

File No. 220708 Committee Item No. 2  
Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date July 25, 2022

Board of Supervisors Meeting Date \_\_\_\_\_

#### Cmte Board

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

#### OTHER (Use back side if additional space is needed)

- |                                     |                          |                           |
|-------------------------------------|--------------------------|---------------------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | DRAFT Quitclaim Deed      |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legal Description         |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | SUR Map 2022-017          |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | PLN Gen Pln Ref 062017    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | RED Valuation Memo 020121 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | PW Order No. 206691       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | PC Reso No. 20841         |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Hearing Notice 072522     |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Proof of Mailing 070822   |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____                     |
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Completed by: Erica Major Date July 21, 2022  
Completed by: Erica Major Date \_\_\_\_\_

[Summary Street Vacation - Portion of Airspace over Natoma Street between First and Second Streets]

**Ordinance ordering the summary street vacation of a portion of the airspace above a segment of Natoma Street between First and Second Streets and adjacent to the Transbay Transit Center; quitclaiming the City's interest in the street vacation area to the Transbay Joint Powers Authority; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

Section 1. Findings.

(a) The Transbay Transit Center is located between Beale, Mission, Second, and Howard Streets in the City's South of Market neighborhood. In addition to access to multiple modes of transportation, retail, entertainment, and cultural spaces, the Transbay Transit Center features a public 5.4-acre rooftop park, located on top of the Transbay Transit Center itself.

(b) In order to fund the construction of the Transbay Transit Center, the Transbay Joint Powers Authority ("TJPA") has sold several adjacent parcels. As part of that process, in June 2016, the TJPA concluded its sale of 542-550 Howard Street (Assessor's Parcel Block No.

1 3721, Lot Nos. 016, 135, 136, and 138, also known as Transbay Parcel F). Like Salesforce  
2 Tower, the proposed tower at Parcel F includes a pedestrian bridge that would provide public  
3 access from the building to the Transbay Transit Center's rooftop park. The pedestrian bridge  
4 connecting Parcel F to the rooftop park would cross Natoma Street between First and Second  
5 Streets. In 2011, the Board of Supervisors adopted Ordinance 43-11, ordering the vacation  
6 and conveyance to the TJPA of a portion of Natoma Street for purposes of construction of the  
7 Transbay Transit Center. However, the portion of Natoma Street vacated by Ordinance 43-11  
8 did not include all of the airspace over Natoma Street required for the pedestrian bridge.

9 (c) On May 24, 2012, the Planning Commission, in Motion No. 18628, certified the  
10 Final Environmental Impact Report for the Transit Center District Plan ("FEIR") and related  
11 actions as in compliance with the California Environmental Quality Act ("CEQA") (California  
12 Public Resources Code Sections 21000 et seq.).

13 (d) On May 24, 2012, the Planning Commission conducted a duly noticed public  
14 hearing and, by Motion No. 18629, adopted findings pursuant to CEQA, including a mitigation  
15 monitoring and reporting program, for the Transit Center District Plan and related actions. In  
16 Ordinance No. 181-12, the Board of Supervisors ("Board of Supervisors" or "Board") adopted  
17 the Planning Commission's environmental findings as its own. The Board relies on these  
18 same findings for purposes of this ordinance. Copies of Planning Commission Motion Nos.  
19 18628 and 18629 and Ordinance No. 181-12 are on file with the Clerk of the Board of  
20 Supervisors in File No. 120665 and incorporated herein by reference.

21 (e) On August 27, 2019, the Planning Department issued a Community Plan  
22 Exemption Determination ("CPE") determining that the environmental effects of the 542-550  
23 Howard Street Project, including the actions contemplated herein, were adequately analyzed  
24 in the FEIR and that no further environmental review is required in accordance with CEQA  
25 and Administrative Code Chapter 31. The Planning Commission adopted additional CEQA

1 findings relating to the Transbay Parcel F project and to the related Development Agreement  
2 Ordinance on January 28, 2021 in Resolution No. 20841. A copy of the CPE and related  
3 documents, including applicable mitigation measures, and the abovementioned additional  
4 findings are on file with the Clerk of the Board of Supervisors in File No. 201385 and are  
5 incorporated herein by reference. In addition, other documents, reports, and records related  
6 to the Transbay Parcel F project, the Development Agreement Ordinance, the CPE, and  
7 Project approvals are on file with the Planning Department custodian of records, located at 49  
8 South Van Ness, Suite 1400, San Francisco, California 94103. The Board of Supervisors  
9 treats these additional Planning Department records as part of its own administrative record  
10 and incorporates such materials herein by reference.

11 (f) In accordance with the actions contemplated herein, this Board relies on its  
12 environmental findings in Ordinance No. 181-12. In addition, the Board has reviewed the  
13 Planning Commission's additional findings and the CPE, and concurs with the Planning  
14 Department's determination that the environmental effects of the Project were adequately  
15 analyzed in the FEIR and that no further environmental review is required.

16 (g) On June 20, 2017, the Planning Department, in Case No. 2017-005411GPR, found  
17 that the street vacation related to the Parcel F pedestrian bridge to the Transit Center's  
18 rooftop park and conveyance of the City's interest were in conformity with the General Plan  
19 and the eight priority policies of Planning Code Section 101.1, contingent upon approval of a  
20 design for Transbay Parcel F development that provides public access to the pedestrian  
21 bridge as described in the Transit Center District Plan and the Planning Code. On January  
22 28, 2021, after a duly noticed public hearing, the Planning Commission approved various  
23 actions related to the design of Transbay Parcel F development including a Planning Code  
24 amendment and Development Agreement that are companion legislation to this ordinance.  
25 The Parcel F Planning Code amendment (Ordinance No. 41-21) and the Development

1 Agreement ordinance ("Development Agreement Ordinance," Ordinance No. 42-21) are in  
2 Clerk of the Board of Supervisors File Nos. 201385 and 201386, respectively. A copy of the  
3 abovementioned Planning Department determination is on file with the Clerk of the Board in  
4 File No. 201385, and is incorporated by reference as though fully set forth herein.

