STANDARD MITIGATION MEASURES AGREEMENT
BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND THE
CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING 1950 MISSION STREET,
SAN FRANCISCO, CALIFORNIA

WHEREAS, the Mayor’s Office of Housing and Community Development of the City and County of San Francisco (City) has determined that the development of the proposed Undertaking at 1950 Mission Street (Undertaking), may have an effect on yet unidentified subsurface properties; and

WHEREAS, the City, through use of funds subject to regulation by 24 CFR Part 58 will assist in the undertaking; and

WHEREAS, the City and County of San Francisco (City) has assumed responsibility for environmental review responsibilities for programs and activities subject to regulation under Part 58; and

WHEREAS, the Director of the Mayor’s Office of Housing has been designated the Agency Official under Section 106 of the National Historic Preservation Act (NHPA) and the Certifying Officer under Part 58; and

WHEREAS, the City is a Certified Local Government pursuant to Section 101(c)(1) of the National Historic Preservation Act; and

WHEREAS, the City has established the Area of Potential Effects (APE) for the Undertaking as defined at 36 CFR §800.16; and

WHEREAS, the City has consulted with the California State Historic Preservation Officer (SHPO) pursuant to the Programmatic Agreement by and among the City and County of San Francisco, The California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Historic Properties Affected by the Use of Revenue from the Department of Housing and Urban Development Part 58 Programs, executed January 10, 2007 (PA for Part 58); and

WHEREAS, the California Native American Heritage Council (NAHC) advised the City that a search of its Native American sacred lands file did not identify any such resources in the Undertaking’s archeological area of potential effects (APE); and

WHEREAS, pursuant to the ACHP’s Section 106 regulations and the PA for Part 58, the City has conducted outreach and has actively sought and requested the comments and participation of members of the Ohlone/Costanoan Indian tribe; and the members did not respond to our requests to engage in such consultation;

WHEREAS, the Northwest Information Center (NWIC) at Sonoma State University has advised the City that there is a low potential of identifying unrecorded Native American resources in the APE; and a moderate to high potential of identifying unrecorded historic period archeological resources in the APE and has recommended that a qualified archaeologist conduct further archival and field studies to identify cultural resources; and

WHEREAS, NWIC has further advised the City that if archaeological resources are encountered during construction, that work should be temporarily halted in the vicinity of discovered materials and
workers should avoid altering the materials and their context until a qualified professional archaeologist has evaluated the situation and provided appropriate recommendations; and

WHEREAS, the City has retained the services of an archaeological consultant (Consultant) from the rotational Department Qualified Archaeological Consultants List (QACL) maintained by the San Francisco Planning Department (Planning) archaeologist; and

WHEREAS, the Archeological consultant has conducted archival research, a site visit and a pedestrian survey of the site; and has discussed site sensitivity in regards to prehistoric resources with the Planning Archeologist; and

WHEREAS, the Archeological consultant has prepared an Archaeological Testing Plan (ATP), which identifies the property types of the expected archeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing; and

WHEREAS, Environmental Review Officer has reviewed and approved the ATP; and

WHEREAS the City and the California State Historic Preservation Officer have agreed to the procedures and methodology that the City will use to avoid any adverse effects from the proposed project on buried or submerged historical resources; and

NOW, THEREFORE, the City and the California State Historic Preservation Officer (SHPO) agree that the Undertaking shall be implemented according to the following stipulations in order to take into account the effects of the Undertaking may have on historic properties.

STIPULATIONS

Based on the reasonable assumption that the Undertaking may cause alterations in the character or use of historic properties and in accordance with the requirements of Stipulation XI of the PA (Consideration and Treatment of Archeological Resources) of the PA, the following measures shall be undertaken to avoid any adverse effects from the proposed project on buried or submerged historical resources:
I. Qualified Archeological Consultant Responsibilities

A. The City has retained the services of an archaeological consultant (Consultant) from the rotational Department Qualified Archaeological Consultants List (QACL) maintained by the San Francisco Planning Department archaeologist;

B. The Archeological consultant has undertaken archival research, conducted field studies and has developed an Archeological Testing Plan, which has been approved by the San Francisco Planning Department Archeologist;

C. The archeological consultant shall undertake an archeological testing program as specified herein. In addition, the archeological consultant shall be available to conduct an archeological monitoring and/or data recovery program if required pursuant to this measure;

D. The archeological consultant’s work shall be conducted in accordance with this measure at the direction of the Environmental Review Officer of the San Francisco Planning Department (ERO);

E. All plans and reports prepared by the archeological consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO;

F. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to prevent adverse effects to historical resources;

II. Consultation with Descendant Communities

A. On discovery of an archeological site associated with descendant Native Americans, the Overseas Chinese, or other descendant group an appropriate representative of the descendant group and the ERO shall be contacted. The representative of the descendant group shall be given the opportunity to monitor archeological field investigations of the site and to consult with ERO regarding appropriate archeological treatment of the site, of recovered data from the site, and, if applicable, any interpretative treatment of the associated archeological site. A copy of the Final Archaeological Resources Report shall be provided to the representative of the descendant group;

III. Archeological Testing Program

A. The archeological testing program shall be conducted in accordance with the approved Archeological Testing Plan (ATP). The ATP identifies the property types of the expected archeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing.

