

1 [Land Transfer, Street Vacation, Gift Acceptance, Encroachment Permit, and Related Actions
- Archstone Daggett Place, LLC - Daggett Street Between 16th and 7th Streets]

2 **Ordinance approving an agreement with the Port of San Francisco for the City's**
3 **transfer of Daggett Street between 16th and 7th Streets; summarily vacating the**
4 **northern portion of the street; authorizing an interdepartmental transfer of the vacation**
5 **area from Public Works to the Real Estate Division of the Office of the City**
6 **Administrator for public open space; modifying the official public right-of-way width,**
7 **changing the official sidewalk width, and changing the official grade on the remaining**
8 **portion of Daggett Street and portions of 16th and 7th Streets; accepting a gift from**
9 **Archstone Daggett Place, LLC, for certain open space improvements on the portion of**
10 **Daggett Street to be vacated and their maintenance; approving a street encroachment**
11 **permit for the shared public way improvements on the remaining southerly portion of**
12 **Daggett Street; delegating to the Director of Public Works the authority to accept other**
13 **required public improvements associated with the adjacent development project;**
14 **authorizing the Director of Property to execute a license agreement for the**
15 **maintenance of the vacation area; affirming the Planning Commission's determination**
16 **under the California Environmental Quality Act; and making findings of consistency**
17 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1,**
18 **for the actions contemplated in this Ordinance.**

19 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
20 **Additions to Codes** are in *single-underline italics Times New Roman font*.
21 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
22 **Board amendment additions** are in double-underlined Arial font.
23 **Board amendment deletions** are in ~~strikethrough Arial font~~.
24 **Asterisks (* * * *)** indicate the omission of unchanged Code
25 subsections or parts of tables.

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

1 Section 1. **General Findings.**

2 (a) As San Francisco continues to grow and develop, the need increases for well-
3 maintained public open spaces that meet the demands of existing and new residents,
4 workers, and visitors. The Showplace Square/Potrero Hill Area Plan, a part of the Eastern
5 Neighborhoods Area Plan, identifies the need for additional open space to enhance livability in
6 the Plan Area.

7 (b) In order to provide these new open spaces, significant funding beyond existing City
8 resources is necessary to acquire, develop, and maintain the necessary new open spaces.
9 One potential source of funds is new residential development that could contribute to the
10 capital costs of open space. New residential development directly impacts the existing park
11 sites with its influx of new residents. Therefore, new development in the Eastern
12 Neighborhoods is required under Planning Code Section 423 to pay the Eastern
13 Neighborhoods Infrastructure Impact Fee directly into the Eastern Neighborhoods Public
14 Benefit Fund to, among other infrastructure improvements, acquire and/or construct new open
15 space. Alternatively, project sponsors may propose to directly provide community
16 improvements to the City in lieu of fee payments. In such a case, the Planning Commission
17 may enter into an in-kind improvement agreement with the sponsor and issue a fee waiver for
18 the Eastern Neighborhoods Infrastructure Impact Fee in the amount of the cost of the
19 acquisition of property and/or proposed improvements.

20 (c) The Eastern Neighborhoods Streets and Open Space Concept Plan (Appendix A3
21 of the 2008 Showplace Square/Potrero Hill Area Plan) identified as a priority and significant
22 opportunity for new open space the approximately one-acre one block section of Daggett
23 Street between 16th and 7th Streets, owned by the Port of San Francisco and subject to the
24 public trust. Policies 5.1.1 and 5.1.2 of the Showplace Square/Potrero Hill Area Plan (2009)
25 call for the City to “[i]dentify opportunities to create new public parks and open spaces and

1 provide at least one new public park or open space serving the Showplace/Potrero” and
2 “[r]equire new residential development and commercial development to provide, or contribute
3 to the creation of publicly accessible open space.” In addition, the Showplace Open Space
4 Plan (2010) identified Daggett Street as a potential location for open space to fulfill the goals
5 of the Showplace Square/Potrero Hill Area Plan. As described below in Section 2, the
6 Eastern Neighborhoods Community Advisory Committee (“ENCAC”), as well as various City
7 agencies, recommended use of the Eastern Neighborhoods Infrastructure Impact Fee to
8 support a new open space on this publicly-owned site.