5 (h) California Streets and Highways Code Sections 8300 et seq. and San Francisco  
6 Public Works Code Section 787(a) set forth the procedures that the City and County of San  
7 Francisco ("City") follows to vacate public streets.

8 (i) The Board of Supervisors finds it appropriate and in the public interest to pursue the  
9 summary street vacation and quitclaim of its interest to the TJPA in order to provide for  
10 enhanced public access to the Transbay Transit Center's rooftop park from a new pedestrian  
11 bridge approximately 70 feet above the street surface between Parcel F and the rooftop park.

12 (j) The location and extent of the area to be vacated (the "Vacation Area") includes the  
13 airspace above Natoma Street between First and Second Streets where a pedestrian bridge  
14 would connect Parcel F to the Transit Center's rooftop park. The Vacation Area is more  
15 particularly shown on the Public Works ("PW") SUR Map No. 2022-017, dated June 6, 2022.  
16 A copy of this map is on file with the Clerk of the Board of Supervisors in File No. 220708 and  
17 is incorporated herein by reference.

18 (k) In PW Order No. 206691, dated June 15, 2022, the PW Director determined and  
19 the City Engineer certified that: (1) the Vacation Area is unnecessary for the City's present or  
20 prospective public street, sidewalk, and service easement purposes; (2) the public interest,  
21 convenience, and necessity do not require any easements or other rights be reserved for any  
22 public or private utility facilities that are in place in the Vacation Area and that any rights based  
23 upon any such public or private utility facilities not specifically excepted shall be extinguished  
24 upon the effectiveness of the vacation; (3) in accordance with California Streets and Highways  
25 Code Sections 892 and 8314, the Vacation Area is not useful as a public street, sidewalk, or

1 nonmotorized transportation facility because the Vacation Area is unoccupied airspace  
2 approximately 70 feet above the surface of the street; (4) PW obtained the consent from all  
3 property owners adjacent to the Vacation Area agreeing to the street vacation; and (5) it is a  
4 policy matter for the Board of Supervisors to quitclaim the City's interest in the Vacation Area  
5 to the TJPA. A copy of this Order is on file with the Clerk of the Board of Supervisors in File  
6 No. 220708 and is incorporated herein by reference.

7 (l) In PW Order No. 206691, the PW Director also found that the street vacation  
8 qualifies for a summary street vacation for the following reasons:

9 (1) Under California Streets and Highways Code Section 8330, the street  
10 vacation would not (A) cut off all access to a person's property which, prior to the street  
11 vacation and relocation to new street areas, adjoined the street or (B) terminate a public  
12 service easement.

13 (2) Under California Streets and Highways Code Section 8334(a), the airspace  
14 portion of Natoma Street to be vacated is excess right-of-way of a street not required for street  
15 or highway purposes.

16 (3) Under California Streets and Highways Code Section 8334.5, there are no  
17 in-place public utility facilities that are in use and would be affected by the vacation.

18 (m) In PW Order No. 206691, the PW Director recommended that the vacation of the  
19 Vacation Area be conditioned upon the following restrictions:

20 (1) Should the Board determine to quitclaim the City's interest in the Vacation  
21 Area, it should not be conveyed to any party other than the TJPA or its successor; provided,  
22 however, that the TJPA may assign or convey an easement in the Vacation Area to the owner  
23 of Parcel F to construct a pedestrian bridge and create public access to the Rooftop Park, as  
24 set forth in the Restated and Amended Parcel F Pedestrian Bridge Easement Agreement  
25

1 between the TJPA and Parcel F Owner, LLC, dated April 14, 2022 ("Bridge Easement") or  
2 similar agreement as may be amended from time to time; and

3 (2) If the TJPA ever abandons the pedestrian bridge use of the Vacation Area,  
4 or does not complete construction of any portion of the pedestrian bridge by December 31,  
5 2023<sup>1</sup> or such later date as may be determined in the discretion of the PW Director, the PW  
6 Director may terminate the vacation of the Vacation Area by written notice to the TJPA, upon  
7 which notice the Vacation Area shall revert back to the City in fee simple as public right-of-  
8 way in accordance with California Streets and Highways Code Section 8341.

9 (n) On February 1, 2021, the Director of the Division of Real Estate, based on an  
10 appraisal report prepared by Colliers International Valuation and Advisory Services, dated  
11 November 19, 2020 ("Appraisal"), determined that the value of providing public access to the  
12 pedestrian bridge to be constructed within the Vacation Area equals or exceeds the value of  
13 the City's interest in the Vacation Area, and recommended that the City quitclaim its interest in  
14 the Vacation Area to the TJPA for no monetary consideration, provided that the conditions for  
15 vacating the Vacation Area have been met.

16 (o) The Board of Supervisors adopts as its own, the findings and recommendations of  
17 the PW Director as set forth in PW Order No. 206691 concerning the summary vacation of the  
18 Vacation Area and other actions in furtherance thereof, and the Board incorporates herein  
19 such recommendations and findings by reference.

20 (p) The Board of Supervisors acknowledges and accepts the recommendation of the  
21 Director of the Division of Real Estate to approve a quitclaim of the City's interest in the  
22 Vacation Area. This recommendation and a draft quitclaim deed are on file with the Clerk of  
23 the Board of Supervisors in File No. 220708.

24  
25 Section 2. Summary Vacation of a Portion of the Airspace above Natoma Street.

1 (a) The Board of Supervisors finds that the Vacation Area is unnecessary for present  
2 or prospective public use, subject to the conditions described in this ordinance, and the Board  
3 also adopts and approves the other findings presented in PW Order No. 206691.

4 (b) The Board adopts as its own the General Plan and Planning Code Section 101.1  
5 consistency findings of the Planning Department for purposes of this street vacation and  
6 conveyance of the City's interest in the Vacation Area.

7 (c) Subject to subsection (d), the Vacation Area, as shown on SUR Map No. 2022-017,  
8 is hereby ordered summarily vacated pursuant to California Streets and Highways Code  
9 Sections 8300 et seq., in particular Sections 8330, 8334, and 8334.5, and San Francisco  
10 Public Works Code Section 787(a).

