses that are currently not permitted at certain properties, and (iv) a variety of other building alterations and street improvements including without limitation the removal and installation of signage, removal and repair of nonconforming awnings and exterior alterations, the installation Class 1 and Class 2 bike racks, the removal of curb cuts, removal of signage, and the replacement of certain windows. The Academy will vacate and cease any operations at the remaining nine (9) properties – 150 Hayes St., 168 Bluxome St., 460 Townsend St., 700 Montgomery St., 1055 Pine St., 1069 Pine St., 2295 Taylor St., 2340 Stockton St., and 121 Wisconsin St. In addition, the City will reclassify certain residential hotel units at 1080 and 1153 Bush Street to remove Administrative Code Chapter 41 designations, and will designate all tourist hotel units at 860 Sutter Street as permanent residential hotel units under Administrative Code Chapter 41, for a net increase of eight (8) new residential hotel units.

On October 9, 2019, the Academy filed an updated and complete application with the City's Planning Department for approval of a development agreement relating to the Project (the "Development Agreement") under Chapter 56 of the Administrative Code. As set forth in the Development Agreement, the Academy requests legalization of the proposed uses of all 34 properties, and of certain previous alterations made to the buildings and facilities on these sites without required permits, as well as approval of the work necessary to bring these properties into compliance with the San Francisco Planning Code and, where applicable, the Secretary of the Interior's Standards for buildings subject to Planning Code Articles 10 and 11. The Development Agreement requires the Academy to obtain all necessary permits to perform corrective work at the 34 properties and complete the work to bring these buildings into compliance with the Planning Code pursuant to the Schedule of Performance set forth as Exhibit E to the Development Agreement. While the Development Agreement is between the City, acting primarily through the Planning Department, and Academy, other City agencies retain a role in reviewing and issuing certain later approvals for the Project. Later approvals include approval of building permits, street improvement permits, and permits to install Class 2 bicycle parking. As a result, affected City agencies have consented or will consent to the Development Agreement.

Public benefits to the City from the Project include: (1) an "Affordable Housing Benefit" defined as the cash payment of \$37.6 million to the City to be used by the City solely for affordable housing purposes, with a first priority for uses related to the creation or preservation of single room occupancy (SRO) units in those

supervisorial districts in which the City alleges the Academy unlawfully converted SRO buildings to student housing, as the City may determine in its sole discretion; (2) a cash payment to the City's Small Sites Fund in excess of \$8.2 million; (3) an agreement by the Academy to meet all future housing needs for its students through new construction on property that is zoned for such use, or conversion of existing non-residential, non-PDR structures to student housing use, as further provided in the Development Agreement, to not promise new students more housing units than the number of lawful units that are at the Academy's disposal, to not temporarily house its students in non-Academy facilities, and to provide housing to increase the percentage of housing it provides to On Campus Students pursuant to a "Housing Metering" formula agreed to by the Parties; (4) payment of Planning Code civil penalties totaling \$1 million, and reimbursement for Planning enforcement costs totaling \$1.3 million; (5) payment of Unfair Competition Law penalties totaling \$6 million; and (6) payment of impact, fair share, and in-lieu fees of approximately \$3.8 million. Those payments total approximately \$58 million. In addition, the Academy will pay the City's administrative and legal costs in connection with the negotiation of the Development Agreement.

On October 9, 2019, the Planning Department issued an Addendum to the FEIR, in which it determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.).

On October 9, 2019, the Academy filed complete applications with the City's Planning Department for required entitlements pursuant to the Term Sheet and Development Agreement. These applications are the consolidated master applications for Conditional Use Authorization, Certificate of Appropriateness and Permit to Alter.

On November 20, 2019, by Motion Nos. XXXX, XXXX, and XXXX, the Historic Preservation Commission adopted CEQA findings and approved the master Certificate of Appropriateness and Permit to Alter applications (Planning Record Nos. 2019-012970COA and 2019-012970PTA).

On November 21, 2019, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization Application No. 2019-012970CUA. At this same hearing, and prior to acting on the requested Conditional Use Authorization, the Commission considered and adopted CEQA Findings for the Project under Motion No. XXXXX, and adopted Resolution No. XXXXXX recommending approval to the Board of Supervisors of an ordinance amending the Planning Code, waiving provisions of Administrative Code sections 41 and 56, and adopting the Development Agreement.

The Planning Department Commission Secretary is the custodian of records; the Files for Record No. 2019-012970PRJ are located at 1650 Mission Street, Suite 400, San Francisco, California.

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

MOVED, that the Commission hereby authorizes the Conditional Use Authorization as requested in Application No. 2019-012970CUA, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

- 1. The above recitals are accurate and constitute findings of this Commission.
- 2. Project Description. The Project involves the withdrawal of all Academy use from nine (9) properties and the legalization and/or establishment of uses associated with the Academy at 34 properties within the City and County of San Francisco. Also included in the Project are building modifications, both internal and external, that have either been made by the Academy and require legalization, are required for purposes of establishing Academy uses at these various properties, or are required to bring the buildings into conformance with the Planning Code including, where applicable, Articles 10 and 11 of the Planning Code. The Project also includes signage proposals for all properties. The Project does not propose to include any demolition, new construction, or physical expansion of a building at any of the 34 properties, or at the sites to be withdrawn from Academy use.

In total, the Project will establish a Post-Secondary Educational Institution ("PSEI") use at 16 properties, with a total of approximately 1,137,108 square feet of institutional space. An additional 16 properties will be used by the Academy for residential student housing uses (and incidental PSEI space located in some of the properties, such as student activity centers, recreation spaces and cafeterias), with some authorized as dwelling units and others as group housing; one building within this category includes legal nonconforming live/work units. These residential buildings comprise approximately 462,448 square feet and include 143 dwelling units, 579 group housing rooms, and 33 live/work units, resulting in a total available count of 1,843 beds at the 16 properties. Also included in the residential square footage discussed above are areas proposed for nonaccessory private parking uses to be used by Academy faculty and staff totaling 100 spaces at four properties – 575 Harrison St., 1727 Lombard St., 1900 Jackson St., and 2550 Van Ness Ave. The two remaining sites will be authorized for multiple uses including a private parking garage, commercial storage, and a community facility. As discussed in the Institutional Master Plan (IMP) for the Academy, three of the thirty-four properties will include newly approved Academy uses and were not otherwise used by the Academy prior to approval. Table 1, below, provides specific land use information and proposed scopes of work for each property to be considered under the Project.

Authorization of the Project is anticipated through Planning Code Section 304.6, which would be enacted through a proposed Planning Code Text Amendment. The proposed legislation effectively

SAN FRANCISCO
PLANNING DEPARTMENT

subjects all Academy permits and approvals that are the included in the Project to a Conditional Use Authorization requirement, which may be sought under a single application for Conditional Use Authorization, also referred to as a "Master Conditional Use Authorization", or "MCUA". Such Master Conditional Use Authorization shall be in lieu of any other discretionary action by the Zoning Administrator, such as variances. Table 1, below, also provides information regarding the types of discretionary actions that would otherwise be required at each property, but which will instead be approved and acted upon in a single decision by the Commission through Planning Code Section 304.6 and the approval of the MCUA.

Table 1. Proposed Academy Uses and Scope of Work at Each Academy Property. For full proposed scopes of work, please refer to plan drawings for each property, attached as Exhibit B to this Motion.

Property	Existing	Proposed	Proposed Scopes of Work	Discretionary
Address	Legal Use	Academy		Actions Needed
		Use		
601 Brannan	Office	Post-	Legalize change of use from Office to PSEI, with 17	Conditional Use for
Street		Secondary	accessory off-street parking spaces	PSEI in MUG (§840.32)
		Education	Reconfiguration of parking lot and basketball court	Code exception from
		Institutional	open space	active use requirements
		(PSEI)	Fill in of two curb cuts along Brannan St.	(§145.1) for Class 1
			Provision of Class 1 and 2 bicycle parking	bicycle parking location
			Removal of stucco wall infill and replacement with	
			window with brick sill along Brannan St.	
			Removal of film applied to windows to comply with	
			active use requirements	
			Exterior alterations (e.g. replacement of light fixtures,	
			concealing conduit)	
			Addition of Academy signage	
410 Bush	Office	PSEI	Legalize change of use from Office to PSEI, with 10	Approval by HPC of
Street			accessory off-street parking spaces	Major Permit to Alter
			Provision of Class 1 and 2 bicycle parking	(Article 11)
			Partial repainting of building to remove prior signage	Code exception from
			remnants; two existing projecting signs legal, to remain	bicycle parking design
			and no other signage proposed	standards (§155.1) for
			Exterior alterations (e.g. replacement of light fixtures,	vertical spaces
			concealing conduit, removal of barbed wire)	
58-60 Federal	Office	PSEI	Legalize change of use from Office to PSEI, with 8	Approval by HPC of
Street			accessory off-street parking spaces	Certificate of
			Provision of Class 1 and 2 bicycle parking	Appropriateness
			New steel-frame entry door to replace unpermitted	(Article 10)
			glass door and restore historic character	

50 (O.F. 1			AT	0.1
58-60 Federal			New steel windows with true divided lites in existing	Code exception from
Street			rough openings to match historic character; enlarged	bicycle parking design
(continued)			openings to be legalized, except as noted	standards (§155.1) for
			Legalization of other exterior modifications (e.g.	vertical spaces and
			exterior barrel housing on garage roll-up doors,	access path
			installation of ventilation grates in window openings,	
			installation of roof railing for HVAC system)	
			Exterior alterations (e.g. replacement of security	
			cameras, removal of Juliet balconies)	
			New signage and relocation of signage	
2801	Office, Retail	PSEI, Retail	Legalize change of use from Office to PSEI at 2 nd and	Code exception from
Leavenworth	at ground	at ground	3 rd floors. Ground floor remains Retail Sales and	bicycle parking design
Street	floor	floor	Service; however, may be operated by the Academy,	standards (§155.1) for
			provided meets certain conditions as specified in	vertical spaces and
			Development Agreement	access path
			Provision of Class 1 and 2 bicycle parking	
			New signage including repurposing of neon projecting	
			sign	
77-79 New	Office	PSEI	Legalize change of use from Office to PSEI	Approval by HPC of
Montgomery			Provision of Class 1 and 2 bicycle parking	Minor Permit to Alter
Street			Partial removal of interior partitions within first 25' of	(Article 11)
			building depth at ground floor, and removal of	Code exception from
			translucent film on glazing	bicycle parking design
			Three existing projecting signs legal, to remain;	standards (§155.1) for
			awnings to be legalized with painted signage on	vertical spaces
			awnings removed; window decal signs removed.	Code exception from
			Exterior alterations (e.g. replacement or relocation of	active use requirements
			security cameras, concealing conduit)	(§145.1) for interior
			Legalization of exterior alterations (e.g. infilled	partitions within first
			windows at upper floor)	25'
180 New	Office	PSEI	Legalize change of use from Office to PSEI	Approval by HPC of
Montgomery	000		Provision of Class 1 and 2 bicycle parking	Major Permit to Alter
Street			Three existing projecting signs legal, to remain; no	(Article 11)
			other signage proposed	Code exception from
			Exterior alterations (e.g. replacement of security	bicycle parking design
			cameras and light fixtures, concealing conduit,	standards (§155.1) for
			painting of building panels to be consistent with	vertical spaces
			historic standards, repair of façade damage, restoration	vertical spaces
			of ground floor panels)	
			Legalization of exterior alterations (e.g. window	
			replacements at upper floors, murals and seating	
			installations at Natoma St.)	