9 (d) In 2012, the Planning Commission and Archstone Daggett Place, LLC (“Project
10 Sponsor”), which plans to develop a 453-unit rental development project on the properties
11 abutting Daggett Street, entered into an in-kind agreement to build a new open space on a
12 portion of Daggett Street in exchange for a waiver of a portion of its Eastern Neighborhoods
13 Infrastructure Impact Fee. The Planning Commission and the Project Sponsor entered into
14 the 1000 16th Street In-Kind Improvement Agreement dated as of November 29, 2012 (the
15 “In-Kind Agreement”). Project Sponsor will provide the additional cost of construction of the
16 open space improvements and maintenance of the open space as a gift to the City. On
17 November 29, 2012 and July 9, 2015, at duly noticed public hearings, the Planning
18 Commission, in Resolution Nos. 18752 and 19410 approved an In-Kind Agreement and an
19 amended In-Kind Agreement, respectively (collectively referred to herein as the “In-Kind
20 Agreements”). Copies of these resolutions and the In-Kind Agreements are on file with the
21 Clerk of the Board in File No.150644.

22 (e) The Showplace Square/Potrero Hill area will benefit greatly from this new local
23 amenity, facilitated by the Project Sponsor’s adjacent new residential development, as
24 adequate resources have not been available to fund a significant new open space in this Plan
25 Area.

1 (f) Daggett Street, which was transferred to the City under the Burton Act, was subject
2 to the public trust and placed in the jurisdiction of the Port of San Francisco. In order to
3 support new open space uses on Daggett Street, the City worked with the Port and California
4 State Lands Commission to lift the public trust from Daggett Street in exchange for the City's
5 payment of the appraised fair market value of \$1,675,000 to the Port. In exchange for such
6 payment, the Port agreed to remove the public trust and transfer jurisdiction of Daggett Street
7 to the City.

8 (g) Once construction of the open space improvements is complete, jurisdiction over
9 the portion of Daggett Street that will be vacated (the "Vacation Area") and will transfer to the
10 Real Estate Division of the Office of the City Administrator ("RED"). RED will manage the
11 Vacation Area as a public open space and intends to request the Board to designate the
12 Vacation Area as a City Plaza under Administrative Code Section 94, the San Francisco
13 Plaza Program, once RED has identified a steward for the Board's consideration and
14 approval. The Vacation Area is proposed to be zoned as public/open space use, while the
15 remaining street right-of-way portion of Daggett Street will continue as a public street under
16 the jurisdiction of Public Works.

17 (h) The Daggett open space project ("Project") was included in the adjacent 1000 16th
18 Street mixed-use project and obtained project specific environmental clearance through a
19 Final Environmental Impact Report ("FEIR") prepared in accordance with the California
20 Environmental Quality Act ("CEQA") (Public Resources Code Sections 21000 et seq.) in
21 Planning Case No. 2003.0527E. As part of various actions related to the adjacent
22 development, including approval of an in-kind agreement for the construction of the Daggett
23 open space, the Planning Commission certified the FEIR and adopted CEQA findings in
24 Motion No. 17864 and Resolution Nos. 18419 and 18752, respectively, copies of which are in
25

1 Clerk of the Board of Supervisors File No. 150644, and incorporated herein by reference. The
2 Board adopts the CEQA findings as its own.

3 (i) The Board finds that no substantial changes are proposed to the Project or the
4 circumstances under which the Project is undertaken that would cause new significant
5 environmental effects or any increase in the severity of previously identified significant effects
6 in the FEIR. The Board further finds there is no new information of substantial importance
7 showing that the Project would have any significant effects not discussed in the FEIR, that
8 significant effects would be substantially more severe, or that new or different mitigation
9 measures or alternatives would substantially reduce one or more significant effects, if any, of
10 the Project.

11 (j) The Planning Department, in a letter dated July 6, 2015, determined that the actions
12 contemplated in this ordinance are consistent, on balance, with the City's General Plan and
13 eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its
14 own. A copy of said letter is on file with the Clerk of the Board of Supervisors in File
15 No.150644, and is incorporated herein by reference.

16
17 **Section 2. Approval of the Transfer of Daggett Street from the State of California**
18 **to the City and Approval of the Interdepartmental Transfer of a Portion of Daggett**
19 **Street.**

20 (a) **Findings.**

21 (1) On October 28, 2014, at a duly noticed public hearing, the San Francisco
22 Port Commission, in Resolution No. 14-57, authorized Port staff to seek termination of the
23 public trust on Daggett Street from State Lands Commission. On December 16, 2014, at a
24 duly noticed public hearing, the San Francisco Port Commission, in Resolution No. 14-62,
25 authorized a memorandum of understanding ("Port MOU") regarding the removal of the public

1 trust from Daggett Street and jurisdictional transfer to RED. Copies of these resolutions and
2 the draft Port MOU are on file with the Clerk of the Board in File No. 150644. At RED's
3 request, jurisdiction of the entirety of Daggett Street between 16th and 7th Streets will initially
4 transfer to Public Works on behalf of the City and County of San Francisco, and following the
5 Project Sponsor's satisfactory completion of the open space improvements on the Vacation
6 Area, jurisdiction of Vacation Area will transfer to RED. Jurisdiction of the remaining right of
7 way portion of Daggett Street will remain with Public Works.