B. The purpose of the archeological testing program will be to determine to the extent possible the presence or absence of archeological resources and to identify and to evaluate whether any archeological resource encountered on the site constitutes an historical resource.

C. At the completion of the archeological testing program, the archeological consultant shall submit a written report of the findings to the ERO. If based on the archeological testing
program the archeological consultant finds that significant archeological resources may be present, the ERO in consultation with the archeological consultant shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archeological testing, archeological monitoring, and/or an archeological data recovery program. No archeological data recovery shall be undertaken without the prior approval of the ERO or the Planning Department archeologist. If the ERO determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:

1) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or
2) A data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible

IV. Archeological Monitoring Program (AMP)

A. If the ERO in consultation with the archeological consultant determines that an archeological monitoring program shall be implemented the archeological monitoring program shall minimally include the following provisions:

1) The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils disturbing activities commencing.
2) The ERO in consultation with the archeological consultant shall determine what project activities shall be archeologically monitored. In most cases, any soils-disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the risk these activities pose to potential archeological resources and to their depositional context;
3) The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource;
4) The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with project archeological consultant, determined that project construction activities could have no effects on significant archeological deposits;
5) The archeological monitor shall record and be authorized to collect soil samples and artifact/eco-factual material as warranted for analysis;
6) If an intact archeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, and present the findings of this assessment to the ERO.
7) Whether or not significant archeological resources are encountered, the archeological consultant shall submit a written report of the findings of the monitoring program to the ERO.

V. Archeological Data Recovery Program

A. The archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical;

B. The scope of the ADRP shall include the following elements:

1. Field Methods and Procedures. Descriptions of proposed field strategies, procedures, and operations.

2. Cataloguing and Laboratory Analysis. Description of selected cataloguing system and artifact analysis procedures.

3. Discard and Deaccession Policy. Description of and rationale for field and post-field discard and deaccession policies.

4. Interpretive Program. Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program.

5. Security Measures. Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities.


7. Curation. Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.

VI. Human Remains and Associated or Unassociated Funerary Objects

A. The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner’s determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The archeological consultant, project sponsor, and MLD shall make all reasonable efforts to
develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines, Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.

VII. Final Archeological Resources Report

A. The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.

B. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning Division of the Planning Department shall receive one bound, one unbound and one unlocked, searchable PDF copy on CD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.

VIII. ENFORCEMENT

A. Should any signatory object at any time to the manner in which the terms of this agreement are implemented, the City shall consult with the objecting party(ies) to resolve the objection. If the City determines within fifteen (15) calendar days of receipt that such objection(s) cannot be resolved, the City will forward all documentation relevant to the dispute to the Advisory Council on Historic Preservation (ACHP) in accordance with 36 CFR § 800.2(b)(2). The City in reaching a final decision regarding the dispute shall take any ACHP comment provided into account. The City’s responsibility to carry out all other actions under this MOA that are not the subjects of the disputed will remain unchanged.

B. At any time during implementation of the measures situated in this agreement, should an objection to any such measure or its manner of implementation be raised in writing by a member of the public, the City shall take the objection into account and consult, as needed, with the objecting party and the SHPO, as needed, for a period of time not to exceed fifteen (15) calendar days. If the City is unable to resolve the conflict, the City shall forward all documentation relevant to the dispute to the ACHP, following the terms outlined in stipulation 5, above.

C. If any signatory believes that the terms of this agreement cannot be carried out, or that an amendment to its terms should be made, that signatory shall immediately consult with the other parties to develop amendments pursuant to 36 CFR §§ 800.6(c)(7) and 800.6(c)(8). If this AGREEMENT is not amended as provided for in this stipulation, any signatory may terminate it, whereupon the City shall proceed in accordance with 36 CFR 800.
D. If either the terms of this agreement or the undertaking have not been carried out within three (3) years following the date of execution of the agreement, the signatories shall reconsider its terms. If the signatories agree to amend the agreement, they shall proceed in accordance with the amendment process referenced in Stipulation VIII.C, above.

Execution and implementation of this agreement evidences that the City has taken into account the effects of the undertaking on historic properties, and the City has satisfied its responsibilities under Section 106 of the National Historic Preservation Act and its implementing regulations.

CITY AND COUNTY OF SAN FRANCISCO
MAYOR’S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT

By: Olson Lee, Director
Date: March 5, 2014

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: Carol Roland-Nawi, Ph.D
Date: 8-14-14