11 (d) The vacation of the Vacation Area is conditioned upon the following restrictions:

12 (1) The Vacation Area shall not be conveyed to any party other than the TJPA  
13 or its successor; provided, however, that the TJPA may assign or convey an easement in the  
14 Vacation Area to the owner of Parcel F to construct a pedestrian bridge and create public  
15 access to the Rooftop Park, as set forth in the Bridge Easement or similar agreement as may  
16 be amended from time to time; and

17 (2) In accordance with California Streets and Highways Code Section 8341, the  
18 Vacation Area shall terminate, and, upon notice from the PW Director, the public right-of-way  
19 in the Vacation Area shall be restored, if the TJPA abandons the pedestrian bridge use of the  
20 Vacation Area, or if construction of no portion of the pedestrian bridge has been completed by  
21 December 31, 2031, which date may be extended by the PW Director's discretion.

22 (e) The TJPA's conveyance of an easement in a portion of former Natoma Street  
23 vacated by Ordinance 43-11 to the owner of Parcel F to construct a pedestrian bridge, and the  
24 construction and use of such bridge, in accordance with the Bridge Easement, shall not be  
25



1 deemed inconsistent with the street vacation conditions set forth in Ordinance 43-11 or cause  
2 a reverter of any property to the City.

3  
4 Section 3. Real Property Conveyance.

5 (a) The Board finds that the conveyance of the City's interest in the Vacation Area will  
6 further a proper public purpose, including, but not limited to, promoting and facilitating the use  
7 of public transportation, and enhancing access to and enjoyment of the Transit Center rooftop  
8 park.

9 (b) The Board further finds that the value of providing public access to the pedestrian  
10 bridge to be constructed within the Vacation Area equals or exceeds the value of the City's  
11 interest in the Vacation Area.

12 (c) The Board approves conveying the City's interest in the Vacation Area to the TJPA  
13 in substantially the same form as the draft quitclaim deed on file with the Clerk of the Board of  
14 Supervisors in File No. 220708.

15 (d) The Board delegates to the Director of the Division of Real Estate, in consultation  
16 with the City Attorney's Office, the authority to finalize and execute the quitclaim deed on  
17 behalf of the City in accordance with the terms set forth in this ordinance.

18  
19 Section 4. Official Acts in Connection with the Ordinance.

20 The Mayor, Clerk of the Board, Director of the Division of Real Estate, County  
21 Surveyor, and PW Director are hereby authorized and directed to take any and all actions  
22 which they or the City Attorney may deem necessary or advisable in order to effectuate the  
23 purpose and intent of this ordinance, including, without limitation, revising official public right-  
24 of-way maps; the finalization and certification of the quitclaim deeds for the Vacation Area, the  
25 execution of such deeds on behalf of the City, and the recording of such deeds at the City

1 Office of the Assessor-Recorder; the filing of this ordinance in the Official Records of the City;  
2 confirmation of satisfaction of the conditions to the effectiveness of the vacation of the  
3 Vacation Area hereunder; and execution and delivery of any evidence of the same.  
4

5 Section 5. Effective Date. This ordinance shall become effective 30 days after  
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
8 of Supervisors overrides the Mayor's veto of the ordinance.  
9

10  
11 APPROVED AS TO FORM:  
12 DENNIS J. HERRERA, City Attorney

13 By: /s/ Peter R. Miljanich  
14 PETER R. MILJANICH  
Deputy City Attorney

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## **LEGISLATIVE DIGEST**

[Summary Street Vacation - Portion of Airspace over Natoma Street between First and Second Streets]

**Ordinance ordering the summary street vacation of a portion of the airspace above a segment of Natoma Street between First and Second Streets and adjacent to the Transbay Transit Center; quitclaiming the City's interest in the street vacation area to the Transbay Joint Powers Authority; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

### **Existing Law**

The area to be vacated includes the airspace above Natoma Street between First and Second Streets where a pedestrian bridge would connect the Transbay Parcel F development project to the Transbay Transit Center's rooftop park ("Vacation Area"). The Vacation Area is more particularly shown on Public Works SUR Map No. 206691, dated June 15, 2022.

### **Amendments to Current Law**

By this ordinance, the Board of Supervisors would make findings and take actions required to vacate the Vacation Area, and quitclaim the City's interest in the vacation area to the Transbay Joint Powers Authority ("TJPA"), in order to provide for enhanced public access to the Transbay Transit Center's rooftop park from a new pedestrian bridge between Parcel F and the rooftop park. The vacation would be subject to the following conditions: (1) The Vacation Area shall not be conveyed to any party other than the TJPA or its successor; provided, however, that the TJPA may assign or convey an easement in the Vacation Area to the owner of Parcel F to construct a pedestrian bridge and create public access to the Rooftop Park; and (2) In accordance with California Streets and Highways Code Section 8341, the Vacation Area shall terminate, and, upon notice from the PW Director, the public right-of-way in the Vacation Area shall be restored, if the TJPA abandons the pedestrian bridge use of the Vacation Area, or if construction of no portion of the pedestrian bridge has been completed by December 31, 2031, which date may be extended by the PW Director's discretion.

### **Background Information**

The vacation of the Vacation Area would facilitate construction of a pedestrian bridge connecting the Transbay Parcel F development to the Transbay Transit Center's rooftop park, also known as Salesforce Park.

RECORDING REQUESTED BY,  
AND WHEN RECORDED RETURN TO:

City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102  
Attention: Director of Property

Block \_\_\_\_\_, Lot \_\_\_\_\_

(Space above this line reserved for Recorder's use only)

The undersigned declares this instrument to be exempt from recording fees (Govt. Code § 27383) and Documentary Transfer Tax (Rev. & Tax. Code § 11922).