(25 D. II	DCEI	DCEI		A 11 ITPC (
625 Polk	PSEI	PSEI	Exterior alterations (e.g. replacement of security	Approval by HPC of
Street			cameras and light fixtures, concealing conduit in	Certificate of
			existing masonry grooves, repair of façade damage)	Appropriateness
			Legalization of security gates	(Article 10)
			New wall signage and new copy on existing wall sign,	
			to be installed consistent with historic standards	
491 Post	Religious	PSEI	Legalize change of use from Religious Institution to	Approval by HPC of
Street	Institution		PSEI	Administrative
			Provision of Class 1 and 2 bicycle parking	Certificate of
			Two existing banner signs and statues legal, to remain;	Appropriateness
			one additional wall sign proposed in existing church	(Article 10)
			box fixture and interpretive historic display proposed	Code exception from
			for other fixture; removal of unpermitted signage on	bicycle parking design
			fence	standards (§155.1) for
			Exterior alterations (e.g. replacement of light fixtures,	vertical spaces and
			removal of unused conduit) and legalization of	access path
			existing alterations (e.g. window vents, basement door	
			replacement, skateboard deterrents)	
540 Powell	PSEI, Museum	PSEI	Legalize change of use to PSEI for entire building;	Approval by HPC of
Street	,		portions of existing building already considered legal	Major Permit to Alter
			PSEI	(Article 11)
			Provision of Class 2 bicycle parking	,
			Relocation of existing projecting sign below belt	
			course; removal of awnings with signage	
			Exterior alterations (e.g. replacement of security	
			cameras and light fixtures, concealing conduit,	
			replacement of windows to match historic conditions	
			at primary façade, legalization of window	
			replacements and security bars at secondary façade,	
			repair of entry marquee and façade damage,	
			legalization of infilled window at upper floor)	
625 620	Office	DCEI		• Ammayal by HDC of
625-629	Office	PSEI	Legalize change of use from Office to PSEI Description of Classical Action 1997	Approval by HPC of
Sutter Street			Provision of Class 1 and 2 bicycle parking.	Major Permit to Alter
			One existing projecting sign legal, to remain; two new	(Article 11)
			non-illuminated window signs proposed at storefront	Code exception from
			glazing.	active use requirements
			Removal of three storefront awnings and associated	(§145.1) for Class 1
			signage; restoration of transom glazing.	bicycle parking
			Removal of interior storefront display partitions within	location, and for
			first 25' of building depth at ground floor to allow for	interior partitions
			transparent views into building	within the first 25'

(25, (20)				C 1 " (
625-629			Exterior alterations (e.g. removal of flood lighting at	Code exception from
Sutter Street			belt course and installation of new light fixtures	bicycle parking design
(continued)			consistent with preservation standards)	standards (§155.1) for
				vertical spaces
740 Taylor	PSEI	PSEI	Retention of existing Class 2 bicycle parking.	
Street			One existing projecting sign legal, to remain; one	
			additional wall sign proposed.	
466	Internet	PSEI	Legalize change of use from Internet Service Exchange	Code amendment
Townsend	Service		to PSEI, with instruction limited to fields related to	limiting the conversion
Street	Exchange		PDR and Arts Activities uses.	of PDR use (§202.8)
			Provision of Class 1 and 2 bicycle parking.	
			New signage to include 4 wall signs and 1 awning	
			sign.	
			Removal of remnant light fixtures at roofline from	
			previous unpermitted signage	
950 Van	Retail	Private	Change of use from Retail Automobile Sales to Private	Conditional Use for
Ness Avenue	Automobile	Parking,	Parking Garage with accessory ground floor museum.	Private Parking Garage
	Sales	accessory	Provision of Class 1 and 2 bicycle parking.	in RC-4 (§209.3)
		ground	Removal of one curb cut along Van Ness Avenue	()
		floor	Removal of two ground floor canopy structures along	
		museum	Van Ness Avenue	
		muscum	New signage to include 3 wall signs and 1 projecting	
			sign	
1849 Van	Retail Sales	PSEI,	Legalize change of use from Retail to PSEI with	Conditional Use for
Ness Avenue	Retail Sales	accessory	accessory ground floor museum	PSEI in RC-4 (§209.3)
1vess riveriue		1		Code exception from
		ground floor	 Provision of Class 1 and 2 bicycle parking Existing LED wall sign legal, to remain; removal of	active use requirements
				_
		museum	painted wall signage copy and painted awning copy	(§145.1) for window
			Exterior alterations (e.g. replacement of security	display boxes along
			cameras and concealing of conduit)	Washington Street
0454.77	D. 11 .	DC=-		frontage
2151 Van	Religious	PSEI	• Legalize change of use from Religious Institution to	Approval by HPC of
Ness Avenue	Institution		PSEI	Certificate of
			Provision of Class 1 and 2 bicycle parking	Appropriateness
			New signage to include one new wall sign within	(Article 10)
			existing church sign cabinet, and one new freestanding	Conditional Use for
			sign attached to fence along Broadway	PSEI in RC-4 (§209.3)
				Code exception to
				allow provision of
				Class 1 bicycle parking
				at 2211 Van Ness Ave.,
				within 500 feet (§307(k))

1080 Bush Street	42 Dwelling Units; 15 Residential Hotel Rooms (Ch. 41)	Student Housing – 42 Dwelling Units; 15 Group Housing Rooms	 Legalize change of use for the 15 Residential Hotel Rooms to Group Housing with Student Housing use characteristic; dwelling units already considered legal Student Housing Removal of the Chapter 41 designation from the 15 Residential Hotel Rooms through a Permit to Convert application, proposing replacement units at 860 Sutter Street. Provision of Class 1 and 2 bicycle parking Reinstate ground floor dwelling unit at area of ground floor lounge. Existing wall sign legal, to remain; no other signage proposed. Replacement of ground floor door consistent with preservation standards 	Code amendment limiting the conversion of housing to student housing use (§317(e)) Conditional Use for Group Housing affiliated with PSEI use in RC-4 (§209.3) Code exception from active use requirements (§145.1) for Class 1 bicycle parking location Code exception from bicycle parking design standards (§155.1) for vertical spaces and access path
1153 Bush Street	1 Dwelling Unit; 15 Residential Hotel Rooms (Ch. 41)	Student Housing – 16 Group Housing Rooms	 Legalize change of use to Group Housing with Student Housing use characteristic Removal of the Chapter 41 designation from the 15 Residential Hotel Rooms through a Permit to Convert application, proposing replacement units at 860 Sutter Street. Provision of Class 1 and 2 bicycle parking Removal of existing curb cut and driveway Exterior alterations (e.g. removal of entry canopy, window replacements, and installation of security card reader for bike access at garage) New wall signage proposed at garage, must allow for garage operation for access to bicycle parking 	Code amendment limiting the conversion of housing to student housing use (§317(e)) Conditional Use for Group Housing affiliated with PSEI use in RC-4 (§209.3) Code exception from bicycle parking design standards (§155.1) for vertical spaces and to allow provision of Class 2 bicycle parking at 1080 Bush St., within 500 feet (§307(k))
575 Harrison Street	33 Live/Work Units	33 Live/Work Units; Private Parking Garage	 Legalize change of use at garage from accessory parking to Private Parking use; no change of use to legal nonconforming live/work units Provision of Class 1 and 2 bicycle parking New signage to include one wall and one projecting sign 	Conditional Use for Private Parking use in MUO (§842.41)

1900 Jackson Street	9 Dwelling Units	Student Housing – 9 Dwelling Units; Private Parking Garage	 Legalize change of use at garage from accessory parking to Private Parking use; dwelling units already considered legal Student Housing Provision of Class 1 and 2 bicycle parking New signage to include two identifying wall signs 	 Conditional Use for Private Parking use in RH-2 (§209.1) Code exception from bicycle parking design standards (§155.1) for vertical spaces
736 Jones Street	34 Dwelling Units	Student Housing – 34 Dwelling Units	 No change of use; dwelling units already considered legal Student Housing Reinstate basement level dwelling unit adjacent to student lounge Existing wall sign legal, to remain; new signage proposed on existing awning over entry 	
1727 Lombard Street	Tourist Motel	Student Housing – 52 Group Housing Rooms; Private Parking Lot and Garage	 Legalize change of use from Tourist Motel to Group Housing with Student Housing use characteristic; legalize change of use from accessory parking lot to Private Parking use Provision of Class 1 and 2 bicycle parking Development of code compliant open space on portion of prior parking lot Removal of two curb cuts and driveways, one along Lombard St. and one along Greenwich St. Removal of window signs at lobby/office, to allow for transparent views into building; retention of existing freestanding "Star Motel" sign to be designated as a Vintage Sign; new signage to include wall sign adjacent to freestanding sign and identifying wall sign at Greenwich frontage 	Conditional Use for Group Housing in RH-2 (§209.1) Conditional Use for Private Parking use in RH-2 and NC-3 (§209.1 and §712) Code exception from rear yard requirements (§134)
1916 Octavia Street	22 Residential Hotel Units (Ch. 41)	Student Housing – 22 Group Housing Rooms (Ch. 41)	 Legalize change of use from 22 Residential Hotel Rooms to Group Housing with Student Housing use characteristic Provision of Class 1 and 2 bicycle parking Relocation of shuttle stop to property frontage 	 Code amendment limiting the conversion of housing to student housing use (§317(e)) Conditional Use for Group Housing in RH-2 (§209.1) Code exception from bicycle parking design standards (§155.1) for vertical spaces

560 Powell Street	28 Dwelling Units	Student Housing – 27 Dwelling Units	 No change of use; dwelling units already considered legal Student Housing New signage to include two wall signs and one projecting sign 	Conditional Use for removal of dwelling unit, based on 3R Report (§317)
620 Sutter Street	Tourist Hotel	Student Housing – 61 Group Housing Rooms, accessory PSEI	 Legalize change of use from Tourist Hotel to Group Housing with Student Housing use characteristic Partial provision of Class 1 bicycle parking and provision of Class 2 bicycle parking Retention of existing legal center awning with signage; no new signage proposed Exterior alterations (e.g. removal of eastern awning, replacement of security cameras and lighting fixtures, concealing conduit, restoration of original YWCA engraving, repair of façade damage) 	 Approval by HPC of Major Permit to Alter (Article 11) Code exception from rear yard and open space (§134, §135) Code exception from bicycle parking design standards (§155.1) for vertical spaces, and overall deficiency of spaces (§155.2)
655 Sutter Street	61 Group Housing Rooms	Student Housing – 55 Group Housing Rooms, accessory PSEI	 No change of use; Group Housing with Student Housing use characteristic already legal Existing wall sign legal, to remain, with conduit to be routed internally; new signage proposed to include two projecting signs for left and right storefronts, reflecting specific use and not to include generic Academy signage copy Exterior alterations (e.g. replacement of security cameras and lighting fixtures, concealing conduit, painting of storefront in Article 11 compatible color) 	Approval by HPC of Major Permit to Alter (Article 11)
680-688 Sutter Street	28 Dwelling Units	Student Housing – 27 Dwelling Units; PSEI gallery	 No change of use; dwelling units already considered legal Student Housing New signage to include two wall signs, one painted Exterior alterations (e.g. removal of awning and brackets, removal of previous sign mounting brackets, window replacements, concealing conduit, repair of façade damage) 	 Approval by HPC of Minor Permit to Alter (Article 11) Conditional Use for removal of dwelling unit (§317)
817-831 Sutter Street (aka 825 Sutter Street)	Tourist Hotel	Student Housing – 111 Group Housing Rooms	 Legalize change of use from Tourist Hotel to Group Housing with Student Housing use characteristic Partial provision of Class 1 bicycle parking and provision of Class 2 bicycle parking Retention of existing "Commodore" projecting and awning signs to be designated as Vintage Signs; new proposed Academy wall sign 	 Conditional Use for Group Housing affiliated with PSEI use in RC-4 (§209.3) Code exception from rear yard and open space (§134, §135)

