

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 16-0079

WHEREAS, Oceanwide Center, LLC (Oceanwide) proposes to construct a mixed use development (Project) on a portion of Assessor's Block 3708 (Project Site); and

WHEREAS, Oceanwide applied to the San Francisco Department of Public Works to vacate a portion of Jessie Street and Elim Alley within the Project Site (Vacation Area) and purchase City's interest in the Vacation Area; and

WHEREAS, The San Francisco Public Utilities Commission (SFPUC) owns and operates water distribution and combined sewer collection facilities within the Vacation Area that Oceanwide proposes to relocate or remove as follows: relocate the combined sewer in vacated Jessie Street, remove the combined sewer from Elim Alley, and remove or cut, fill and cap the water main in vacated Jessie Street (collectively, Utility Work); and

WHEREAS, San Francisco Board of Supervisors (Board) will consider a proposed ordinance which, among other things, would vacate the Vacation Area, approve and authorize execution of an agreement for the sale of the real estate in the Vacation Area (Sale Agreement), reserve an interim easement for street and utility purposes in the Vacation Area; approve City's acceptance of various easements within the Project Site, including an easement for overland flow of stormwater (the Ordinance); and

WHEREAS, The Sale Agreement will require Oceanwide to conduct or cause to be conducted the Utility Work at its sole cost and subject to SFPUC staff engineering review, inspection, and approval; and

WHEREAS, Oceanwide intends to obtain ownership of the Vacation Area prior to completion of the Utility Work, leaving existing SFPUC utilities on private property, requiring the City to reserve an interim easement (Interim Easement) until completion of the Utility Work; and

WHEREAS, The Interim Easement will no longer be necessary following completion of the Utility Work and Oceanwide's dedication of the new combined sewer facilities acceptable to the City; and

WHEREAS, The Ordinance requires that Oceanwide, as a condition to the City's terminating its interest in the Interim Easement, (i) provide an irrevocable offer of dedication to the City of the new combined sewer facilities, and (ii) assume ownership and responsibility for the abandoned water and sewer facilities, if any, remaining in the Project Site upon completion of the Utility Work; and

WHEREAS, The vacation of a portion of Jessie Street will also cut off an existing overland flow path for stormwater overland flow in the five- to one-hundred-year storm; and

WHEREAS, The Ordinance requires Oceanwide to grant a permanent easement for stormwater overland flow (Overland Flow Easement) to the City across a future private driveway connecting Jessie Street to Mission Street; and

WHEREAS, The Overland Flow Easement will require Oceanwide to: (1) maintain an appropriate flow path for stormwater, subject to City engineering review and approval; (2) obtain the City's prior written approval of any improvements within the easement area; and (3) indemnify the City against claims related to stormwater overland flow; and

WHEREAS, The Transit Center District Plan Final Environmental Impact Report was prepared in accordance with the California Environmental Quality Act ("CEQA") (Public Resources Code sections 21000 et seq.) certified by the Planning Commission and affirmed by the Board of Supervisors in Motion No. M12-78. On April 1, 2016 the Environmental Review Officer issued a Community Plan Exemption to the Programmatic Environmental Impact Report ("PEIR") for the Transit Center District Plan, and copies of the CPE are on file with the Planning Commission in Planning Case No. 2006.1523E, which material was made available to the public and the Commission for the Commission's review, consideration and action, and those files are part of the record before this Commission. The Planning Department is the custodian of records, located at 1650 Mission Street, Fourth Floor, San Francisco, California. The Community Plan Exemption issued for the Oceanwide Center Project evaluated the environmental effects of the actions proposed for this Commission (requested Street Vacations and Interim Easement). None of the mitigation measures identified in the Community Plan Exemption Mitigation Monitoring and Reporting Program (MMRP) are the responsibility of or must be implemented by the SFPUC; now, therefore, be it

RESOLVED, This Commission has reviewed and considered the Transit Center District Plan Final Environmental Impact Report ("FEIR") prepared in accordance with the California Environmental Quality Act ("CEQA") (Public Resources Code sections 21000 et seq.) certified by the Planning Commission and affirmed by the Board of Supervisors in Motion No. M12-78, and project-specific analysis through the Community Plan Exemption, including mitigation measures (the "CPE"), prepared in accordance with CEQA and issued by the Planning Department in Planning Case No. 2006.1523E. A copy of Motion No. M12-78 is on file with the Clerk of the Board of Supervisors in File No. 120697, and a copy of the CPE is on file with the Planning Commission in Planning Case No. 2006.1523E. This Commission adopts the Planning Commission determination and the environmental findings related thereto as adequate for the actions authorized by this Resolution, which are incorporated herein by this reference; and be it

FURTHER RESOLVED, This Commission finds that no substantial changes are proposed to the Project or the circumstances under which the Project is undertaken that will cause new significant environmental effects or any increase in the severity of previously identified significant effects. The Board further finds there is no new information of substantial importance showing that the Project would have any significant effects not discussed in the FEIR or the CPE, that significant effects would be substantially more severe, or that new or different mitigation measures or alternatives would substantially reduce one or more significant effects of the Project; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the General Manager to recommend that the Board and Mayor approve the proposed Ordinance, including provisions that would: (a) approve the City's vacation of the Vacation Area, reserving an Interim Easement for street and utilities purposes until (i) existing SFPUC water and sewer facilities are relocated to, or alternate facilities have been constructed in, locations acceptable to the SFPUC General Manager, and the City Engineer, after consultation with SFPUC, has issued a notice of completion; and (ii) Oceanwide or its successor in interest has provided an irrevocable offer of dedication of the new combined sewer facilities acceptable to the City and expressly assumed ownership and responsibility for the sewer and water facilities, if any, remaining in the Project Site, including the Vacation Area; and (b) approve the Sale Agreement to Oceanwide, subject to conditions set forth in the Sale Agreement; and be it

FURTHER RESOLVED, That this Commission finds the existing water main, combined sewer infrastructure and any related infrastructure within the Vacation Area to be surplus to the needs of any utility under the SFPUC jurisdiction pursuant to Charter Section 8B.121(e), effective upon satisfactory completion of the Utility Work and dedication of the replacement combined sewer facilities to the City; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager to work with the City's Director of Property and/or SFPW, as appropriate, in consultation with the City Attorney, in negotiations with Oceanwide, and concerning the terms and conditions of the Interim Easement and Sale Agreement, including without limitation, modification, addition, or deletion of exhibits, and concerning any related documents and other agreements or instruments related to the proposed Ordinance or Project that concern matters under SFPUC's jurisdiction, and, subject to any necessary approval by this Commission and the City Board of Supervisors, to execute such agreements or documents and enter into any amendments or modifications, including without limitation, modification, addition, or deletion of exhibits and to enter into any related documents, instruments, memoranda, or other agreements reasonably necessary to consummate the transaction contemplated in the Interim Easement and Sale Agreement, that the General Manager determines, in consultation with the City Attorney, are in the best interests of the City; do not materially increase the liabilities or obligations of the City or materially diminish the benefits to the City; are necessary or advisable to effectuate the purposes and intent of this Resolution with respect to the Ordinance, Interim Easement and Sale Agreement; and in compliance with all applicable laws, including the City Charter.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of April 26, 2016.



Secretary, Public Utilities Commission