8 (2) On December 17, 2014, at a duly noticed public hearing, the State Lands
9 Commission, in Calendar Item C68, authorized termination of the State's public trust interest
10 in Daggett Street, in accordance with California State Legislative Session 2007's Chapter No.
11 660. As part of this action, the State Lands Commission authorized transfer of Daggett Street
12 to the City and County of San Francisco for \$1,675,000.00 free of any public trust interest.
13 The State Lands Commission transferred Daggett Street, free of the public trust, to the City,
14 acting by and through the Port Commission, by recording a Quitclaim Deed (City to State), a
15 Patent and Trust Termination, and a Certificate of Acceptance and Consent to Recording in
16 the Official Records of San Francisco County on July 21, 2015. Copies of this Calendar item,
17 Quitclaim Deed, this Patent and Trust Termination and this Certificate of Acceptance and
18 Consent to Recording are on file with the Clerk of the Board in File No. 150644.

19 (3) On January 27, 2009, the City issued an "Eastern Neighborhoods
20 Infrastructure Prioritization Memorandum of Understanding" ("ENMOU") between seven City
21 agencies. This MOU listed the implementation of one new open space project in the
22 Showplace Square area (generally bounded by 16th Street to the south, 7th Street to the
23 northeast, Bryant Street to the northwest, and Potrero Avenue to the west) as one of the
24 seven priority projects for funding in the Eastern Neighborhoods. On July 18, 2011, in Motion
25 No. 2011-6-1, and June 15, 2015, in Motion No. 2015-06-05, at duly noticed public meetings,

1 the ENCAC supported the use of a portion of the Eastern Neighborhoods Infrastructure
2 Impact fee that the Project Sponsor owed via an In-Kind Agreement between the City and
3 Project Sponsor, as set forth in Planning Code Section 423.3, to be allocated to the
4 construction of the open space improvements. The ENCAC recommended this action to the
5 Planning Commission and Board of Supervisors. Copies of these motions are on file with the
6 Clerk of the Board in File No. 150644.

7 (4) On September 7, 2012, the Interagency Planning and Implementation
8 Committee (“IPIC”) agreed with this recommendation.

9 (5) As set forth above in Section 1, the Planning Commission on November 29,
10 2012 and July 9, 2015, approved an In-Kind Agreement and an amended In-Kind Agreement,
11 respectively, and supported the recommendation of the ENCAC and the IPIC in regard to
12 open space improvements on Daggett Street.

13 (6) The Board recognizes that additional money is necessary to complete the
14 transfer of Daggett Street. The main source of these funds is the State Housing Related Parks
15 Program Grant. On February 2, 2015, at a duly noticed hearing, the Board of Supervisors
16 approved Resolution No. 019-15 retroactively authorizing the Recreation and Park
17 Department to accept and expend a grant that included \$1,600,000 in funding for transfer of
18 Daggett Street. A copy of this Resolution is on file with the Clerk of the Board of Supervisors
19 in File No. 141305.

20 (7) The \$75,000 balance of the transfer funding will be paid to the Port pursuant
21 to the draft Port MOU.

22 (b) **Approval of the Interdepartmental Transfer from the Port.** Notwithstanding the
23 provisions of Administrative Code Chapter 23, the Board hereby approves the
24 interdepartmental transfer of Daggett Street from the Port of San Francisco to Public Works
25 and RED in accordance with terms of the draft Port MOU.

1 (c) **Approval of the Interdepartmental Transfer of the Vacation Area from Public**
2 **Works to RED.**

3 (1) Notwithstanding the provisions of Administrative Code Chapter 23, the
4 Board hereby authorizes the transfer of the Vacation Area from Public Works to RED in
5 accordance with the terms of the transfer specified above in order to establish a public open
6 space on the Vacation Area.

7 (2) This transfer also is conditioned upon the effective date of companion
8 legislation in Clerk of the Board of Supervisors File No. 150586 that will rezone the subject
9 area so that its zoning designation is P (Public) with a height and bulk designation of OS
10 (Open Space).