817-831			Removal of ground floor security gate installed	Code exception from
Sutter Street			without permit, to provide access to bicycle parking	bicycle parking design
(aka 825			Aluminum window replacements are legal and no	standards (§155.1) for
Sutter Street)			further replacement is proposed; however, future	vertical spaces, and
(continued)			window replacements shall require wood sash	overall deficiency of
			windows to match historic character	spaces (§155.2)
				Code exception from
				active use requirements
				(§145.1) for Class 1
				bicycle parking location
860 Sutter	Tourist Hotel	Student	Legalize change of use from 39 Tourist Hotel rooms	Code amendment
Street	(39 rooms) and	Housing –	and 50 Residential Hotel Rooms to Group Housing	limiting the conversion
	50 Residential	89 Group	with Student Housing use characteristic	of housing to student
	Hotel Rooms	Housing	Addition of Chapter 41 designation to all 39 rooms that	housing use (§317(e))
	(Ch. 41)	Rooms (Ch.	are being converted from Tourist Hotel, such that	Conditional Use for
		41)	entire building is designated under Chapter 41; these	Group Housing
			are replacement units for 1080 and 1153 Bush St. as	affiliated with PSEI use
			part of the Permit to Convert application.	in RC-4 (§209.3)
			Provision of Class 2 bicycle parking	Code exception from
			New signage to include one wall sign and one	open space (§135)
			projecting sign	Code exception for
			Exterior alterations (e.g. window replacements,	overall deficiency of
			removal of window film to allow transparency at	bicycle parking spaces
			ground level)	(§155.2) and to allow
			,	provision of Class 2
				bicycle parking at 825
				Sutter St., within 500
				feet (§307(k))
2209 Van	1 Dwelling	Student	Legalize change of use from 1 Dwelling Unit to Group	Code amendment
Ness Avenue	Unit	Housing –	Housing with Student Housing use characteristic	limiting the conversion
Tress Tryende	O'III	18 Group	Partial provision of Class 1 bicycle parking and	of housing to student
		Housing	provision of Class 2 bicycle parking	housing use (§317(e))
		Rooms	New signage to include freestanding sign on fence at	Conditional Use for
		Rooms	property line	Group Housing
			property me	affiliated with PSEI use
				in RC-3 (§209.3)
				Code exception from
				exposure (§140)
				exposure (§140)

2209 Van Ness Avenue (continued) 2211 Van Ness Avenue	2 Dwelling Units; ground floor Retail Sales and Service	Student Housing – 3 Dwelling Units, 4 Group Housing Rooms	 Legalize change of use from 2 Dwelling Units and ground floor Retail to 3 Dwelling Units and 4 Group Housing Rooms with Student Housing use characteristic Provision of Class 1 bicycle parking (including partial provision for 2209 and 2151 Van Ness Ave.) and provision of Class 2 bicycle parking Removal of existing signage on building awning; new signage to include freestanding sign on fence at property line Window replacements 	Code exception for overall deficiency of bicycle parking spaces (§155.2) and to allow provision of Class 1 bicycle parking at 2211 Van Ness Ave., within 500 feet (§307(k)) Code amendment limiting the conversion of housing to student housing use (§317(e)) Conditional Use for Group Housing affiliated with PSEI use in RC-3 (§209.3) Code exception from open space and exposure (§135 and §140) Code exception from bicycle parking design
				vertical spaces, and to allow provision of Class 2 bicycle parking at 2209 Van Ness Ave.,
2225 Jerrold	Commercial	Commercial	Logaliza partial change of use to Private Parking	within 500 feet (§307(k)) • Conditional Use for
Avenue	Storage,	Storage	Legalize partial change of use to Private Parking Garage, with accessory office; establish new partial	Private Parking use in
Tivenue	accessory	with	change of use as Community Facility; 9 accessory off-	PDR-2 (§210.3)
	Office	accessory	street parking spaces associated with Academy	151(2 (5210.0)
	Cinc	Office;	Commercial Storage and Private Parking Garage uses;	
		Private	7 accessory off-street parking spaces associated with	
		Parking	Community Facility	
		Garage and	Provision of Class 1 and 2 bicycle parking	
		Lot with	Interior and exterior alterations necessary to	
		accessory	implement the Community Facility use, to include	
		Office;	removal of existing roll-up doors and replacement	
		Community Facility	with glazed storefront system, and installation of stairs and ADA lift	
		racility	מוע אטא ווונ	

1142 Van	Private	PSEI	Establish change of use from Private Community	 Conditional Use for
Ness Avenue	Community		Facility to PSEI	PSEI in RC-4 (§209.3)
	Facility		Provision of Class 1 and 2 bicycle parking	(0)
			New signage to include four wall signs	
			Exterior alterations (e.g. replacement of security	
			cameras with concealed conduit, replacement of egress	
			doors with removal of gate, window/door replacement	
			along alley façade at fire escape egress	
1946 Van	Light	PSEI	Establish change of use from Retail and Light	Conditional Use for
	Manufacturing	1021	Manufacturing to PSEI	PSEI in RC-4 (§209.3)
1 vess 11 venue	and Retail		Provision of Class 1 and 2 bicycle parking	1 021 III IC 1 (520).0)
	and retain		Interior alterations necessary to implement the change	
			of use	
			New signage to include 3 wall signs and 1 projecting	
			sign	
			Exterior alterations (e.g. new aluminum storefronts,	
			window replacements, and other building details	
			consistent with historic standards)	
2550 Van	Tourist Hotel	Student	Establish change of use from Tourist Hotel to Group	Conditional Use for
Ness Avenue		Housing –	Housing with Student Housing use characteristic	Group Housing
- 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		153 Group	Provision of Class 1 and 2 bicycle parking	affiliated with PSEI use
		Housing	Operation of an Academy dining facility open to the	in RC-3 and RM-2
		Rooms	public; no change of use from existing Limited	(§209.3 and §209.2)
			Restaurant	Conditional Use for
			Removal of existing freestanding sign and structure;	Private Parking use in
			new signage to include one projecting sign and one	RC-3 and RM-2 (§209.3
			wall sign; retention of existing "Da Vinci" wall sign	and §209.2)
			copy	Code exception from
				rear yard and open
				space (§134 and §135)

3. **Site Description and Present Use.** The Project will approve Academy uses located across 34 noncontiguous properties throughout the City and County of San Francisco, as shown on Map 1, below. With the exception of the three properties to be added to the Academy's campus at 1142, 1946, and 2550 Van Ness Avenue, all properties are currently occupied and used by the Academy for residential student housing, post-secondary educational institution, or Academy-related storage uses; however, many sites are not currently authorized for such uses. Table 1, above, provides information on the last legal uses at the 34 properties to be occupied by the Academy. Many properties contain buildings considered to be historic resources. Table 2, below, provides information regarding a property's historic resource status.

WORLD ACT FORT MASON CENTER SAN FRANCISCO BAY STS PETER AND PAUL CROOKED ■LEVI'S PLAZA MICHELANGELO PLAYGROUND 22 ■ HOUSE TRANSAMERICA PYRAMID BLDG. CHINATOWN EMBARCADERO SHOPPING CENTER 20 1 NOB EMBARCADER STATION 13 GRACE CATHEDRAL Sutor POWELL ST. STATION SF SHOPPING CENTER FILLMORE STATION WAN NESS

Map 1. Academy of Art University – 34 Proposed Properties

Institutional Sites

- 1. 601 Brannan St.
- 2. 410 Bush St.
- 3. 58-60 Federal St.
- 4. 2801 Leavenworth St.
- 5. 77-79 New Montgomery St.
- 6. 180 New Montgomery St.
- 7. 625 Polk St.
- 8. 491 Post St.
- 9. 540 Powell St.
- 10. 625-629 Sutter St.
- 11. 740 Taylor St.
- 12. 466 Townsend St.
- 13. 1849 Van Ness Ave.
- 14. 2151 Van Ness Ave.
- 15. 1946 Van Ness Ave.
- 16. 1142 Van Ness Ave.

Residential Sites

- 17. 1080 Bush St.
- 18. 1153 Bush St.
- 19. 575 Harrison St.
- 20. 1900 Jackson St.
- 21. 736 Jones St.
- 22. 1727 Lombard St.
- 23. 1916 Octavia St.
- 24. 560 Powell St.
- 25. 620 Sutter St.
- 26. 655 Sutter St.
- 27. 680-688 Sutter St.
- 28. 817-831 Sutter St.
- 29. 860 Sutter St.
- 30. 2209 Van Ness Ave.
- 31. 2211 Van Ness Ave.
- 32. 2550 Van Ness Ave.

Other

33. 2225 Jerrold Ave.

(Commercial Storage & Private Parking Garage (and lot) with Accessory Office; Community Facility)

34. 950 Van Ness Ave./963 O'Farrell St.

Private Parking Garage with groundfloor classic car museum ancillary to museum located at 1849 Van Ness Ave.

4. Surrounding Properties and Neighborhood. Table 2, below, provides zoning districts and other neighborhood-specific information for the 34 properties comprising the Project. Given the dispersed nature of the Project, with buildings located in residential, commercial, and industrial-

Clusters

- 1. Van Ness Transit Corridor
- 2. Union Square
- 3. Financial District
- 4. South of Market

zoned areas, a single characterization of the surrounding neighborhood is not appropriate for this Project. As discussed in the IMP, the Academy envisions their campus with four main area "clusters" – Van Ness Transit Corridor, Union Square, Financial District, and South of Market.

<u>Van Ness Transit Corridor</u>: The Academy operates eight buildings (three residential, five institutional) located along Van Ness Avenue, including the three properties that will be added to the campus as part of the proposed Project. These properties stretch from O'Farrell Street to the south, to Filbert Street on the north end. In general, density and building heights decrease along the corridor moving south to north, changing from the RC-4 to the RC-3 zoning district and from 130-foot, to 80-foot, to 65-foot height districts. Uses along Van Ness Avenue historically were frequently automotive in nature as a primary north-south path of travel through the City. Academy uses reflect this, in part, through the location of their automotive museums at 950 and 1849 Van Ness Avenue. Today, Van Ness Avenue serves not only as a corridor for automotive traffic, but also several bus lines including the recent development of bus rapid transit along the corridor. Additionally, the Academy operates three residential buildings that are located a few blocks west of Van Ness Avenue, within walking distance of other Academy facilities.

<u>Union Square</u>: The Academy operates at thirteen properties in what they consider to be the Union Square cluster, which extends west along Sutter Street as its main axis toward the adjacent Lower Nob Hill area. These properties consist of four academic institutional buildings and nine residential student housing buildings. Neighborhood density and building heights are relatively consistent throughout this area, characterized by RC-4 and C-3-G zoning districts, and 80- to 130-foot height districts. While the area immediately around Union Square is predominantly known as a retail hub of the City, the broader area includes a dense mix of hotel and tourist-oriented uses as well as dense residential use characterized by small apartments and residential hotels. Retail, restaurants, and other daily-serving needs are found at ground floors throughout this area. Many properties in the area have historical significance, particularly for architectural integrity, and many properties located within the C-3 zoning district are also within the Kearny-Market-Mason-Sutter ("KMMS") Conservation district.

Financial District: The Academy operates three properties within the Financial District cluster and neighborhood, one to the north and two to the south of Market Street. All three properties were previously offices and are now proposed for PSEI use. The Financial District neighborhood encompasses that portion of the downtown geographically farthest to the east, historically having developed first in the areas north of Market Street (C-3-O District), with more recent office development moving to the south in connection with the Transbay District Area Plan (C-3-O(SD) District). While building heights in these districts are commonly in excess of 300 feet and include the tallest structures in the City, the Academy properties are located on the edge of the Financial District with more moderate heights. Each of the three Academy properties in this area has historical significance under Article 11.

South of Market: The Academy operates four properties within the South of Market ("SoMa") area of the City, three for PSEI use and one live/work building. Two properties are toward Eastern SoMa, while the other two are within the recently zoned Central SoMa area. The property at 601 Brannan Street, specifically, is adjacent to three Central SoMa key sites, at the corner of 5th and Brannan Streets. Two of the properties proposed for PSEI use were previously office buildings, while the third is changing from an Internet Utilities Exchange use; the live/work building is a continuation of the existing legal nonconforming use. One of the PSEI properties is listed under Article 10, the South End Landmark District, while the other two PSEI buildings are considered to be historic resources under CEQA.

Table 2. Zoning and Other Property Information for Each Academy Property.