**QUITCLAIM DEED**

(a portion of the airspace above Natoma Street)

FOR VALUABLE CONSIDERATION, receipt and adequacy of which are hereby acknowledged, the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“City”), pursuant to Ordinance No. \_\_\_\_\_, adopted by the Board of Supervisors on \_\_\_\_\_, 20\_\_, and approved by the Mayor on \_\_\_\_\_, 20\_\_ (the “Ordinance”), hereby RELEASES, REMISES AND QUITCLAIMS to the TRANSBAY JOINT POWERS AUTHORITY, a joint powers authority created under California Government Code Sections 6500 et seq. (“TJPA”), any and all right, title and interest City may have in and to the real property located in the City and County of San Francisco, State of California, shown on and described in Exhibit A attached hereto and made a part hereof (the “Property”), subject to the terms and conditions below.

**1. Exhibits.** Each writing or plat referred to herein as an exhibit is attached to and referenced in this Deed and incorporated into and made a part of this Deed.

**2. Miscellaneous.** This Deed will be recorded in the Official Records of the City and County of San Francisco, California. This Deed will be governed by and construed in accordance with the laws of the State of California. If any provision of this Deed is or becomes invalid, illegal, or unenforceable, it will not affect or impair the validity, legality, or enforceability of any other provision of this Deed, and there will be substituted for the affected provision a valid and enforceable provision as similar as possible to the affected provision.

(Signature Page Follows)

**IN WITNESS WHEREOF**, the undersigned has executed this Deed as of the date first above written.

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By: \_\_\_\_\_  
Andrico Q. Penick  
Director of Property

APPROVED AS TO FORM

DAVID CHIU  
City Attorney of San Francisco

By: \_\_\_\_\_  
Heidi Gewertz  
Deputy City Attorney

## CERTIFICATE OF ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of \_\_\_\_\_

On \_\_\_\_\_, 20\_\_ before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that  
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

(Notary Seal)

**EXHIBIT A**

LEGAL DESCRIPTION OF PROPERTY

[TO BE ATTACHED ]

**CERTIFICATE OF ACCEPTANCE  
(Pursuant to Government Code 27281)**

This is to certify that the interest in real property conveyed by the foregoing Quitclaim Deed (a portion of the airspace above Natoma Street) dated \_\_\_\_\_, 20\_\_, from the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, is hereby accepted on \_\_\_\_\_, 20\_\_, by the undersigned officer or agent on behalf of the TJPA pursuant to authority conferred by [**resolution of the TJPA's Board of Directors (Res. No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_, and the TJPA's Board of Directors consents to the recordation of said document in the Office of the Recorder of City and County of San Francisco, State of California.]**

TRANSBAY JOINT POWERS AUTHORITY,  
a joint powers authority created under  
California Government Code Sections 6500 et seq.

By: \_\_\_\_\_  
Adam Van de Water  
Executive Director

Dated: \_\_\_\_\_, 20\_\_

APPROVED AS TO FORM AND LEGALITY:

Shute Mihaly & Weinberger LLP

By: \_\_\_\_\_  
Andrew W. Schwartz



Attorneys for Transbay Joint Powers  
Authority

LEGAL DESCRIPTION

"AERIAL PORTION OF NATOMA STREET TO BE VACATED"

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA BETWEEN TWO HORIZONTAL PLANES, THE LOWER PLANE BEING AT ELEVATION 72.00 FEET AND THE UPPER PLANE BEING AT ELEVATION 172.00 FEET, SAID ELEVATIONS ARE BASED ON BENCHMARK NO. 11862, HAVING AN ELEVATION OF 54.01 FEET, CITY AND COUNTY OF SAN FRANCISCO 2013 RECOVERY OF THE NORTH AMERICAN VERTICAL DATUM OF 1988, ON FILE IN THE OFFICE OF THE CITY AND COUNTY SURVEYOR, BOUNDED BY VERTICAL PLANES WHICH EXTEND BETWEEN AFORESAID HORIZONTAL PLANES, THE LIMITS OF SAID VERTICAL PLANES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF NATOMA STREET (35.00 FEET WIDE), DISTANT THEREON NORTH  $46^{\circ}18'10''$  EAST 350.52 FEET FROM THE NORTHEASTERLY LINE OF SECOND STREET (82.50 FEET WIDE), AS SAID STREETS ARE SHOWN ON "RECORD OF SURVEY NO. 6428", FILED MAY 31, 2012 IN BOOK EE OF SURVEY MAPS, AT PAGES 19 THROUGH 27, IN THE OFFICE OF THE COUNTY RECORDER OF SAN FRANCISCO COUNTY; THENCE ALONG SAID SOUTHEASTERLY LINE NORTH  $46^{\circ}18'10''$  EAST 45.00 FEET; THENCE NORTH  $43^{\circ}41'50''$  WEST 20.50 FEET TO A LINE THAT IS PARALLEL WITH AND 14.50 FEET SOUTHEASTERLY, MEASURED AT RIGHT ANGLES, FROM THE NORTHWESTERLY LINE OF SAID NATOMA STREET; THENCE ALONG SAID PARALLEL LINE SOUTH  $46^{\circ}18'10''$  WEST 45.00 FEET; THENCE SOUTH  $43^{\circ}41'50''$  EAST 20.50 FEET TO THE POINT OF BEGINNING.

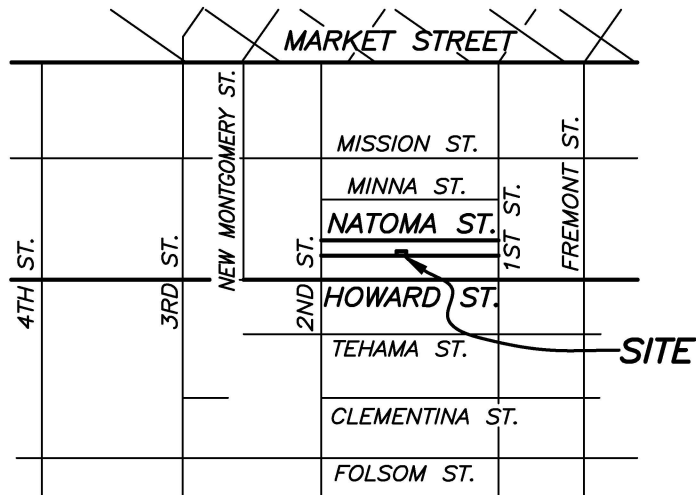
THIS DESCRIPTION WAS PREPARED BY ME IN ACCORDANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT.