11 (3) The Vacation Area shall be subject to a declaration of restrictions as set
12 forth below in Section 3(a)(6) for purposes of open space use and to comply with the Building
13 Code.

14 (4) The Board also approves use of a portion of the Eastern Neighborhoods
15 Public Benefits Fund for open space and recreational facilities as set forth in Planning Code
16 Section 423.5, to transfer Daggett Street to RED and Public Works.

17
18 Section 3. **Summary Street Vacation of the Northern Portion of Daggett Street.**

19 (a) **Findings.**

20 (1) California Street and Highways Code Sections 8300 et seq. and Public
21 Works Code Section 787(a) set forth the procedures that the City and County of San
22 Francisco follows to vacate public streets and public service easements. California Street and
23 Highways Code Sections 8330 et seq. permits the summary vacation of a public street or
24 public service easement if certain conditions are satisfied.

1 (2) The Board of Supervisors finds it appropriate to pursue a street vacation of
2 the Vacation Area.

3 (3) The location and extent of the Vacation Area is more particularly shown on
4 the Public Works ("PW") SUR Map No. 2015-002, dated August 27, 2015. A copy of this map
5 is on file with the Clerk of the Board of Supervisors in File No. 150644.

6 (4) This portion of Daggett Street is being vacated to allow for the establishment
7 of a public open space that will be under the jurisdiction of RED. Companion legislation in
8 Clerk of the Board of Supervisors File No. 150586 will rezone the Vacation Area so that its
9 zoning designation is P (Public) with a height and bulk designation of OS (Open Space).

10 (5) Section 8334(a) of the California Streets and Highways Code provides that
11 the legislative body of a local agency may summarily vacate an excess right-of-way of a
12 street, highway, or public easement under certain circumstances.

13 (6) In PW Order No. 183968, dated September 1, 2015, the Director of Public
14 Works (the "PW Director") determined: (A) the Vacation Area has been impassable for
15 vehicular travel for over five years and is excess right-of-way that can be summarily vacated
16 under California Streets and Highways Code Sections 8331 and 8334(a), respectively; (B) in
17 addition, with the relocation of the sanitary sewer line under the jurisdiction of the San
18 Francisco Public Utility Commission as part of the open space design, there are no
19 functioning in-place public or private utility facilities that would be affected by the vacation of
20 the Vacation Area, which allows the City to proceed with a summary street vacation under
21 Streets and Highways Code Section 8334.5; (C) the Vacation Area is unnecessary for the
22 City's present or prospective public street, sidewalk, and service easement purposes; (D)
23 pursuant to the Streets and Highways Code Section 892, the Vacation Area hereunder will not
24 affect a nonmotorized transportation facility because commuters can continue to use the
25 Daggett Street shared public way that will remain in public right-of-way use; (E) the public

1 interest, convenience, and necessity do not require any easements or other rights be reserved
2 for any public or private utility facilities that are in place in the Vacation Area and that any
3 rights based upon any such public or private utility facilities shall be extinguished
4 automatically upon the effectiveness of the vacation; provided, however, that a declaration of
5 restrictions be recorded on the Vacation Area that an approximately 12-foot wide area on
6 northerly side of the Vacation Area be permanently set aside for open space use; and (F) the
7 Board of Supervisors should transfer jurisdiction of the Vacation Area from PW to RED for
8 purposes of establishing a City Plaza under Administrative Code Chapter 94. A copy of the
9 PW Order and the draft declaration of restrictions are on file with the Clerk of the Board of
10 Supervisors in File No. 150644.

11 (7) The PW Director also recommends that the effectiveness of the street
12 vacation be conditioned on PW's determination that the Vacation Area open space
13 improvements and the shared public way improvements on the remaining portion of the
14 Daggett Street public right-of-way ("Daggett Street Shared Public Way") are complete and
15 ready for their intended use. The Board of Supervisors adopts as its own, the
16 recommendations of the PW Director as set forth in PW Order No. 183968 concerning the
17 vacation of the Vacation Area and other actions in furtherance thereof and the Board hereby
18 incorporates such recommendations and findings by reference as though fully set forth herein.

19 (b) **Ordering a Summary Street Vacation of the Northern Portion of Daggett**
20 **Street.**

21 (1) The Board of Supervisors hereby summarily vacates the Vacation Area, as
22 shown on SUR Map No. 2015-002, upon satisfaction of the conditions described in this
23 ordinance and pursuant to California Street and Highways Code Sections 8300 et seq. and
24 Public Works Code Section 787(a).