Property Address	Zoning District	Height/ Bulk District	Special Use District	Preservation Designation	Supervisor District	Planning Dept. Neighborhood Group	Academy- Named Cluster
601 Brannan	MUG	160-CS	Western SoMa;	Category A –	6	South of Market	South of
St.			Central SoMa	Historic Resource			Market
410 Bush	C-3-O	80-130-F	N/A	Article 11	3	Chinatown	Financial
Street				(KMMS)			District
58-60 Federal	MUO	65-X	N/A	Article 10 (South	6	South of Market	South of
Street				End Landmark			Market
				District)			
2801	C-2	40-X	Waterfront 2	Category A –	2	North Beach	N/A
Leavenworth				Historic Resource			
Street							
77-79 New	C-3-O(SD)	150-S	N/A	Article 11 (New	6	Financial District	Financial
Montgomery				Montgomery-			District
Street				Mission-2 nd St.)			
180 New	C-3-O(SD)	150-S	N/A	Article 11 (New	6	Financial District	Financial
Montgomery				Montgomery-			District
Street				Mission-2 nd St.)			
625 Polk Street	NC-3	130-E	N/A	Article 10	6	Downtown / Civic	Van Ness
				(Landmark #174)		Center	Transit
							Corridor
491 Post Street	C-3-G	80-130-F	N/A	Article 10	3	Downtown / Civic	Union
				(Landmark #177);		Center	Square
				Article 11			
				(KMMS)			
540 Powell	C-3-R	80-130-F	N/A	Article 11	3	Downtown / Civic	Union
Street				(KMMS)		Center	Square
625-629 Sutter	C-3-G	80-130-F	N/A	Article 11	3	Downtown / Civic	Union
Street				(KMMS)		Center	Square

RECORD NO. 2019-012970CUA Academy of Art University

740 Taylor	RC-4	65-A	N/A	Category A –	3	Downtown / Civic	Union
Street				Historic Resource		Center	Square
466 Townsend	CMUO	85-X	Western SoMa;	Category A –	6	South of Market	South of
Street			Central SoMa	Historic Resource			Market
950 Van Ness	RC-4	130-V	Van Ness; Van	Category C – No	6	Downtown / Civic	Van Ness
Avenue			Ness	Historic Resource		Center	Transit
			Automotive				Corridor
1849 Van Ness	RC-4	80-D	Van Ness	Category A –	2	Pacific Heights	Van Ness
Avenue				Historic Resource			Transit
							Corridor
2151 Van Ness	RC-4	80-D	Van Ness	Article 10	2	Pacific Heights	Van Ness
Avenue				(Landmark #252)			Transit
							Corridor
1080 Bush	RC-4	65-A	N/A	Category A –	3	Nob Hill	Union
Street				Historic Resource			Square
1153 Bush	RC-4	65-A	N/A	Category A –	3	Downtown / Civic	Union
Street				Historic Resource		Center	Square
575 Harrison	MUO	65-X	N/A	Category C – No	6	South of Market	South of
Street				Historic Resource			Market
1900 Jackson	RH-2	40-X	N/A	Category B – Age	2	Pacific Heights	Van Ness
Street				Eligible, unknown			Transit
							Corridor
736 Jones	RC-4	80-A	N/A	Category A –	3	Downtown / Civic	Union
Street				Historic Resource		Center	Square
1727 Lombard	NC-3 /	40-X	N/A	Category B – Age	2	Marina	Van Ness
Street	RH-2			Eligible, unknown			Transit
							Corridor
1916 Octavia	RH-2	40-X	N/A	Category C – No	2	Pacific Heights	Van Ness
Street				Historic Resource			Transit
							Corridor
560 Powell	RC-4	80-130-F	N/A	Category A –	3	Downtown / Civic	Union
Street				Historic Resource		Center	Square
620 Sutter	C-3-G	80-130-F	N/A	Article 11	3	Downtown / Civic	Union
Street				(KMMS)		Center	Square
655 Sutter	C-3-G	80-130-F	N/A	Article 11	3	Downtown / Civic	Union
Street				(KMMS)		Center	Square
680-688 Sutter	C-3-G	160-F	N/A	Article 11	3	Downtown / Civic	Union
Street				(KMMS)		Center	Square
817-831 Sutter	RC-4	80-A	N/A	Category A –	3	Downtown / Civic	Union
Street (aka 825				Historic Resource		Center	Square
Sutter Street)							

860 Sutter	RC-4	80-A	N/A	Category A –	3	Downtown / Civic	Union
Street				Historic Resource		Center	Square
2209 Van Ness	RC-3	80-D	N/A	Category A –	2	Pacific Heights	Van Ness
Avenue				Historic Resource			Transit
							Corridor
2211 Van Ness	RC-3	80-D	N/A	Category A –	2	Pacific Heights	Van Ness
Avenue				Historic Resource			Transit
							Corridor
2225 Jerrold	PDR-2	65-J	Industrial	Category C – No	10	Bayview	N/A
Avenue			Protection Zone	Historic Resource			
1142 Van Ness	RC-4	130-V	Van Ness; Van	Category A –	3	Downtown / Civic	Van Ness
Avenue			Ness	Historic Resource		Center	Transit
			Automotive				Corridor
1946 Van Ness	RC-4	80-D	Van Ness	Category A –	3	Nob Hill	Van Ness
Avenue				Historic Resource			Transit
							Corridor
2550 Van Ness	RC-3 /	65-A	N/A	Category B – Age	2	Russian Hill	Van Ness
Avenue	RM-3			Eligible, unknown			Transit
							Corridor

- 5. **Public Outreach and Comments.** The Department has received correspondence from 21 people asking to be included on all hearing notices regarding the proposed project. Since notices were mailed and posted regarding Project hearings, staff has received approximately six general inquiries regarding the Project from members of the public, typically interested in a few specific properties comprising the larger Project. Lastly, staff has received 10 emails from neighbors of the property at 1900 Jackson Street, specifically in opposition to the Academy signage that has been proposed for this building located in an RH-2 District.
- 6. **Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Use.** Various Planning Code Sections regulate the proposed uses, dependent on the specific zoning district in which a property is located. Below, the zoning district applicable to each of the proposed 34 properties will be described. Predominantly, Academy uses fall into two categories: Post-Secondary Educational Institution ("PSEI") and Residential use (dwelling unit or group housing) with a Student Housing use characteristic.
 - <u>C-3 Districts (Section 210.2)</u>: The Academy operates at nine properties within C-3 Districts. For purposes of this discussion, there is no need to differentiate between the different types of C-3 Districts as they are consistent across type with regard to the uses proposed. Within C-3 Districts, both PSEI use

and a Student Housing characteristic are principally permitted, and there is no residential density limit for either dwelling units or group housing bedrooms.

C-2 District (Section 210.1): The Academy also has one property located within a C-2 District at 2801 Leavenworth St. ("The Cannery"), which contains retail sales and service uses at the ground floor of the property and proposes PSEI use at upper floors; retail and PSEI uses are both principally permitted within this District. While some of the ground floor retail spaces will continue to be operated by businesses unaffiliated with the Academy, the Academy may also operate their own retail sales and service uses at the ground floor, provided that these uses are open to the general public during normal retail hours, that these uses do not appear by virtue of signage or other physical aspects to be a use exclusive to Academy-associated individuals or groups, and that these uses do not provide any discount, subsidy or operational preference exclusive to Academy-associated individuals or groups.

RC Districts (Section 209.3): The Academy operates at fourteen properties located entirely within either the RC-3 or RC-4 District. One additional property (2550 Van Ness Ave.) has split RC-3 and RM-3 zoning (Section 209.2). Within RC Districts, PSEI use requires conditional use authorization; this is required for proposed changes of use at four properties: 1142 Van Ness Ave., 1849 Van Ness Ave., 1946 Van Ness Ave., and 2151 Van Ness Ave. Note that although 740 Taylor also proposes PSEI use, no change of use is required due to the last legal PSEI use at this property, prior to Academy occupancy.

Within RC Districts, while a Student Housing use characteristic is permitted, conditional use authorization is required for group housing that is affiliated with and operated by an Institutional Educational use. This requirement applies to seven Academy properties: 1080 Bush St., 1153 Bush St., 817-831 Sutter St., 860 Sutter St., 2209 Van Ness Ave., 2211 Van Ness Ave., and 2550 Van Ness Ave. (where conditional use is also required for the RM-zoned portion of this property.) Residential Student Housing at two properties — 736 Jones St. and 560 Powell St. — are principally permitted as these buildings contain dwelling units, as opposed to group housing rooms. Proposed residential density at these properties are kept within maximums allowed by Code where a change of use occurs; where there is no change of use, such as for 736 Jones St. and 560 Powell St., residential density may exceed Code maximums as a continuation of a legal nonconforming use.

The last property within an RC District is located at 950 Van Ness Ave. where the Academy proposes to operate a private parking garage use for its classic automobile collection. Private parking garages require conditional use authorization. As part of this use, the Academy will operate an accessory museum at the ground floor, open to the public in conjunction with the auto museum at 1849 Van Ness Ave. An additional private parking garage use is requested at 2550 Van Ness. Parking exists at this site already and was used in an accessory manner by the prior tourist motel use; however, under Academy operation, this parking would no longer be used in an accessory manner by those residing in the building, and would instead be used more generally by Academy faculty and staff, thus needing to be authorized as a separate use instead of remaining as an accessory function of the student housing.

RH-2 District (Section 209.1): The Academy operates at two properties located entirely within the RH-2 District: 1900 Jackson St. and 1916 Octavia St. Additionally, the property at 1727 Lombard St. has split zoning between the RH-2 and NC-3 Districts. All three properties are used for Student Housing, which is a permitted use characteristic in this District (and within the NC-3 District at 1727 Lombard St.). At 1900 Jackson St., there are nine dwelling units at this property considered a continuation of the legal nonconforming use at this property. At both 1916 Octavia St. and 1727 Lombard St., group housing uses are proposed within allowable density limits, but require conditional use authorization within the RH-2 District.

Similar to 2550 Van Ness Ave., above, both 1900 Jackson St. and 1727 Lombard St. contain existing parking areas on the property, which will no longer be used in an accessory manner by students occupying these properties, and would instead be used more generally by Academy faculty and staff. Considered as a separate use, the private parking garage and private parking lot and garage at 1900 Jackson St. and 1727 Lombard St., respectively, require conditional use authorization within the RH-2 District.

NC-3 District (Section 712): In addition to the uses at 1727 Lombard St., which were discussed in full immediately above, the Academy has one other property located within the NC-3 District at 625 Polk St. This property proposes a continuation of the last legal PSEI use that existed at the property prior to Academy occupation and is a principally permitted use within the NC-3 District.

Mixed Use Districts (Sections 840, 842, and 845): The Academy operates at four properties within Mixed Use Districts: 601 Brannan St. (MUG), 58-60 Federal St. (MUO), 466 Townsend St. (CMUO), and 575 Harrison St. (MUO); the first three properties contain PSEI use, while 575 Harrison contains legal nonconforming live/work units. Within the MUG District at 601 Brannan St., PSEI use requires conditional use authorization; the proposed parking at 601 Brannan St. is considered accessory to the PSEI use. At 58-60 Federal St. and 466 Townsend St., within the MUO and CMUO Districts respectively, PSEI use is principally permitted. There is no proposed change of use for the legal nonconforming live/work units at 575 Harrison; student residents of this building are pursuing educational study in fields related to PDR, arts activities, and design professional uses. Additionally, at 575 Harrison (and similar to 2550 Van Ness Ave., 1900 Jackson St., and 1727 Lombard St.), the parking at this property is no longer proposed to be used in an accessory manner by those residing at this property, and would instead be used more generally by Academy faculty and staff; this private parking garage use requires conditional use authorization within the MUO District.

At 466 Townsend St., the proposed change of use from Internet Service Exchange to PSEI would require that the Project provide replacement PDR space at a rate of 0.75 square feet per square foot to be changed, as per the requirements of Planning Code Section 202.8. However, as per the proposed Planning Code amendment, the requirement of Section 202.8 is fulfilled through application and receipt of a Master Conditional Use Authorization and no replacement space would be required for this change of use.

<u>PDR-2 District (Section 210.3)</u>: Lastly, the Academy operates at part of 2225 Jerrold Ave. within the PDR-2 District. Uses within this building include commercial storage and accessory office use for both the Academy as well as the SF Fire Fighter's Toy Program, a private parking garage and lot for Academy shuttle vehicles and accessory office for the operation and dispatch of those shuttles, and a newly proposed community facility use. Commercial Storage and the Community Facility are principally permitted within the PDR-2 District; the private parking garage and lot require conditional use authorization.

B. Rear Yard. Planning Code Section 134 sets forth rear yard requirements in various Districts.

For this project, rear yard requirements generally fall into three categories: non-residential properties without a rear yard requirement, existing residential properties that may or may not have complying rear yards and are adding a student housing use characteristic, and properties undergoing a change of use from non-residential to residential student housing.

All 16 properties proposed for PSEI use have no rear yard requirement based on the zoning district in which they are located and fall into the first category above. The properties at 950 Van Ness Ave. and 2225 Jerrold, also proposed for non-residential use, similarly do not have a rear yard requirement.