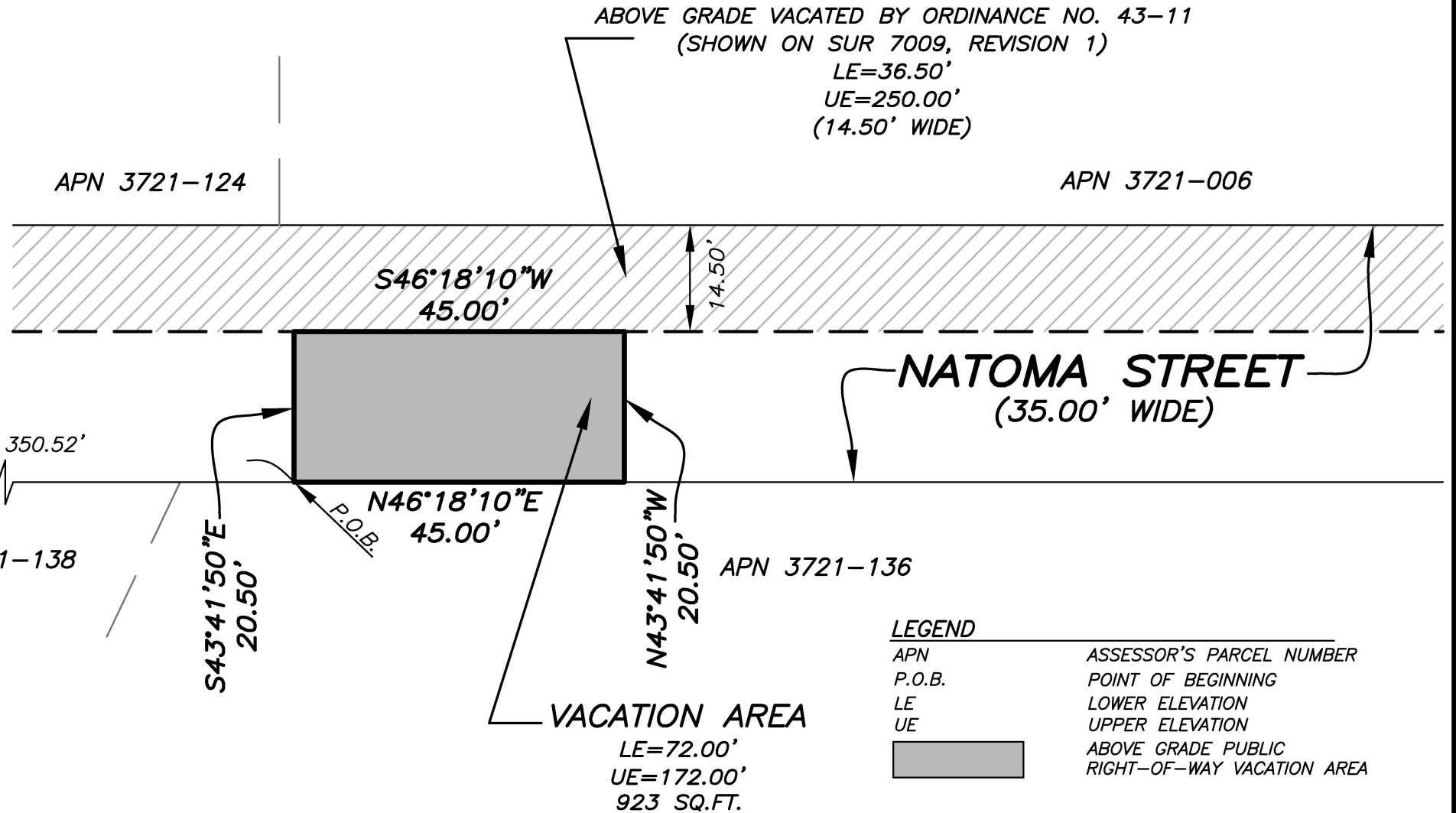
JUNE 6, 2022

DAVID B. RON, PLS 8954





VICINITY MAP  
NO SCALE



LEGEND

APN	ASSESSOR'S PARCEL NUMBER
P.O.B.	POINT OF BEGINNING
LE	LOWER ELEVATION
UE	UPPER ELEVATION
	ABOVE GRADE PUBLIC
	RIGHT-OF-WAY VACATION AREA

MAP REFERENCE

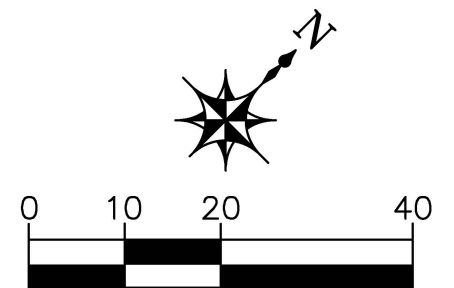
ALL BEARINGS, STREETS AND STREET LINES SHOWN HEREON ARE IN ACCORDANCE WITH THAT CERTAIN MAP ENTITLED "RECORD OF SURVEY NO. 6428", FILED MAY 31, 2012 IN BOOK EE OF SURVEY MAPS, AT PAGES 19 THROUGH 27, IN THE OFFICE OF THE COUNTY RECORDER OF SAN FRANCISCO COUNTY.

BENCHMARK NOTE

ELEVATIONS ARE BASED ON BENCHMARK NO. 11862, HAVING AN ELEVATION OF 54.01 FEET, CITY AND COUNTY OF SAN FRANCISCO 2013 RECOVERY OF THE NORTH AMERICAN VERTICAL DATUM OF 1988, ON FILE IN THE OFFICE OF THE CITY AND COUNTY SURVEYOR.

NOTES

- DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
- ALL ANGLES ARE 90 DEGREES UNLESS NOTED OTHERWISE.