25

1 (2) The Board of Supervisors finds that the Vacation Area is unnecessary for
2 present or prospective public use, subject to the conditions described in this ordinance.

3 (3) The public interest and convenience require that the vacation be done as
4 declared in this ordinance.

5 (4) The Street Vacation shall be effective automatically and without the
6 requirement for further action whatsoever, as to all of the Vacation Area, upon satisfaction of
7 the following:

8 (A) The Director of PW's determination that the open space
9 improvements on the Vacation Area and the shared public way improvements on the
10 remaining portion of the Daggett Street public right-of-way ("Daggett Street Shared Public
11 Way") are complete and ready for their intended use and

12 (B) A declaration of restrictions be recorded on the Vacation Area that
13 the approximately 12-foot wide northerly side of the Vacation Area be permanently set aside
14 for open space use, which the Director of Property is authorized to execute and record in the
15 Official Records of San Francisco County.

16 (5) The Board also finds that the Street Vacation is consistent with the General
17 Plan for the reasons set forth in the July 6, 2015 determination of the Planning Department.

18
19 **Section 4. Modifying the Official Public Right-Of-Way Width on the Daggett Street**
20 **Shared Public Way, Changing the Official Sidewalk Width, and Changing the Official**
21 **Grade.**

22 (a) Findings.

23 (1) Public Works prepared map A-17-174 to designate the new right-of-way
24 width of the Daggett Street Shared Public Way, change official sidewalk width, and change
25 official grade. In PW Order No.183969, dated September 1, 2015, the PW Director approved

1 such map and recommended that the Board of Supervisors approve such changes to the
2 Daggett Street public right-of-way.

3 (b) **Approval of Public Right-of-Way Changes.**

4 (1) Pursuant to California Streets and Highways Code Section 1806 and San
5 Francisco Administrative Code Sections 1.51 et seq., and in accordance with the
6 recommendation in PW Order No.183969, the Board of Supervisors approves the modified
7 public right-of-way width for the Daggett Street Shared Public Way.

8 (2) In accordance with the PW Order No. 183969, a copy of which is in the
9 Clerk of the Board of Supervisors File No. 150644, Board of Supervisors Ordinance No.1061,
10 entitled “Regulating the Width of Sidewalks,” a copy of which is in the Clerk of the Board of
11 Supervisors Book of General Ordinances, in effect May 11, 1910, is hereby amended by
12 adding thereto a new section to read as follows:

13 Section 1603. The width of sidewalks along 16th and 7th Streets perpendicular to Daggett
14 Street on either end of the Daggett open space shall be modified as shown on Public Works Map Q-20-
15 776, dated August 27, 2015. In addition, as a result of the Daggett Street Shared Public Way design
16 there is no designated sidewalk width on Daggett Street between 16th and 7th Street as shown on
17 Public Works Map A-17-174.

18 (3) Notwithstanding California Streets and Highways Code Sections 8000 et
19 seq., the Board of Supervisors, in accordance with San Francisco Administrative Code
20 Sections 1.51 et seq., chooses to follow its own procedures for the establishment of street
21 grades and hereby accepts and designates the street grades for the Daggett Street Shared
22 Public Way as set forth in the PW Order No. 183969, Map A-17-174.

23 (4) The sidewalk widths designated by the Board pursuant to Subsection (2) do
24 not obviate, amend, alter, or in any other way affect the maintenance obligations of the
25

1 adjacent property owners and further subject to the terms of the Street Encroachment Permit
2 authorized under this ordinance.

3 (5) The Board of Supervisors hereby directs Public Works to add the public
4 right-of-way width, the sidewalk widths, and the street grade to its Official City Maps in
5 accordance with this ordinance.

6 (6) The Board also finds that the approvals actions in this Section 4 are
7 consistent with the General Plan for the reasons set forth in the July 6, 2015 determination of
8 the Planning Department.

9
10 **Section 5. Gift Acceptance of Open Space Improvements, Including Maintenance.**

11 **(a) Findings.**

12 (1) As set forth above in Section 1, the Planning Commission on November 29,
13 2012 and July 9, 2015, approved an In-Kind Agreement and an amended In-Kind Agreement,
14 respectively, in regard to constructing open space improvements on Daggett Street in lieu of
15 fee payments.