Of the 16 proposed student housing buildings, all but four properties had some amount of residential use prior to Academy occupancy. In some cases, such as 1153 Bush St., a Code-complying rear yard already exists and will continue to exist following approval of the Project. In most cases, however, these buildings have legal noncomplying rear yards, which are permitted to continue in their existing state; the change to student housing does not exacerbate the noncompliance seen at these properties.

However, the conversion of four properties – 1727 Lombard St., 620 Sutter St., 817-831 Sutter St., and 2550 Van Ness Ave. – from non-residential use to residential student housing use triggers new rear yard requirements. For all of these properties, the existing building extends into portions of the lot that would be required rear yard areas upon conversion to residential use. As the Academy does not propose to demolish or otherwise alter existing building envelopes, a variance would be typically be required in these instances; however, pursuant to the provisions of proposed Planning Code Section 304.6, the Planning Commission may grant an exception to the rear yard requirements at these four properties through a conditional use authorization.

C. **Usable Open Space.** Planning Code Section 135 sets forth usable open space requirements for dwelling units and group housing in various Districts.

For this Project, usable open space pursuant to this Section will be required in instances where a building is being converted from non-residential to residential use, or where there is a change to the type or extent of the residential use at the property such that a greater amount of residential open space would be required. However, in instances such as at 560 Powell St., where there is no proposed change of use and no proposed increase to the number of existing residential units, although this building does not currently contain any usable open space, this deficiency may carry forward as a legal noncomplying

characteristic; the addition of the Student Housing use characteristic alone does not impose any greater usable open space requirement on the building and existing use.

In total, there are seven properties where additional usable open space is required. These properties are: 1727 Lombard St., 620 Sutter St., 817-831 Sutter St., 860 Sutter St., 2209 Van Ness Ave., 2211 Van Ness Ave., and 2550 Van Ness Ave. At all but two of these properties, an exception to open space requirements is required due to existing building configurations on these properties such that open space could only feasibly be accommodated through the development of roof decks. At 1727 Lombard St., a portion of the existing parking areas from the prior motel use will be converted to usable open space for residents in the amount required by Code. At 2209 Van Ness Ave., which will change use from the last legal single-family dwelling unit to 18 group housing rooms, the required usable open space can be provided at the rear of the building. Pursuant to the provisions of proposed Planning Code Section 304.6, the Planning Commission may grant an exception to the usable open space requirements at the five deficient properties through a conditional use authorization.

D. **Exposure.** Planning Code Section 140 sets forth requirements for dwelling units and group housing projects to face onto a public street, alley, yard or other open area meeting certain dimensional requirements.

Exposure requirements for the Project are applicable when there is a proposed change of use to residential or where there is a proposed change to the type of residential use at the property, for example at 2209 Van Ness Ave., which will change use from the last legal single-family dwelling unit to 18 group housing rooms. In cases where there is no proposed change of use, any legal noncomplying Code deficiency may be carried forward by the Project. For buildings that are proposed for group housing, a single interior common area that meets the requirements of Section 140(a) may satisfy the exposure requirement for the entirety of group housing rooms within the building. Of the 16 proposed residential buildings within the Project, only the two properties at 2209 Van Ness Ave. and 2211 Van Ness Ave. require an exception from exposure requirements. Pursuant to the provisions of proposed Planning Code Section 304.6, the Planning Commission may grant an exception to the exposure requirements at these two properties through a conditional use authorization.

E. Street Frontages in NC, RC, C, and Mixed-Use Districts. Section 145.1 of the Planning Code requires that within these Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. Frontages with active uses must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when

SAN FRANCISCO PLANNING DEPARTMENT both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

The Project does not propose modifications to most buildings as part of the proposed changes of use at these sites. As many buildings included within the Project have historical significance, including buildings designated under either Article 10 or 11 of the Planning Code, modifications to allow for greater fenestration were inappropriate to include as part of the Project. For two properties at 79 New Montgomery St. and 625 Sutter St., unpermitted partitions were constructed at the interior of the buildings, which prevented transparent views into the buildings. In these two cases, the Project includes the complete or partial removal of partitions to allow for increased views into the building. Additionally, such as for the building at 601 Brannan St., the Project also proposes the removal of unpermitted translucent or opaque films that have been placed along existing street-facing windows, in order to bring buildings into closer compliance with the requirements of this Section. Pursuant to the provisions of proposed Planning Code Section 304.6, the Planning Commission may grant an exception to the street frontage active use and transparency requirements at seven properties – 79 New Montgomery St., 625 Sutter St., 601 Brannan St., 1849 Washington St., 1080 Bush St., 620 Sutter St., and 825 Sutter – through a conditional use authorization.

F. **Off-Street Parking.** Planning Code Sections 151 and 151.1 regulate off-street parking requirements and maximum limits for accessory parking.

The Project includes off-street parking at the following institutional (PSEI) properties: 601 Brannan St., 410 Bush St., and 58 Federal St. At 601 Brannan St., the existing parking areas at the property are being reconfigured and will result in a total of 17 accessory parking spaces, as permitted by Code, and representing a reduction of 14 spaces from what currently exists. At 410 Bush St. and 58 Federal St., the existing accessory parking provided within garages at these buildings is considered legal nonconforming and is permitted to continue; the Academy will provide 10 spaces and 8 spaces at these properties, respectively.

The Project also includes off-street parking at the following residential properties: 575 Harrison St., 1900 Jackson St., 1727 Lombard St., and 2550 Van Ness Ave. Academy policy does not allow students, whether residing at these properties or not, to park any personal vehicles within these spaces; rather, these spaces are reserved for faculty and other staff. As such, these off-street parking spaces are not considered accessory and are therefore not subject to maximum accessory limits identified in these Sections of the Code. For purposes of summarizing overall off-street parking quantities controlled by the Academy, these properties propose to include 20 spaces, 9 spaces, 24 spaces, and 47 spaces, respectively, for the properties identified above.

Additionally, two other properties included as part of the Academy Project seek approval, at least in part, for private parking garage or lot use; these are located at 950 Van Ness Ave. and 2225 Jerrold Ave (2225 Jerrold also includes 9 accessory off-street parking spaces associated with the Academy's Commercial Storage and Private Parking uses and 7 accessory off-street parking spaces associated with the

Community Facility.) Similar to the off-street parking at residential properties described above, this parking is not subject to the accessory limits stated through Sections 151 and 151.1, however, will be described below in the interest of summarizing overall Academy parking. At 950 Van Ness, the approximately 49,595 square-foot building would be converted to a private parking garage. Unlike other Academy parking, however, this garage would not be open to faculty and staff, instead used as parking for the Academy's extensive classic car collection. A portion of this building would be open to the public through appointment as an accessory museum and in conjunction with the accessory classic car museum operated at 1849 Van Ness Ave., which is otherwise proposed for PSEI use. At 2225 Jerrold, the private parking areas include both a lot and internal garage areas at the southern end of the building, used as parking for Academy shuttle buses.

G. **Bicycle Parking.** Planning Code Section 155.2 sets forth bicycle parking requirements for uses. Where the change of occupancy or increase in intensity of use would increase the number of total required bicycle parking spaces by at least 15 percent, bicycle parking would be provided based on the occupied area of uses changed.

For all properties within the Project where no change of use is proposed, the Code does not require provision of bicycle parking spaces. However, properties proposing a change of use are subject to bicycle parking requirements based on the uses proposed. In general, this is the case due to higher bicycle parking requirements for PSEI uses compared with the office or other uses that previously existed at many sites. For residential properties that had not already legally been established for student housing, bike parking requirements are generally applicable due to requirements of this Section that state "Student Housing shall provide 50 percent more spaces than would otherwise be required." Plans for each property within the Project include an analysis on the cover sheet of the number of spaces required by Code due to the proposed change of use, as well as the number of spaces proposed at each property. An accounting of the number of required spaces at each property, as well as the proposed number of spaces by the Project, is provided in Table 3 below.

Table 3. Required and Proposed Bicycle Parking Spaces.

Property Address	Required Class 1 Spaces	Proposed Class 1 Spaces	Required Class 2 Spaces	Proposed Class 2 Spaces	Notes and Exceptions Needed
601 Brannan St.	3 req.	4 prop.	7 req.	8	- Exception required; however, from Section 145.1 for location of bike parking within active use area
410 Bush Street	5 req.	5 prop.	8 req.	8	- Exception required from Section 155.1 for vertical spaces (all 5)

58-60 Federal Street	4 req.	22 prop.	7 req.	14	- ESTM Condition references 36 Class 2 racks in basement, requiring relocation. Academy complies by improving 22 spaces as Class 1, and other 14 relocated for more convenient use Exception required from Section 155.1 for vertical spaces (16 of 22), and access path
2801 Leavenworth Street	4 req.	4 prop.	8 req.	10	- Exception required from Section 155.1 for vertical spaces (all 4), and access path
77-79 New Montgomery Street	16 req.	16 prop.	18 req.	26	- Class 1 and 2 requirements come from ESTM condition, exceeds Planning Code requirements of 5 Class 1 spaces and 10 Class 2 spaces Exception required from Section 155.1 for vertical spaces (all 16)
180 New Montgomery Street	28 req.	28 prop.	16 req.	16	- ESTM Condition requires 28 existing Class 1 spaces to be retained an 16 additional spaces, either Class 1 or 2 to be added, exceeds Code requirements of 7 Class 1 and 15 Class 2 spaces Exception required from Section 155.1 for vertical spaces (all 28)
625 Polk Street	0 req.	0 prop.	0 req.	4	
491 Post Street	10 req.	14 prop.	4 req.	10	- Class 1 requirement comes from ESTM condition, exceeds Planning Code requirement of 2 spaces.
540 Powell Street	0 req.	0 prop.	0 req.	8	
625-629 Sutter Street	0 req.	2 prop.	0 req.	10	- Exception required; however, from Section 145.1 for location of bike parking within active use area - Exception required from Section 155.1 for vertical spaces (all 2)
740 Taylor Street	0 req.	0 prop.	0 req.	4	
466 Townsend Street	6 req.	6 prop.	11 req.	12	

950 Van Ness Avenue	4 req.	4 prop.	2 req.	2	
1849 Van Ness Avenue	30 req.	30 prop.	9 req.	10	- Class 1 requirement comes from ESTM condition, exceeds Planning Code requirement of 5 spaces.
2151 Van Ness Avenue	1 req.	1 prop.	2 req.	2	- 1 Class 1 space is provided at 2211 Van Ness Ave., within 500' of subject property
1080 Bush Street	6 req.	12 prop.	3 req.	8	- Exception required; however, from Section 145.1 for location of bike parking within active use area - Exception required from Section 155.1 for vertical spaces (all 12), and access path (7 of 12)
1153 Bush Street	16 req.	20 prop.	3 req.	2	- Exception required from Section 155.1 for vertical spaces (all 20) - 1 deficient Class 2 space is provided at 1080 Bush St., within 500' of subject property
575 Harrison Street	47 req.	47 prop.	8 req.	8	
1900 Jackson Street	14 req.	14 prop.	8 req.	8	- Exception required from Section 155.1 for vertical spaces (all 14)
736 Jones Street	0 req.	0 prop.	0 req.	0	
1727 Lombard Street	39 req.	40 prop.	11 req.	12	
1916 Octavia Street	17 req.	17 prop.	3 req.	4	- Exception required from Section 155.1 for vertical spaces (all 17)
560 Powell Street	0 req.	0 prop.	0 req.	0	
620 Sutter Street	49 req.	8 prop.	6 req.	12	- Deficient by 41 Class 1 spaces - Exception required; however, from Section 145.1 for location of bike parking within active use area - Exception required from Section 155.1 for vertical spaces (all 8)
655 Sutter Street	0 req.	0 prop.	0 req.	0	
680-688 Sutter Street	0 req.	0 prop.	0 req.	0	