GRAPHIC SCALE



THIS MAP WAS PREPARED BY ME, OR UNDER MY DIRECTION, AND IS BASED UPON RECORD DATA ON 05/16/2022

*David B. Ron*

DAVID B. RON, PLS 8954

6/6/2022

DATE

APPROVED:

WILLIAM E. BLACKWELL JR., PLS 8251  
ACTING CITY & COUNTY SURVEYOR

DATE

CITY AND COUNTY OF SAN FRANCISCO  
SAN FRANCISCO PUBLIC WORKS

ABOVE GRADE VACATION OF A PORTION OF NATOMA STREET  
BETWEEN FIRST STREET AND SECOND STREET

FILE: SUR 2022-017

SHEET 1 OF 1

SCALE: 1" = 20'

REVISION



# SAN FRANCISCO PLANNING DEPARTMENT

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## General Plan Referral

*Date:* June 20, 2017  
*Case No.* **Case No. 2017-005411GPR**  
**Natoma Street Pedestrian Bridge**

*Project Location:* 542-550 Howard Street

*Block/Lot No.:* 3721/136

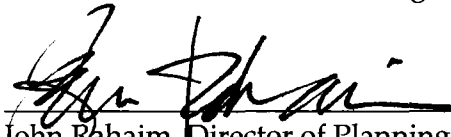
*Project Sponsor:* San Francisco Public Works  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 348  
San Francisco, CA 94102

*Applicant:* Mark Zabaneh,  
Executive Director, TJPA  
201 Mission Street, Suite 2100  
San Francisco, CA 94105

*Staff Contact:* Nicholas Perry – (415) 575-9066  
[nicholas.perry@sfgov.org](mailto:nicholas.perry@sfgov.org)

*Recommendation:* Finding the project, on balance, is **in conformity** with the General Plan; contingent upon approval of a design for Transbay Parcel F development that provides public access to the bridge as described in the Transit Center District Plan and San Francisco Planning Code.

*Recommended  
By:*

  
John Rahaim, Director of Planning

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

## PROJECT DESCRIPTION

As part of the development of Transbay Parcel F at 542-550 Howard Street, a pedestrian bridge is proposed over the Natoma Street right-of-way. The bridge would connect the fifth floor of the Transbay Parcel F development to the Transbay Transit Center's rooftop park. The Transbay Parcel F development will provide public elevators that connect the bridge to the Natoma Street sidewalk and an ungated pedestrian passage connecting Natoma and Howard streets.

As of writing, the development at Parcel F has not been finalized nor approved. Although the general concept of providing access to the bridge via an elevator accessed from Natoma Street is described in the General Plan Referral application, specifics related to the design of public access to the proposed bridge were not included. The final design of public access to the bridge will be integral to its function and success, and as such, the recommendation of this General Plan Referral is to find the project in conformity with the General Plan, but making this recommendation contingent upon approval of a design for the Transbay Parcel F development that provides public access to the bridge as described in the Transit Center District Plan and San Francisco Planning Code.

## SITE DESCRIPTION AND PRESENT USE

The Project Site ("Site") is the air space above Natoma Street which would be occupied by a pedestrian bridge associated with the development of Transbay Parcel F (542-550 Howard Street).

The Project Site is located within the Downtown Core, and more specifically, within the Transit Center District Plan (TCDP) area. Development in the vicinity consists primarily of high-rise office buildings, interspersed with low-rise buildings. The Transbay Transit Center building site is located immediately north of the project site and extends from Beale Street westward almost to Second Street. Anticipated for completion in 2019, the five-story (three above ground) Transbay Transit Center will provide an one-million-square-foot regional bus and rail station with a five-acre public park atop the building. Numerous other high-rise residential and office buildings are planned or under construction in the surrounding area.

## ENVIRONMENTAL REVIEW

The project was fully evaluated in the Transit Center District Plan and Transit Tower EIR, certified by the Planning Commission on 5/24/12, Motion No. 18628, Case Nos. 2007.0558E and 2008.0789E.

## GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

The proposed encroachment permit for a pedestrian bridge over the Natoma Street right-of-way is found, **on balance**, in conformity with the General Plan, as described in the body of this Report.

Note: General Plan Objectives are shown in **BOLD UPPER CASE** font; Policies are in **Bold** font; staff comments are in *italic* font.

## URBAN DESIGN ELEMENT

### OBJECTIVE 2

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

**POLICY 2.8—Maintain a strong presumption against the giving up of street areas for private ownership or use, or for construction of public buildings.**

**POLICY 2.9—Review proposals for the giving up of street areas in terms of all the public values that streets afford.**

**POLICY 2.10—Permit release of street areas, where such release is warranted, only in the least expensive and least permanent manner appropriate to each case.**

*The proposed street vacation will only vacate air space above Natoma Street, preserving the right-of-way below for public use and circulation.*

*Although the General Plan maintains a strong presumption against giving up street areas (including air rights), the General Plan also outlines criteria for when such proposals may be considered favorably. The proposed Natoma Street pedestrian bridge does not violate any of the public values listed in Policy 2.9; specifically, it does not result in any detriment to vehicle or pedestrian circulation, eliminate street space or open space that could otherwise be used differently, have an adverse effect upon the General Plan or related area plans, or obstruct/diminish any significant view.*

*The proposed pedestrian bridge meets the criteria for approval listed under Policy 2.9; specifically the three criteria quoted below:*

Release of a street area may be considered favorably when it would not violate any of the above criteria and when it would be:

- Necessary for a significant public or semi-public use, or public assembly use, where the nature of the use and the character of the development proposed present strong justifications for occupying the street area rather than some other site;
- For the purpose of permitting a small-scale pedestrian crossing consistent with the principles and policies of The Urban Design Element; or
- In furtherance of the public values and purposes of streets as expressed in The Urban Design Element and elsewhere in the General Plan.