16 (2) The cost of constructing the open space improvements, estimated to be
17 \$4,899,999.00, exceeds the amount of the approved fee waiver. Consequently, the Project
18 Sponsor, has offered the excess cost of construction for the open space improvements, which
19 is approximately \$1,570,000, to the City and County of San Francisco as a gift. A copy of the
20 gift offer is on file with the Clerk of the Board in File No. 150644. In addition, the gift includes
21 permanent maintenance of the Vacation Area, as evidenced in a declaration of maintenance
22 covenants and obligations to be recorded against the property adjacent to the Vacation Area
23 and the Daggett Street Shared Public Way (the "Declaration of Maintenance Restrictions"),
24 which declaration shall be substantially in the form on file with the Clerk of the Board in File
25 No. 150644.

1 **(b) Acceptance of the Gift and Acknowledgment of Declaration of Maintenance**
2 **Restrictions.**

3 (1) The Board of Supervisors, on behalf of the City and County of San
4 Francisco, graciously accepts the gift offer from the Project Sponsor, Archstone Daggett
5 Place, LLC, for the open space improvements to the Vacation Area, including permanent
6 maintenance thereof.

7 (2) The Board of Supervisors authorizes the Director of Property to
8 acknowledge the Declaration of Maintenance Restrictions on behalf of City, to perform and
9 exercise City's rights and obligations with respect to the Vacation Area under the Declaration
10 of Maintenance Restrictions, and to enter into any amendments or modifications to
11 Declaration of Maintenance Restrictions with respect to the Vacation Area (including without
12 limitation, the exhibits) that the Director of Property determines, in consultation with the City
13 Attorney, are in the best interest of the City, do not materially increase the obligations or
14 liabilities of the City or materially decrease the obligations of Project Sponsor or its
15 successors, are necessary or advisable to effectuate the purposes of the Declaration of
16 Maintenance Restrictions or this ordinance, and are in compliance with all applicable laws,
17 including the City's Charter.

18
19 Section 6. **Street (Major) Encroachment Permit for the Daggett Street Shared**
20 **Public Way.**

21 **(a) Findings.**

22 (1) The Daggett Street Shared Public Way is a one-block street connecting 16th
23 and 7th Streets.

1 (2) The Project Sponsor currently is constructing a mixed use project consisting
2 of approximately 450 housing units along with accompanying space for ground floor retail and
3 Production, Distribution, and Repair (PDR) on its properties that abut Daggett Street.

4 (3) The Project Sponsor has agreed to construct certain public improvements
5 on and in Daggett Street, including the creation of public open space improvements of
6 approximately 38,000 square feet and a shared public way. Public Works, on August 6, 2015,
7 issued a street improvement permit (No. 15IE-0628) to the Project Sponsor to initiate
8 construction of both the open space and shared public way improvements. The shared public
9 way improvements are more fully shown in various drawings and diagrams, copies of which
10 are in the Clerk of the Board of Supervisors File No. 150644 and are incorporated herein by
11 reference.

12 (4) Pursuant to Public Works Code Section 786, the Project Sponsor requested
13 permission to occupy portions of the public right-of-way to maintain the Daggett Street shared
14 public way improvements and provide for the maintenance of the public sidewalks along 16th
15 and 7th Streets where the sidewalk is adjacent to the Daggett open space (collectively
16 referred to as the "Daggett Street Shared Public Way Permit Area").

17 (5) The Transportation Advisory Staff Committee, at its meeting of July 9, 2015,
18 recommended the proposed encroachments for approval. Minutes of said meeting are on file
19 with the Clerk of the Board of Supervisors in File No. 150644.

20 (6) After a public hearing on August 12, 2015, Public Works recommended to
21 the Board approval of a street encroachment permit ("Street Encroachment Permit" or
22 "Permit") for the maintenance of the Daggett Street Shared Public Way Permit Area. This
23 recommendation is contained in PW Order No. 184019, dated September 9, 2015, a copy of
24 which is on file with the Clerk of the Board of Supervisors in File No. 150644, and
25 incorporated herein by reference.

1 **(b) Approval of a Street (Major) Encroachment Permit for the Daggett Street**
2 **Shared Public Way Permit Area.**

3 (1) The Street Encroachment Permit and its associated encroachment
4 agreement for the Daggett Street Shared Public Way Permit Area shall not become effective
5 until:

6 (A) The Permittee executes and acknowledges the permit and delivers
7 said Permit to Public Works,

8 (B) PW records the Permit and associated encroachment agreement
9 along with the Declaration of Maintenance Restrictions ensuring maintenance of the Daggett
10 Street Shared Public Way in the County Recorder's Office, and

11 (C) The Project Sponsor posts a maintenance security in the case of a
12 default in an amount and subject to terms acceptable to the Director of PW and the City
13 Attorney to ensure continued maintenance of the Daggett Street Shared Public Way Permit
14 Area.