817-831 Sutter Street (aka 825 Sutter Street)	74 req.	55 prop.	8 req.	10	- Deficient by 19 Class 1 spaces - Exception required; however, from Section 145.1 for location of bike parking within active use area - Exception required from Section 155.1 for vertical spaces (all 55)
860 Sutter Street	63 req.	0 prop.	8 req.	6	 Deficient by 63 Class 1 spaces; 2 deficient Class 2 spaces are provided at 825 Sutter St. across the street within 500' of subject property
2209 Van Ness Avenue	21 req.	15 prop.	3 req.	3	- Deficient by 6 Class 1 spaces; - All 15 Class 1 spaces are provided at adjacent 2211 Van Ness Ave., within 500' of subject property; - 6 Class 2 spaces are provided at 2209 Van Ness Ave., 3 for subject property, and 3 for adjacent 2211 Van Ness Ave.
2211 Van Ness Avenue	8 req.	8 prop.	3 req.	3	- A total of 24 Class 1 spaces are proposed at 2211 Van Ness Ave. to count toward requirements of 2209, 2211 and 2151 Van Ness Ave.; - Exception required from Section 155.1 for vertical spaces (20 of 24)
2225 Jerrold Avenue	6 req.	6 prop.	8 req.	8	
1142 Van Ness Avenue	2 req.	2 prop.	3 req.	4	
1946 Van Ness Avenue	1 req.	1 prop.	2 req.	2	
2550 Van Ness Avenue	99 req.	99 prop.	15 req.	16	

As shown in the table above, there are certain sites where the Academy is unable to provide the full quantity of required bicycle parking spaces due to existing building constraints and space limitations. However, as also shown in the table, there are certain sites where the Academy can accommodate bicycle parking beyond the stated requirements. In the case of the properties at 2151 Van Ness Ave., 2209 Van Ness Ave., and 2211 Van Ness Ave., which are located within 500 feet of each other, the Project proposes to provide bicycle parking at 2211 Van Ness in part for all three properties due to the building's internal configuration and availability of space, subject to review by the Department of Building Inspection and other City agencies. Lastly, due to existing building constraints at many properties, provision of Class 1 bicycle parking may not fully meet design standards as set forth in Section 155.1; for example, access

to proposed bicycle parking may require access by steps or stairs, or access through a corridor narrower than 5 feet, or that proposed spaces are vertical, wall-mounted spaces in excess of the one-third allowed by Code. However, as part of the Global Settlement, the Academy will provide these spaces for students, even if they do not fully meet all design requirements. As such, the Project will require various exceptions – to allow for a reduction in the overall amount of bicycle parking that would otherwise be required by Code, to allow for provision of spaces at another Academy property located within 500 feet, and to allow for spaces that may not fully meet the design standards of Section 155.1. Pursuant to the provisions of proposed Planning Code Section 304.6, the Planning Commission may grant such exceptions to bike parking requirements as described above through a conditional use authorization.

In total, as proposed, the Project is deficient by 129 Class 1 bicycle parking spaces. However, as the Project is reviewed by other City agencies during building permit review, it is possible that some of the proposed Class 1 spaces may not be approvable, for example, based on Building and/or Fire codes. As provided under the Development Agreement and as part of the conditions of approval of this Motion, the Commission is granting an exception for the deficiency of Class 1 bicycle parking, up to 150 total spaces from what would be required by Code. In lieu of providing the deficiency of Class 1 bicycle spaces, the Academy will pay the City an amount equal to \$519 per space. The in-lieu fee will be credited against the development impact fees to be paid under the Development Agreement for up to 150 spaces. In the event that the deficiency in Class 1 bicycle parking spaces exceeds 150 spaces, the Academy will pay the in-lieu fee with funds at the same rate stated above, in addition to those identified and allocated in the Development Agreement, and will not be credited against the Settlement Payment.

H. Transportation Demand Management (TDM) Plan. Pursuant to Planning Code Section 169 and the TDM Program Standards, only one property (466 Townsend St.) of the 34 properties included within the Project is subject to TDM Plan requirements. The Project shall finalize a TDM Plan for this property prior to Planning Department approval of the first Building Permit or Site Permit. As currently proposed, the property at 466 Townsend St. must achieve a target of 10 points. No other sites are subject to the requirements of this Section as there is either no change of use contemplated, or the proposed change of use involves a change to a lower land use category and is not seen as an intensification from the prior use.

The Project submitted a completed Environmental Evaluation Application prior to September 4, 2016 and the 466 Townsend St. site is located within the Central SoMa Special Use District. Therefore, the Project must only achieve 75% of the point target established in the TDM Program Standards, resulting in a required target of 10 points. As currently proposed, the Project will achieve its required 10 points through the following TDM measures:

- Parking Supply
- Bicycle Parking (Option A)
- Shuttle Bus Service

While the Project will comply with the TDM Plan requirements as shown above, the proposed ordinance also includes language waiving the application of Section 169 to the Project, on the condition that the Academy implements and complies with the Transportation Management Plan ("TMP") attached as Exhibit H to the Term Sheet. The TMP includes provisions requiring that the Academy develop, implement, and provide a shuttle management plan, provide bicycle parking and other provisions that support the goals of the Transportation Demand Management Program of this Section. Through either means then, the Project will comply with this Section.

I. **Signs.** Article 6 of the Planning Code sets forth sign controls in various zoning districts, in recognition of the important function of signs and of the need for their regulation under the Planning Code. Included as part of the Project, the Academy proposes signage that complies with the various requirements of Article 6.

For Academy properties located within Commercial and Industrial Districts (C-3, C-2, and PDR-2), the Academy proposes signage in the form of wall signs and projecting signs, which are not limited by Section 607 in terms of number of signs or means of illumination. The proposed signs in these districts will comply with all other requirements of this section, including limitations on moving or animated parts and height of signs attached to buildings. For Academy properties located within Neighborhood Commercial, Residential-Commercial, and Mixed-Use Districts, the Academy generally proposes signs to generally include wall signs and one projecting sign per property, as allowed per Sections 607.1 and 607.2. The Academy will comply with other requirements of these sections, including limitations on illumination and height of signs attached to buildings. For Academy properties located within Residential Districts, the Academy proposes to include one identifying sign for each street frontage of the lot, not to exceed a height of 12 feet and an area of 12 square feet, and indirectly illuminated, as permitted by Section 606(b)(2). All Academy-branded flags are considered under the Planning Code to be wind signs and are generally not permitted in these districts and have been proposed for removal.

- 7. **Conditional Use Findings.** Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the project complies with said criteria in that:
 - A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The withdrawal of Academy use at 9 properties, and the proposed Academy uses at the 34 properties included within the Project are consistent with the uses described in the Academy's Institutional Master Plan ("IMP"), accepted by the Commission on July 25, 2019, and are consistent with the Development Agreement and Term Sheet. The Project does not contemplate any new construction or building expansion at any of the property sites; therefore, the Project's use sizes are compatible with the existing neighborhood character in which the properties are located. The proposed changes of use, predominantly to PSEI and residential student housing uses, are comparable with, or are a less-intensive use than what was previously permitted at these sites. The resolution of the Lawsuit and Planning enforcement actions

against the Academy is both necessary and desirable in that it fully legalizes the uses and operational facilities needed by the Academy to operate its Post-Secondary Education Institutional use, and it provides the City with monetary payments toward affordable housing, transportation, and other City priorities, and brings closure to issues that have lasted more than a decade. The withdrawal of nine properties from the Academy's footprint within San Francisco is desirable as it helps facilitate the clustering of Academy facilities into fewer and more distinct areas within the City.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:
 - (1) Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;
 - The Project involves changes of use, associated interior tenant improvements, and minor alterations at the exteriors of buildings, such as window replacements and repair and restoration of historic properties. The Project does not include any new construction or physical building expansion to the existing structures. As such, the size and shape of structures will not change from what currently exists and will therefore not be detrimental to the health, safety, convenience or general welfare of those residing or working in the vicinity.
 - (2) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;
 - The Project includes off-street parking at eight properties, all of which have existing off-street parking in either equal or greater quantities than what is proposed by the Project at each site. As discussed in Section 6(F), above, all proposed off-street parking spaces are available to faculty and staff only and are not available to students. Students are expected to walk, bike, take public transit or Academy shuttles between student housing and academic buildings. The proposed number of off-street parking spaces balances Academy demand such that faculty and staff would not be overwhelming on-street neighborhood parking in these areas, while also not providing parking in such quantities as to encourage travel by private automobile. The Project also includes the filling of curb cuts at 601 Brannan St., 1153 Bush St., and 1727 Lombard St., which will help reduce conflicts with pedestrians, bicyclists, and public transit vehicles, and may help restore additional on-street parking spaces. As discussed in the Academy's accepted IMP, a shuttle bus system is provided for students, faculty and staff for travel between Academy properties; however, the number and frequency of buses has been decreased in recent years, lessening impacts to neighborhood traffic patterns.
 - (3) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

It is not expected that the interior improvements and limited exterior alterations proposed would create noxious or offensive emissions such as noise, glare, dust and odor. The proposed legalization of PSEI and residential student housing uses are also not anticipated to result in any offensive emissions. The Project will subsequently need to submit building permits for all proposed exterior alterations, changes of use and interior improvements; therefore, the Department of Building Inspection may impose other requirements with regard to proposed construction activities or specific machinery that may be installed at a given building for instructional or fabrication purposes. Academy dining facilities, whether intended solely for Academy use or more broadly open to the general public, are subject to standard conditions of approval for eating and drinking facilities to minimize any odor or noise generated by the use.

(4) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

The Project will be providing new open space at 1727 Lombard St. and will be reconfiguring open space and parking areas at 601 Brannan St. These areas have been given consideration so as to be usable by the residents and students using these facilities, and proposed parking areas will be landscaped and screened in an appropriate manner, consistent with the Planning Code. Other existing parking areas are already screened from view, located within internal garage areas. The Project has also given large consideration to lighting and signage features, particularly on historic buildings. Providing sufficient lighting at Academy properties is an important institutional goal for the Academy, as it provides students and faculty with an increased sense of security, particularly in conjunction with Academy security cameras that also rely on having adequate nighttime lighting; provision of security cameras and adequate lighting is similarly beneficial to the general public walking adjacent to any specific property. However, for all historic properties included within the Project, the Department has worked with the Academy to ensure that the location, quantity, and type of lighting fixtures, security cameras, and associated conduit are installed or concealed in a manner consistent with the Secretary of Interior's Standards, so as not to be detrimental to the character of the historic resource. Similarly, the Department has reviewed signage proposals for each property. In some cases, properties will see a reduction in signage from what currently exists on a particular building; however, the Department has also reviewed proposals for new signage to ensure that any new signage is consistent with the requirements and limits of both Article 6 of the Planning Code, as well as Articles 10 and 11, where applicable.

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

The Project complies, to the extent feasible, with all relevant requirements and standards of the Planning Code and has submitted a detailed request for exceptions to be granted through the Master Conditional Use Authorization process where it is not feasible to do so. The Project is consistent with Objectives and Policies of the General Plan, as detailed below.

D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Districts.

The proposed Project is, on balance, consistent with the stated purposes of the various Districts in which the 34 properties are located. Uses are generally permitted principally or through conditional use authorization throughout the Project. Institutional and student housing uses have been organized in general consistency with zoning requirements, and through the Settlement Agreement provides funds to the City for the creation of replacement affordable housing. Uses such as the Academy auto museums are located along Van Ness Avenue, with historical ties to the automotive uses that have concentrated along that corridor.

- 8. Loss of Residential Units Through Demolition, Merger, and Conversion. In addition to the criteria of Section 303(c) of this Code, the Commission shall consider the extent to which the following criteria of Planning Code Section 317 are met:
 - A. Pursuant to Planning Code Section 317(e), the conversion of Residential Units to Student Housing is prohibited.

This provision of the Planning Code became effective as a result of Ordinance 188-12, on October 11, 2012. At the time of the effective date of the ordinance, the Academy was operating, without benefit of permit or authorization, Student Housing uses at several buildings that were previously occupied by a non-student housing residential use. Specifically, these include the residential hotel units at 1080 Bush St., 1153 Bush St., 1916 Octavia St., and 860 Sutter St., and the residential units at 2209 and 2211 Van Ness Ave. Where the Academy elsewhere converted dwelling units to Student Housing, there was no such prohibition on conversion at the time when permits were filed, and the conversion did not otherwise require additional authorization from the Planning Commission; therefore, the Student Housing designation is already legal in these instances.