*The proposed pedestrian bridge over Natoma Street meets each of these criteria by providing public access between the street and a significant new open space amenity (The Transit Center Park) and is in keeping with the concepts developed in the Transit Center District Plan.*

**POLICY 4.11—Make use of street space and other unused public areas for recreation, particularly in dense neighborhoods, such as those close to downtown, where land for traditional open spaces is more difficult to assemble.**

*The proposed pedestrian bridge would make use of street space for recreation by transforming a small portion of Natoma Street's airspace into a public open space amenity that provides an important access point to the new Transit Center Park.*

#### RECREATION & OPEN SPACE ELEMENT

#### OBJECTIVE 3—IMPROVE ACCESS AND CONNECTIVITY TO OPEN SPACE

**POLICY 3.1—Creatively develop existing publicly-owned right-of-ways and streets into open space.**

*The proposed pedestrian bridge would use the Natoma Street right-of-way to create a public access point to the rooftop Transit Center Park.*

**POLICY 3.5—Ensure that, where feasible, recreational facilities and open spaces are physically accessible, especially for those with limited mobility.**

*The proposed pedestrian bridge would improve physical access to the new Transit Center Park for those with limited mobility via a new public elevator providing access to the bridge from Natoma Street sidewalk.*

#### TRANSPORTATION ELEMENT

**POLICY 2.4—Organize the transportation system to reinforce community identity, improve linkages among interrelated activities and provide focus for community activities.**

*The proposed pedestrian bridge would improve linkages between the Transit Center Park and adjacent uses at the new development at 542-550 Howard Street and—via the proposed public elevator—to all the uses accessed via the street below.*

#### OBJECTIVE 23—IMPROVE THE CITY'S PEDESTRIAN CIRCULATION SYSTEM TO PROVIDE FOR EFFICIENT, PLEASANT, AND SAFE MOVEMENT.

*The proposed pedestrian bridge would enhance the pedestrian circulation system by providing an efficient, pleasant, and safe connection between the at-grade public realm and the roof-top public realm provided by the Transit Center Park.*

#### TRANSIT CENTER DISTRICT PLAN

**OBJECTIVE 3.1–MAKE WALKING A SAFE, PLEASANT, AND CONVENIENT MEANS OF MOVING ABOUT THROUGHOUT THE DISTRICT.**

**OBJECTIVE 3.2–CREATE A HIGH-QUALITY PEDESTRIAN ENVIRONMENT IN THE DISTRICT CONSISTENT WITH THE VISION FOR THE CENTRAL DISTRICT OF A WORLD-CLASS CITY.**

**OBJECTIVE 3.3–GRACIOUSLY ACCOMMODATE INCREASES IN PEDESTRIAN VOLUMES IN THE DISTRICT.**

*The proposed pedestrian bridge would enhance the pedestrian environment in the Transit Center District by providing a convenient and direct link between the Transit Center District's at-grade public realm and the roof-top public realm provided by the Transit Center Park.*

**OBJECTIVE 3.11–ENHANCE ACCESS AND MAXIMIZE THE VISIBILITY OF THE TRANSIT CENTER'S FUTURE ROOFTOP PARK FROM THE SURROUNDING NEIGHBORHOODS, ESPECIALLY NEIGHBORHOODS TO THE SOUTH.**

**Policy 3.17–Ensure that highly-visible, welcoming, and grand means of public access to the Transit Center Park are provided directly from key public spaces and buildings adjacent to the Transit Center.**

**Policy 3.19–Permit buildings to satisfy open space requirements through direct connections to the Transit Center Park.**

**OBJECTIVE 3.12–ENSURE THAT PRIVATE OPEN SPACE BOTH ENHANCES THE PUBLIC OPEN SPACE NETWORK AND ACHIEVES THE PLAN'S OPEN SPACE GOALS.**

**OBJECTIVE 3.13–PROVIDE FLEXIBILITY AND ALTERNATIVES TO MEETING OPEN SPACE REQUIREMENTS THAT ACHIEVE THE DISTRICT'S OPEN SPACE VISION, AND THAT ENHANCE AND IMPROVE ACCESS TO PLANNED PUBLIC SPACE, PARTICULARLY THE TRANSIT CENTER PARK.**

**Policy 3.22–Permit and encourage buildings to satisfy open space requirements through direct connections across Minna and Natoma Streets to the Transit Center Park.**

*The proposed pedestrian bridge directly meets Objectives 3.11 through 3.13 of the Transit Center District Sub-Area Plan. As envisioned by the plan, the proposed bridge would provide a highly-visible and easily accessible access point for the Transit Center Park.*



## PROPOSITION M FINDINGS – PLANNING CODE SECTION 101.1

Planning Code Section 101.1 establishes Eight Priority Policies and requires review of discretionary approvals and permits for consistency with said policies. The Project is found to be consistent with the Eight Priority Policies as set forth in Planning Code Section 101.1 for the following reasons:

### Eight Priority Policies Findings

The proposed project is found to be consistent with the eight priority policies of Planning Code Section 101.1 in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

*The proposed pedestrian bridge would not displace any neighborhood-serving retail uses and would not otherwise adversely affect existing neighborhood-serving retail. The pedestrian bridge would increase the number of pedestrian connections between the rooftop Transit Center Park and the street (via a public elevator accessed on Natoma Street) and thus create better access to existing neighborhood-serving retail uses from the Transit Center.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhood.

*The proposed pedestrian bridge would not negatively affect housing or existing neighborhood character.*

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

*The proposed pedestrian bridge would not displace any housing or affect the City's supply of affordable housing.*

4. That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking.

*The proposed pedestrian bridge would not impede Muni service or overburden local streets or parking. The bridge would increase access points to the Transit Center and would therefore promote the use of the Transit Center and the Muni transit services provided therein.*

5. 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 residential employment and ownership in these sectors be enhanced.