15 (2) The Permit and its associated street encroachment agreement ("Street
16 Encroachment Agreement") are on file with the Clerk of the Board of Supervisors in File No.
17 150644 and incorporated herein by reference. The Street Encroachment Agreement shall be
18 substantially in the form in the Clerk's file.

19 (3) The Permittee, at its sole expense and as is necessary as a result of this
20 permit, shall make the following arrangements:

21 (A) To provide for the support and protection of facilities under the
22 jurisdiction of PW, the San Francisco Public Utilities Commission, the San Francisco Fire
23 Department, and other City Departments, and public utility companies;

24 (B) To provide access to such facilities to allow said entities to construct,
25 reconstruct, maintain, operate, or repair such facilities; and,

1 (C) To remove or relocate such facilities if installation of the
2 encroachment requires said removal or relocation and to make all necessary arrangements
3 with the owners of such facilities, including payment for all their costs, should said removal or
4 relocation be required.

5 (4) No structures shall be erected or constructed within said street right-of-way
6 except as specifically permitted herein.

7 (5) The Permittee shall assume all costs for the maintenance and repair of the
8 encroachment and no cost or obligation of any kind shall accrue to Public Works by reason of
9 this permission granted.

10 (6) Pursuant to Public Works Code Section 786, the Board of Supervisors
11 hereby grants revocable permission to the Project Sponsor, Archstone Daggett Place, LLC, to
12 occupy the public right-of-way with the Daggett Street Shared Public Way improvements and
13 public sidewalk improvements on 16th and 7th Streets located on the Daggett open space
14 and to maintain this encroachment.

15 (7) The Board, pursuant to Section 786 and 786.7, finds that the Daggett Street
16 Shared Public Way Permit Area shall provide a public benefit, and therefore, waives the public
17 right-of-way occupancy assessment fee.

18 (8) The Board of Supervisors accepts the recommendations of the PW Order
19 No. 184019 and approves the Street Encroachment Permit, its associated Street
20 Encroachment Agreement, and the Declaration of Maintenance Restrictions with respect to
21 the Daggett Street Shared Public Way Permit Area. The Board also authorizes the PW
22 Director to acknowledge the Declaration of Maintenance Restrictions on behalf of the City; to
23 perform and exercise the City's rights and obligations with respect to the Daggett Street
24 Shared Public Way under the Declaration of Maintenance Restrictions, the Permit, and Street
25 Encroachment Agreement; and to enter into any amendments or modifications to the Permit,

1 the Street Encroachment Agreement, and/or the Declaration of Maintenance Restrictions with
2 respect to the Daggett Street Shared Public Way Permit Area (including without limitation, the
3 exhibits) that the PW Director determines, in consultation with the City Attorney, are in the
4 best interest of the City, do not materially increase the obligations or liabilities of the City or
5 materially decrease the obligations of Project Sponsor or its successors, are necessary or
6 advisable to effectuate the purposes of the Permit, the Street Encroachment Agreement, or
7 the Declaration of Maintenance Restrictions or this ordinance with respect to the Daggett
8 Street Shared Public Way Permit Area, and are in compliance with all applicable laws,
9 including the City's Charter.

10 (9) The Board also delegates the authority to the PW Director, after
11 confirmation from the General Manager of the Public Utilities Commission and the City
12 Engineer's issuance of a determination of completion, to accept the sanitary sewer line in the
13 Daggett Street Shared Public Way for City maintenance and liability purposes, subject to any
14 terms related to its operation and maintenance that are contained in the permit or street
15 encroachment agreement. The delegated authority also extends to other limited public
16 improvements within the Daggett Street Shared Public Way Permit Area that are under the
17 jurisdiction of the MTA, such as parking meters, that the PW Director, in consultation with the
18 MTA Director of Transportation, agrees to accept for City maintenance and liability purposes.

19 (10) The Board also finds that the Street Encroachment Permit is consistent
20 with the General Plan for the reasons set forth in the July 6, 2015 determination of the
21 Planning Department.

22
23 **Section 7. Approval of Maintenance License Agreement for Open Space Vacation**
24 **Area.**
25

1 (a) Under the In-Kind Agreement, Project Sponsor agreed to maintain the open space
2 Vacation Area in perpetuity, which maintenance obligation is detailed in the Declaration of
3 Maintenance Restrictions.