In order to facilitate the legalization of uses pursuant to the Term Sheet and Development Agreement, the Project requires a Planning Code Amendment to allow for the conversion of these Residential Units to Student Housing at this time. The proposed amendment addresses this with language as follows: "where such Development Agreement provides the City compensation for the loss of specific Residential Units that are not Student Housing units, the restrictions of Section 317(e) of this Code may be waived through a Master Conditional Use Authorization under Section 304.6." As discussed above, the Project is on balance consistent with the criteria of Section 303(c) and the restrictions of Section 317(e) should therefore be waived.

B. Pursuant to Planning Code Section 317(g)(3), the Commission shall consider certain criteria where Residential Conversion results in the loss of units.

The Project proposes the conversion of units at two properties: 560 Powell St. and 680-688 Sutter St. For 560 Powell St., the issue primarily appears perhaps to be of a clerical nature, where the 3R report

Examining the plans for the property, units are of a consistent size and layout, uniformly spaced throughout the building; it is difficult, therefore, to understand where a unit has been either merged or converted from residential use at this property. At 680-688 Sutter St., the building similarly has 27 dwelling units compared with the 28 units stated in the 3R report. Here, it is likely that the missing unit was located at the ground floor in what the Academy now operates as a ground floor gallery space, displaying student work and open to the public. It appears the unit was converted in approximately 2003 and has operated as an Academy gallery since that time. For the criteria below, only 680-688 Sutter St. will be evaluated, due to the inconclusive nature of where an additional unit might have been located at 560 Powell St.

The criteria are:

i. whether conversion of the unit(s) would eliminate only owner occupied housing, and if so, for how long the unit(s) proposed to be removed were owner occupied;

It is unclear whether the unit removed was owner occupied housing, and if so, how long it was owner occupied.

ii. whether residential conversion would provide desirable new Non-Residential use(s) appropriate for the neighborhood and adjoining district(s);

The conversion provides for non-residential gallery space affiliated with the Academy and allows for the display of student work and public interaction. This type of ground-floor activation is appropriate for the C-3-G and RC-4 corridor along Sutter St. in the area adjacent to Union Square.

iii. in districts where Residential Uses are not permitted, whether Residential Conversion will bring the building closer into conformance with the Uses permitted in the zoning district;

Not applicable; residential uses are permitted.

iv. whether conversion of the unit(s) will be detrimental to the City's housing stock;

While conversion of the unit decreases the City's housing stock by one unit, the Project will provide the City with an affordable housing payment to compensate for the loss of units due to Academy conversion and occupancy.

v. whether conversion of the unit(s) is necessary to eliminate design, functional, or habitability deficiencies that cannot otherwise be corrected;

Not applicable; the unit was not converted for these reasons.

vi. whether the Residential Conversion will remove Affordable Housing, or units subject to the Residential Rent Stabilization and Arbitration Ordinance.

It is unclear whether the unit removed was subject to these designations, though unlikely it was an Affordable Housing unit as defined by the Planning Code. Due to the building's age, it is likely that the unit was subject to rent control.

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

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 2:

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.4

Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

OBJECTIVE 3:

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

Policy 3.5

Retain permanently affordable residential hotels and single room occupancy (SRO) units.

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.

Policy 4.5

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

OBJECTIVE 11:

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.3

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

Policy 11.5:

Ensure densities in established residential areas promote compatibility with prevailing neighborhood character.

Policy 11.7

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

Policy 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1

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

Policy 1.3

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

OBJECTIVE 7:

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL AND REGIONAL CENTER FOR GOVERNMENTAL, HEALTH, AND EDUCATIONAL SERVICES.

Policy 7.2

Encourage the extension of needed health and educational services, but manage expansion to avoid or minimize disruption of adjacent residential areas.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 1:

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.6

Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate.

OBJECTIVE 28:

PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

Policy 28.1

Provide secure bicycle parking in new governmental, commercial, residential developments.

OBJECTIVE 33:

CONTAIN AND LESSEN THE TRAFFIC AND PARKING IMPACT OF INSTITUTIONS ON SURROUNDING RESIDENTIAL AREAS.

Policy 33.1

Limit the provision of long-erm automobile parking facilities at institutions and encourage such institutions to regulate existing facilities to assure use by short-term clients and visitors.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 2:

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

Policy 2.5

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

OBJECTIVE 4:

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

Policy 4.3

Provide adequate lighting in public areas.

Policy 4.4

Design walkways and parking facilities to minimize danger to pedestrians.

Policy 4.13

Improve pedestrian areas by providing human scale and interest.

Policy 4.14

Remove and obscure distracting and cluttering elements.

ARTS ELEMENT

Objectives and Policies

OBJECTIVE I-1:

RECOGNIZE THE ARTS AS NECESSARY TO THE QUALITY OF LIFE FOR ALL SEGMENTS OF SAN FRANCISCO.

Policy I-1.4

Provide access to the creative process and cultural resources for all neighborhoods, cultural communities, and segments of the city and its populations.

OBJECTIVE II-3:

PROMOTE ARTS EDUCATION PROGRAMS THAT REFLECT THE CULTURAL DIVERSITY OF SAN FRANCISCO.

Policy II-3.1

Encourage arts education offerings in the community and the schools to include art and artists from many cultures.

OBJECTIVE IV-1:

ADVOCATE AND ASSIST IN PROVIDING ARTS EDUCATION PROGRAMMING AT ALL LEVELS.

Policy IV-1.1

Advocate for arts education opportunities for all residents of San Francisco.

Policy IV-1.2

Strengthen collaborations among artists, arts organizations, and teachers, school administrators, and others responsible for arts curricula.

OBJECTIVE IV-2:

RECOGNIZE IN ARTS EDUCATION PROGRAMS THAT A PARTNERSHIP AMONG ARTISTS, TEACHERS, AND ARTS ORGANIZATIONS IS ESSENTIAL TO CREATE AND MAINTAIN QUALITY ARTS EDUCATION PROGRAMMING.

Policy IV-2.1

Support and increase the participation of artists in San Francisco's arts education programs.

OBJECTIVE V-3:

DEVELOP AND EXPAND ONGOING PARTNERSHIPS WITH THE PRIVATE SECTOR IN SUPPORT OF THE ARTS.

Policy V-3.1

Develop partnerships with the private sector and the business community to encourage monetary and non-monetary support of the arts, as well as sponsorships of arts organizations and events.

OBJECTIVE VI-1:

SUPPORT THE CONTINUED DEVELOPMENT AND PRESERVATION OF ARTISTS' AND ARTS ORGANIZATIONS' SPACES.

Policy VI-1.11

Identify, recognize, and support existing arts clusters and, wherever possible, encourage the development of clusters of arts facilities and arts related businesses throughout the city.

On balance, the Project is consistent with the Objectives and Policies of the General Plan, particularly as it relates to the specifically listed Objectives and Policies, above. The Project represents the culmination of more than a decade of review and enforcement action by the Planning Department and City, the details of which are centered around the Settlement Agreement. While many of the past actions by the Academy, which led to litigation by the City Attorney, would be viewed as inconsistent with the Objectives and Policies of the General Plan, the terms of the Settlement Agreement substantially change that conclusion. Specifically, those

past actions include unpermitted interior and exterior alterations and changes of use at 28 of 34 buildings which the Academy occupied in 2007; subsequently, the Academy further expanded their presence in the City to 40 buildings, also without the necessary permits. Perhaps most problematic and inconsistent with the City's General Plan were actions by the Academy to convert existing residential buildings to student housing, particularly at five properties that contained residential hotel rooms, subject to the provisions of Administrative Code Chapter 41. To compensate for these past losses and violations, the Settlement contemplates that the Academy and its LLC Parties will pay an estimated \$58 million to the City, which includes a \$37.6 million affordable housing public benefit payment. That affordable housing payment has a first priority to be applied toward the creation or preservation of SRO units located in those same districts where the Academy had unlawfully converted SRO buildings in the past. An additional estimated \$8.2 million will go to the City's Small Sites Program, which has a mission to help San Franciscans avoid displacement or eviction, by providing funds to nonprofit organizations to buy buildings that are vulnerable to development pressure and increased rents and evictions, so that they may turn the property into permanently affordable housing. Apart from monetary payments, the Settlement also commits the Academy to provide housing for certain percentages of its full-time, on-campus student population, and the Settlement also results in the net addition of at least 8 new SRO units at 860 Sutter Street. The monetary payments and housing metering obligation are public benefits that could only be made available to the City through the Settlement Agreement.

On the Academy's end, the Settlement allows them to legalize and continue operations at 34 properties within the City. In terms of overall number of properties, this is the same number that were occupied by the Academy in 2007, when the Department commenced enforcement action, though not the exact same properties. From their peak occupancy of 40 properties in 2016, the Project results in the withdrawal of Academy use from 9 properties, including 1055 Pine Street, which contains 59 residential hotel rooms. The Project then also results in an addition of 3 properties for Academy use (40 properties -9 + 3 = 34 properties), however occupancy of these buildings is also consistent with the General Plan. At 2550 Van Ness Avenue, the Academy is converting a tourist hotel use to student housing, thus without potential displacement of existing residents, and at both 1142 and 1946 Van Ness Avenue, the Academy is making interior and exterior modifications to the building, in order to both implement the PSEI uses and also restore these buildings in a manner consistent with historic preservation standards. Indeed, the Academy will undertake to some degree similar scopes of work at the majority of properties included as part of the final Academy footprint. Unpermitted changes of use will be legalized by the Project and will require the Academy to file building permit applications to ensure all buildings are consistent with life safety standards. Unpermitted alterations, particularly those made to historic structures, are being legalized where consistent with Code and Secretary of the Interior's Standards, or are being modified or removed where they are not.

In many cases, the Academy's uses would not have been problematic were they to have obtained necessary permits and entitlements prior to their occupancy and use. The residential and institutional uses proposed are generally consistent with the zoning controls of each underlying district, as either principally permitted or conditionally permitted uses. At two properties where uses were more problematic, the Settlement Agreement comes to resolution as follows: a) at 2801 Leavenworth Street (the "Cannery"), the Academy is not permitted to operate a PSEI use at the ground floor and must instead retain active retail uses; b) at 2225

SAN FRANCISCO
PLANNING DEPARTMENT
42

Jerrold Street, the Project will result in the creation of a new Community Facility for use by nearby residents and interested non-profits free of charge, while the Academy will also be permitted to use such facility on an accessory basis.

The Project does not include any new construction or physical expansion of buildings, which could further alter or disrupt existing neighborhood character and patterns. As discussed above, scopes of work are largely either internal, in order to implement the desired change of use, or external to correct or repair past modifications made without benefit of permit. For the former, perhaps the most noticeable improvements to be made will be the installation of Class 1 and 2 bicycle parking at the various properties; in total, the Project proposes some 480 Class 1 spaces and 250 Class 2 spaces. Additionally, at two properties – 79 New Montgomery and 625 Sutter Street – the Academy will be removing unpermitted interior partitions that were constructed adjacent to ground floor fenestration so as to allow for improved visual access into buildings and increased interest at the pedestrian environment. For the latter, exterior repair and restoration work was particularly focused on those properties considered to be historic resources, whether under Articles 10 or 11 of the Planning Code, or under CEQA. Though exact scopes of work vary by property, work includes the removal or relocation of signage, new signage that is sensitive the character of the resource, removal of awnings and canopies, replacement of lighting and security fixtures to be more minimally visible or sensitively installed, and the concealment of conduit.

- 10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project complies with said policies in that:
 - A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.
 - The Project helps preserve and enhance neighborhood-serving retail uses through direct activation of ground floor retail storefronts. Galleries and museums open to the public enhance pedestrian activity and have co-benefits for other artistic enterprises, particularly along the Sutter Street corridor. At 2801 Leavenworth St., the Project retains space for retail uses at the ground floor, and at 2550 Van Ness Ave., the Academy proposes to operate a restaurant with hours open to the public. Students, faculty, and staff of the Academy support neighborhood-serving retail businesses through everyday purchases.
 - B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The Project, through the Development Agreement, resolves a long-standing enforcement case that resulted in the conversion of existing residential housing stock to student housing. To compensate for these past actions, the Project delivers an affordable housing payment to the City of \$37.6 million, in addition to an estimated \$8.2 million to the City's Small Sites Fund. The Academy is withdrawing use from 1055 Pine St., which contains 59 Residential Hotel Rooms, and the City will gain at least 8 new Residential Hotel Rooms at 860 Sutter Street. The Development Agreement also includes a Housing

Metering requirement, such that the Academy must be able to provide a certain percentage of housing in order to meet potential demands of future enrollment growth. Any new housing will not come from the City's existing housing stock or PDR space.

