[Revising Findings – Contract Approval for Design and Construction of New Fire Station - 935 Folsom Street]

Ordinance amending Ordinance 218-10 to revise the findings supporting the waiver of Chapter 6 of the Administrative Code for a Conditional Land Disposition and Acquisition Agreement between the City and the San Francisco Museum of Modern Art for the design and construction of the new fire station to be located at 935 Folsom Street, San Francisco, California.

NOTE: Additions are single-underline italics Times New Roman; deletions are strike-through italics Times New Roman. Board amendment additions are double-underlined; Board amendment deletions are strikethrough normal.

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

Section 1. Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and declares as follows:

A. On August 12, 2010, the City adopted Ordinance No. 218-10 to authorize the Director of Real Property to enter into the Conditional Land Disposition and Acquisition Agreement between City and the San Francisco Museum of Modern Art and its affiliate (collectively "Museum (the "Agreement"), a copy of which is on file with the Clerk of the Board of Supervisors in File No. 100883. The Agreement was fully executed and delivered by the parties on or about October 15, 2010.

B. Subject to the satisfaction of express conditions, including completion of environmental review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.), the CEQA Guidelines (California Code of Regulations, title 14, Sections 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code, the Agreement provides for the transfer of City's real property known as 676 Howard Street (Block 3722, Lot 028) and the City's fire station known as "Fire Station No.
1" located on such real property, together with an adjoining section of right-of-way known as
Hunt Street also located within Block 3722, in San Francisco, California in exchange for (i) the
9,000-square-foot northern portion (the "Replacement Property") of Museum's parcel of real
property located at 935 Folsom Street (Block 3753, Lot 140) in San Francisco, (ii) a new fire
station to be constructed by Museum, at Museum's sole cost and expense (the "Replacement
Fire Station"), on the Replacement Property, and (iii) a parking easement over an
approximately 1,800-square-foot adjacent portion of the remaining 5,400-square-feet of such
parcel (the "Parking Easement").

C. Ordinance No. 218-10 also contains the Board's express finding that no City
funds will be used to pay any amounts to be expended pursuant to any contract entered into
by or on behalf of Museum to build the Replacement Fire Station or improve the Replacement
Property for City's use (inclusive of contracts for any materials, equipment, supplies, or
services incorporated or utilized in the construction of the Replacement Fire Station and the
associated other improvements to be constructed on the Replacement Property and the
Parking Easement).

D. Ordinance 218-10 also contains the Board's finding that the construction by
Museum of the Replacement Fire Station and the associated other improvements to be
constructed on the Replacement Property and the Parking Easement, as contemplated by the
Agreement, does not constitute a public work project and provides that and all contracts
entered into by or on behalf of Museum in connection with architectural, surveying,
engineering, legal, project management, construction, contracting, and other consulting
services for the Replacement Fire Station shall be exempt from all of the requirements of
Chapter 6 of City's Administrative Code Exemption.

E. Since Ordinance 218-10 was enacted, the Fire Department has determined that
it intends to enhance the architectural design and functionality of the Replacement Fire
Station beyond that which the Museum is required to provide pursuant to the Agreement by additional reinforcement and finish to the slab of the apparatus bay, certain functional connections with air compressor units, various flooring, wall, door and window treatments or adjustments, and coordinated installation of telecommunications, data and fire/life safety lines, (collectively, the "Additional Improvements"). Subject to the appropriation of adequate of funds pursuant to the City's annual appropriations for Fire Department facilities improvements, the Fire Department intends to expend City funds for the construction of the Additional Improvements. The cost of construction of the Additional Improvements is estimated at approximately $400,000 or less if constructed by Museum's contractors as a part of the original construction of the Replacement Fire Station. Such cost is expected to materially rise if implemented as a City construction project after the completion of the initial construction of the Replacement Fire Station because a separate City construction process is expected to entail construction staging, demolition, and remodeling costs, and other construction and administrative costs that should be avoidable if the Additional Improvements are completed during the original construction of the Replacement Fire Station.

F. The estimated expenditure of City funds for the Additional Improvements does not alter the Board's determination that the exchange transaction contemplated by the Agreement is beneficial to the City and in its best interests. The estimated cost of the Additional Improvements is expected to constitute less than 7% of the total construction cost of the Replacement Fire Station and less than 5% of the total value of the Replacement Property to be received by the City pursuant to the exchange transaction contemplated by the Agreement.

Section 2. Amendment of Section One of Ordinance 218-10. The Board's finding contained in Section 1K of Ordinance 218-10 is hereby amended and restated in its entirety as follows:

Supervisor Jane Kim
Board of Supervisors
"K. The Board understands, and the Agreement provides that, (i) no City funds will be used
to pay any amounts to be expended pursuant to any contract entered into by or on behalf of
Museum to build the Replacement Fire Station as described in the Agreement or improve the
Replacement Property for City's use (inclusive of contracts for any materials, equipment,
supplies, or services incorporated or utilized in the construction of the Replacement Fire
Station and the associated other improvements to be constructed on the Replacement
Property and the Parking Easement) and (ii) to the extent the fair market value of the Museum
Transfer Property and Museum's cost to construct the Replacement Fire Station exceed the
fair market value of the City Property, such additional amount shall be deemed a gift to City by
Museum and no additional consideration shall be due or payable from City to Museum as a
result of such difference in value. Notwithstanding the foregoing, the Board understands that
City funds otherwise allocated to the Fire Department as part of the City's annual
appropriations process in an amount not to exceed $400,000 may be expended to enhance
the architectural design and functionality of the Replacement Fire Station beyond that which
the Museum is obligated to provide pursuant to the Agreement and that it may be most
expeditious and cost effective for the City to have such architectural enhancements
constructed by Museum's contractors as a part of the initial construction of the Replacement
Fire Station."

Section 3. Except as specifically modified by this Ordinance, the text of Ordinance
218-10 is unchanged.
RECOMMENDED:

Director of Property

Fire Chief

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

By:
Richard Handel
Deputy City Attorney

Supervisor Jane Kim
Board of Supervisors
File Number: 120045  Date Passed: February 14, 2012

Ordinance amending Ordinance No. 218-10 to revise the findings supporting the waiver of Chapter 6 of the Administrative Code for a Conditional Land Disposition and Acquisition Agreement between the City and the San Francisco Museum of Modern Art for the design and construction of the new fire station to be located at 935 Folsom Street, San Francisco, California.

February 01, 2012 Budget and Finance Committee - RECOMMENDED

February 07, 2012 Board of Supervisors - PASSED ON FIRST READING
  Ayes: 10 - Avalos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener
  Excused: 1 - Campos

February 14, 2012 Board of Supervisors - FINALLY PASSED
  Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 2/14/2012 by the Board of Supervisors of the City and County of San Francisco.

Angela Caivillo
Clerk of the Board

Mayor

Date Approved