4 (b) To authorize the Project Sponsor to enter on the Vacation Area to perform such
5 maintenance obligations in perpetuity under the Declaration of Maintenance Restrictions, RED
6 recommends that Project Sponsor and City enter into a maintenance license agreement in
7 substantially the form on file with the Clerk of the Board of Supervisors in File No. 150644.
8 Such agreement shall remain in effect until such time that City elects in writing to terminate
9 such maintenance obligations.

10 (c) The Board of Supervisors authorizes the Director of Property to execute such
11 maintenance license agreement on behalf of the City, to perform and exercise City's rights
12 and obligations under such agreement, and to enter into any amendments or modifications to
13 such agreement (including without limitation, the exhibits) that the Director of Property
14 determines, in consultation with the City Attorney, are in the best interest of the City, do not
15 materially increase the obligations or liabilities of the City or materially decrease the
16 obligations of Project Sponsor or its successors, are necessary or advisable to effectuate the
17 purposes of the Declaration or this ordinance, and are in compliance with all applicable laws,
18 including the City's Charter.

19
20 **Section 8. Delegation to Public Works of Acceptance of Future Public**
21 **Improvements.**

22 (a) **Findings.**

23 (1) On March 30, 2015, PW approved tentative subdivision map number 7780
24 for the Project Sponsor's development. A public improvement agreement for required but as
25 yet unfinished public improvements will accompany the final map for this development and be

1 subject to Board approval. These improvements include the Daggett open space, Daggett
2 Street Shared Public Way, and an extended sidewalk and public right-of-way area at the
3 corner of 16th and Hubbell Streets and the corner of 16th and 7th Streets. The public
4 sidewalk extensions are not complete at this time; however, the Project Sponsor has
5 submitted to PW a draft irrevocable offer of improvements and real property for these areas.
6 Consequently, the Board of Supervisors determines that it would be efficient to delegate to the
7 Director of PW the authority, upon completion of these future public improvements and the
8 satisfaction of other conditions, to adopt any related official PW maps, dedicate the
9 improvements to public use, and accept the improvements for City maintenance and liability
10 purposes, subject to the maintenance responsibility of fronting property owners pursuant to
11 the Public Works Code, including, but not limited to, Public Works Code Section 706. The
12 Board of Supervisors also determines that it would be efficient to delegate to the Director of
13 RED the authority, upon the City Engineer's determination of completion of these future public
14 improvements, to accept and record, on behalf of the City and County of San Francisco, a
15 grant deed for the fee title to property underlying the abovementioned sidewalk extensions.
16 Copies of the irrevocable offer for the sidewalk extensions and the related grant deed are on
17 file with the Clerk of the Board in File No. 150644 and are incorporated herein by reference.

18 **(b) Approval of the Delegation to the Directors of PW and RED of Certain**
19 **Authority in Regard to Required Public Improvements.**

20 (1) The Board of Supervisors hereby delegates to the Director of PW the
21 authority, upon completion of the future public improvements associated with the Project
22 Sponsor's final subdivision map and certification from the City Engineer that the
23 improvements are ready for their intended use, to adopt any related official PW maps,
24 dedicate the improvements to public use, and accept an irrevocable offer for the
25 improvements in substantially the form on file with the Clerk of the Board, subject to the

1 maintenance responsibility of the Project Sponsor or his or her successor(s) pursuant to the
2 Public Works Code, the Maintenance License Agreement, Declarations of Maintenance
3 Restrictions, and Street Encroachment Permit.

4 (2) The Board of Supervisors hereby delegates to the Director of RED the
5 authority, upon the City Engineer’s determination of completion of these future public
6 improvements, to accept and record, on behalf of the City and County of San Francisco, a
7 grant deed for the fee title to property underlying the public improvements in substantially the
8 form on file with the Clerk of the Board.

9
10 Section 9. **Official Acts in Furtherance of the Ordinance.** The Board of Supervisors
11 directs the Directors of PW and RED, in consultation with the City Attorney’s Office, to take all
12 actions necessary to implement the intent of this ordinance, including acceptance and
13 recordation of deeds and to acknowledge the aforementioned Declarations of Maintenance
14 Restrictions. In addition, the Board directs the Directors of PW and RED to submit final
15 signed copies of the Declaration of Maintenance Restrictions and the maintenance license
16 agreement to the Clerk of the Board for its records within 30 days of the finalization of said
17 documents.

18
19 Section 10. **Effective Date.** This ordinance shall become effective 30 days after
20 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
21 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
22 of Supervisors overrides the Mayor’s veto of the ordinance.

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

3 By: _____
4 John D. Malamut
5 Deputy City Attorney

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