Physically, the Project helps conserve and protect neighborhood character through exterior alterations and repair work, particularly to buildings of historical significance.

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

As discussed in B, above, the Project compensates the City for past conversions of residential housing to student housing in various ways, including a payment of \$37.6 million for Affordable Housing Benefits, and an estimated payment of \$8.2 million to the Small Sites Fund.

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

The Project is located throughout the City, but is generally accessible via public transportation, bicycle and pedestrian networks, in addition to the Academy's private shuttle service, which will operate within approved curb loading zones. The Academy does not make parking available to students. In total, the Academy has 135 off-street spaces, not including the two properties used for vehicle storage, which do not affect transit service due to their infrequent use or removed location. The Project additionally results in the installation of numerous new bicycle racks, to make alternative means of transportation more feasible. Lastly, several properties include curb cut removals, helping reduce potential vehicle conflicts.

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

The Project does not include any commercial office development. The Academy employs 764 faculty and 793 staff, including working artists trained in the field of industrial art and design, thus helping contribute toward a diverse economic base.

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

The Project will resolve unpermitted changes of use and will require building permits to implement the proposed uses. Through this process, properties will be required to comply with applicable life safety codes.

G. That landmarks and historic buildings be preserved.

The Historic Preservation Commission approved a Master Certificate of Appropriateness and Master Permit to Alter for the Project, on November 20, 2019 per Motion Nos. XXXX and XXXX. The Project results in exterior alterations at many historic properties related to removing or modifying lighting and security fixtures, signage, awnings and canopies, paint color, and the concealing of conduit, in order to bring the property into greater consistency with the Secretary of the Interior's Standards.

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

The Project does propose any new construction or physical expansion of any existing building.

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Master Conditional Use Authorization Application No. 2019-012970CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated October 11, 2019, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The Planning Commission has reviewed and considered the FEIR and Addendum and the record as a whole and incorporates by reference herein the CEQA Findings contained in Motion No. XXXXX and the MMRP, included as Attachment B to said Motion. All required mitigation and improvement measures identified in Attachment B of Motion No. XXXXX are included as conditions of approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed (after the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on November 21, 2019.

Jonas P. Ionin Commission Secretary Draft Motion November 21, 2019

RECORD NO. 2019-012970CUA Academy of Art University

AYES:

NAYS:

ABSENT:

ADOPTED: November 21, 2019

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to vacate 9 properties, and to legalize uses and building modifications at 34 properties owned or leased by the Academy of Art University ("Academy") within the City and County of San Francisco ("City"), consistent with the proposed Development Agreement and the Term Sheet for Global Resolution between the City and the Academy; in general conformance with plans, dated October 11, 2019, and stamped "EXHIBIT B" included in the file for Record No. 2019-012970CUA and subject to conditions of approval reviewed and approved by the Commission on November 21, 2019 under Motion No. XXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permits or commencement of uses contemplated by the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on November 21, 2019 under Motion No. XXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **XXXXX** shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

- 1. **Validity.** The authorization and right vested by virtue of this action is valid for that period of time as specified pursuant to the Development Agreement, Exhibit E.

 For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- 2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the periods of time as specified pursuant to the Development Agreement, Exhibit E, the Project Sponsor shall be subject to renewal procedures and default provisions specified in the Development Agreement.

 For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- 3. **Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence and be completed within the performance schedule specified in the Development Agreement, Exhibit E. Failure to do so shall subject the Project Sponsor to default penalties as specified in the Development Agreement For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- Extension. All time limits in the preceding three paragraphs may only be extended pursuant to the remedies afforded through the Development Agreement.
 - For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- 5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval, unless otherwise authorized through the Development Agreement.
 - For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- 6. Additional Project Authorization. The Project Sponsor must obtain approvals through the Master Certificate of Appropriateness and Master Permit to Alter from the Historic Preservation Commission, pursuant to Articles 10 and 11 of the Planning Code, respectively. The Project must also obtain approval through Board of Supervisors of an ordinance amending the Planning Code in order to implement the Project pursuant to the Settlement Agreement and Term Sheet, and of the Development Agreement between the Academy and City. The conditions set forth below are additional conditions required in connection with the Project. Unless otherwise prescribed through the Development Agreement, if these conditions overlap with any other requirement imposed on

the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN - COMPLIANCE AT PLAN STAGE

8. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval in substantial conformance with the plan sets in Exhibit B. This final review and approval includes, but is not limited to, review by historic preservation staff on final window materials, security camera and lighting fixtures, location and means of attachment, methods of conduit concealment, and repair means and methods for historic structures.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

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

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

10. **Lighting Plan.** For all properties that are considered historic resources under CEQA, or Articles 10 or 11 of the Planning Code, the Project Sponsor shall submit additional details in the building permit applications regarding the proposed lighting, which shall be subject to Department staff review and approval in substantial conformance with the plan sets in Exhibit B. This final review and approval may include, but is not limited to, the type and location of light fixtures, means of attachment, methods of conduit concealment, and repair means and methods.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

11. **Streetscape Plan.** The Project Sponsor shall submit additional details in the building permit applications regarding proposed streetscape improvements, which shall be subject to Department staff review and approval in substantial conformance with the plan sets in Exhibit B. This final review and approval includes details on the installation of Class 2 bicycle racks, filling in of curb cuts, and modifications to proposed loading color curbs. The Project Sponsor shall complete final design and construction of all required street improvements, including procurement of relevant City permits, pursuant to the Schedule of Performance as specified in the Development Agreement, Exhibit E.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

12. **Signage.** The Project Sponsor shall submit additional details in the building permit applications regarding proposed signage, which shall be subject to Department staff review and approval in substantial conformance with the plan sets in Exhibit B. Such final review and approval may include, but is not limited to materials, copy, the means of attachment, and minor adjustments to the final size and location of proposed signage based upon final details related to the means of attachment.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

13. **Landscaping, Screening of Parking and Vehicular Use Areas.** Pursuant to Planning Code Section 142, the Project Sponsor shall submit additional details in the building permit applications regarding proposed screening of parking and vehicle use areas not within a building, which shall be subject to Department staff review and approval in substantial conformance with the plan sets in Exhibit B.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

14. **Odor Control Unit.** In order to ensure any significant new noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit applications to implement the Project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans, as necessary. Odor control ducting shall not be applied to the primary façade of the building, except where previously agreed to as part of the Settlement Agreement and Term Sheet, and in substantial conformance with the plan sets in Exhibit R

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

PARKING AND TRAFFIC

15. **Transportation Demand Management (TDM) Program.** Pursuant to Planning Code Section 169, the Project shall finalize a TDM Plan for the property at 466 Townsend St. prior to the issuance of the first Building Permit or Site Permit to construct the project and/or commence the approved

uses. The Property Owner, and all successors, shall ensure ongoing compliance with the TDM Program for the life of the Project, which may include providing a TDM Coordinator, providing access to City staff for site inspections, submitting appropriate documentation, paying application fees associated with required monitoring and reporting, and other actions.

Prior to the issuance of the first Building Permit or Site Permit, the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property to document compliance with the TDM Program. This Notice shall provide the finalized TDM Plan for the Project, including the relevant details associated with each TDM measure included in the Plan, as well as associated monitoring, reporting, and compliance requirements.

For information about compliance, contact the TDM Performance Manager at <u>tdm@sfgov.org</u> or 415-558-6377, <u>www.sf-planning.org</u>.

- 16. **Car Share.** Pursuant to Planning Code Section 166, no fewer than one (1) car share space shall be made available at 2550 Van Ness Avenue, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.
 - For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- 17. **Bicycle Parking.** Pursuant to Planning Code Sections 155, 155.1, and 155.2, the Project shall provide bicycle parking in the amounts indicated in this Motion and on the plans dated October 11, 2019, and stamped Exhibit B. In total, the Project is deficient by 129 Class 1 spaces. However, as the Project is reviewed by other City agencies during building permit review, it is possible that some of the proposed Class 1 spaces may not be approvable, for example, based on Building and/or Fire codes. As provided under the Development Agreement, the Commission is granting an exception for the deficiency of Class 1 bicycle parking, up to 150 total spaces from what would be required by Code. In lieu of providing the deficiency of Class 1 bicycle spaces, the Academy will pay the City an amount equal to \$519 per space. The in-lieu fee will be credited against the development impact fees to be paid under the Development Agreement for up to 150 spaces. In the event that the deficiency in Class 1 bicycle parking spaces exceeds 150 spaces, the Academy will pay the inlieu fee with funds at the same rate stated above, in addition to those identified and allocated in the Development Agreement, and will not be credited against the Settlement Payment.

SFMTA has final authority on the type, placement and number of Class 2 bicycle racks within the public ROW. Prior to issuance of first architectural addenda, the project sponsor shall contact the SFMTA Bike Parking Program at bikeparking@sfmta.com to coordinate the installation of on-street bicycle racks and ensure that the proposed bicycle racks meet the SFMTA's bicycle parking guidelines. Depending on local site conditions and anticipated demand, SFMTA may request the project sponsor pay an in-lieu fee for Class II bike racks required by the Planning Code.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

- 18. **Parking Maximum.** Pursuant to Planning Code Sections 150, 151 and 151.1, and except for the shuttle and classic car parking uses at 2225 Jerrold and 950 Van Ness, respectively, the Project shall provide Academy-affiliated off-street parking not to exceed the specified number of spaces for each property listed here: (1) 601 Brannan St., 17 spaces; (2) 410 Bush St., 10 spaces; (3) 58 Federal St., 8 spaces; (4) 575 Harrison St., 20 spaces; (5) 1900 Jackson St., 9 spaces; (6) 1727 Lombard St., 24 spaces; (7) 2550 Van Ness Ave., 47 spaces; (8) 2225 Jerrold Street, 9 spaces. For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863,
 - For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- 19. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project. For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PROVISIONS

- 20. First Source Hiring. The Project shall adhere to First Source Hiring and Prevailing Wage requirements as specified in the Development Agreement.
 For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org
- 21. **Transportation Sustainability Fee.** The Project is subject to the Transportation Sustainability Fee (TSF) and Transit Impact Development Fee (TIDF), as applicable, pursuant to Planning Code Sections 411A and 411, and as specified in the Development Agreement, Schedule 1. For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
- 22. **Residential Child Care Impact Fee.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A, and as specified in the Development Agreement, Schedule 1.
 - For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

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

jurisdiction. If there is a material violation of the Planning Code or a pattern of immaterial violations at one or more Academy properties, additional remedies are available as set for the in the Development Agreement, Settlement Agreement, Consent Judgment and Injunction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

- 24. **Monitoring.** The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 351(e) (1) and work with the Planning Department for information about compliance.
 - For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- 25. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

- 26. **Eating and Drinking Uses**. As defined in Planning Code Section 202.2, Eating and Drinking Uses, as defined in Section 102, shall be subject to the following conditions:
 - A. The business operator shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Street and Sidewalk Maintenance Standards. In addition, the operator shall be responsible for daily monitoring of the sidewalk within a one-block radius of the subject business to maintain the sidewalk free of paper or other litter associated with the business during business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.
 - For information about compliance, contact the Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, http://sfdpw.org.
 - B. When located within an enclosed space, the premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building, and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

For information about compliance of fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, <u>www.sfdph.org</u>.

For information about compliance with construction noise requirements, contact the Department of Building Inspection at 415-558-6570, <u>www.sfdbi.org</u>.

For information about compliance with the requirements for amplified sound, including music and television, contact the Police Department at 415-553-0123, www.sf-police.org.

- C. While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.
 - For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- D. Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.
 - For information about compliance, contact the Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, http://sfdpw.org.
- 27. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.
 - For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, http://sfdpw.org
- 28. **Community Liaison.** Prior to issuance of a building permit to construct the Project and implement the approved uses, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator and all registered neighborhood groups for the area with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator and registered neighborhood groups shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

29. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property. All new lighting requires review and approval by the Planning Department through submittal of a building/site permit. For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org