*The proposed pedestrian bridge would not adversely affect the industrial and service sectors; it would not displace any industrial uses or occupy land designated for such uses.*

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

*The proposed pedestrian bridge will be constructed in compliance with all relevant building and safety standards, including those related to earthquakes.*

7. That landmarks and historic buildings be preserved.

*The proposed pedestrian bridge would not affect any landmarks or historic buildings, and would connect two entirely new buildings.*

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

*The pedestrian bridge would not cast any shadows on parks and would only shade a small portion of the Natoma Street right-of-way. The pedestrian bridge is anticipated as part of the Transit Center District Sub-Area Plan as an integral element of the neighborhood's public open space network.*

**RECOMMENDATION:**

**Finding the Project, on balance, in-conformity with the General Plan; contingent upon approval of a design for Transbay Parcel F development that provides public access to the bridge as described in the Transit Center District Plan and San Francisco Planning Code.**



London N. Breed, Mayor  
Kenneth A. Bukowski, Acting City Administrator



Andrico Q. Penick  
Director of Real Estate

## MEMORANDUM

DATE: February 1, 2021

TO: Whom It May Concern

FROM: Andrico Q Penick, Director of Property

**RE: Opinion of Value and Recommendation for No Cost Transfer  
– Aerial and Bridge Easement Above Natoma Street Between 1<sup>st</sup> and 2<sup>nd</sup> Streets -  
Transbay Transit Center and Parcel F**

I have been requested to provide an opinion of fair market value and recommendation for no cost transfer of the fee simple interest of a permanent aerial easement (“Aerial Easement”) and a bridge easement (“Bridge Easement”) together the “Vacation Area”. The Aerial Easement is 45 feet long and 35 feet wide totaling 1,575 square feet, with an elevation of 100 feet. In total, the Aerial Easement is 157,500 cubic feet. The Aerial Easement will be used to construct a skybridge between a proposed tower development on Parcel F which is situated on the south side of Natoma Street and a rooftop park atop the Salesforce Transbay Transit Center, which is situated on the north side of Natoma Street.

The Transbay Joint Powers Authority (TJPA) has applied to the City and County of San Francisco to vacate the Vacation Area described above. The surface of the streets will remain functioning streets subject to the Aerial Easement and Bridge Easement. TJPA has requested that the City convey the Vacated Area to the TJPA in fee simple. TJPA and the City have agreed that a quitclaim deed would be the appropriate method of conveyance. TJPA has requested that I recommend to the Board of Supervisors that these conveyances occur for a nominal sale price of \$1.00.

Under San Francisco Administrative Code Section 23.3, City property may be conveyed for a price below fair market value “where the Board determines that (i) a lesser sum will further a proper public purpose. . .” The safe and efficient operation of the Transbay Transit Center is clearly a proper public purpose for the following reasons:

1. The Transit Center will encourage and facilitate the use of public transportation by connecting local and regional transportation networks of buses, rail, transit, commuter rail and high-speed rail. The Transit Center offers access to Muni AC Transit, SamTrans, Golden Gate Transit, Greyhound, and B.ART.
2. The Transbay Transit Center Program conforms to the principles of transit-oriented development - locating public transit as close as possible to employment, shopping, education, hotels, convention centers, museums, and parks.

3. In June 2005, the City's Board of Supervisors approved the Transbay Redevelopment Plan. The Plan will provide for the revitalization of the Transbay neighborhood focused on the new Transit Center. Under the Plan, the Redevelopment Agency will convey property received from Caltrans to develop 2,600 new housing units, a third of which will be affordable, and parks and other infrastructure.
4. The City's Planning Department has proposed a new Transbay Transit Center District, also focused on the new Transit Center, that will result in rezoning of the area to increase building heights and the development of millions of square feet of offices and additional housing. The Redevelopment Plan and Transbay District will allow San Francisco to create a model of transit-oriented development for the City and beyond.

The benefits to the City of transit-oriented development are, among other things, creation of thousands of jobs, reduction in greenhouse gas emissions, reduction in traffic congestion, improved air quality, and safer and more livable neighborhoods. Accordingly, conveyance of the Vacated Area to the TIPA without substantial costs to the TIPA will help realize this vital public project.

In forming my opinion of value, I have reviewed the Real Estate Evaluation prepared by Colliers International Valuation and Advisory Services ("Appraiser"), dated November 19, 2020. Comparable land sales indicated an adjusted range in value from \$196.72 to \$260.29 per square foot, with a median of \$208.10 per square foot. I agree with the appraiser that the total gross adjustment applied to the land comparables ranged from 9% to 41% with an average gross adjustment of 26% across all the comparables.

Based upon my review and my knowledge and experience in the real estate market, it is my opinion that the above-mentioned easements have the following fair market value:

As-Is Market Value of the Aerial Easement \$1,020,000

As-Is Market Value of the Bridge Easement \$1,020,000

Pursuant to Section 23.3 and for the public purposes described above, I recommend that the City quitclaim its interest in the Vacation Area to the Transbay Joint Powers Authority for a nominal sum of \$1.00 provided that the following conditions are met:

- A. That the vacation of the Vacated Area shall be made contingent upon and shall not be effective until final approval of the Board of Supervisors' legislation related to a Development Agreement for Transbay Parcel F;
- B. The Vacation Area shall not be conveyed to any party other than the TIPA and its successors except for assignments that the Board of Supervisors may otherwise permit; and
- C. In accordance with Streets and Highways Code Section 8341, the Vacation Area shall terminate and the public right-of-way in the Vacated Area shall be restored if the TIPA abandons the pedestrian bridge use of the Vacated Area or if construction of the bridge is not completed by the time prescribed by the Board of Supervisors.



San Francisco Public Works  
General – Director's Office  
49 South Van Ness Ave., Suite 1600  
San Francisco, CA 94103  
(628) 271-3160 [www.SFPublicWorks.org](http://www.SFPublicWorks.org)

**Public Works Order No: 206691**

**Determination to recommend the conditional vacation of portions of Higuera Avenue, Vidal Drive, Arballo Drive, and Garces Drive (the "Street Vacation Area"), and certain San Francisco Public Utilities Commission public service easements (the "Easement Vacation Area"), all existing within the Parkmerced Development Project area, an approximately 152 acre site located in the Lake Merced District in the southwest corner of San Francisco and generally bounded by Vidal Drive, Font Boulevard, Pinto Avenue, and Serrano Drive to the north, 19th Avenue and Junipero Serra Boulevard to the east, Brotherhood Way to the south, and Lake Merced Boulevard to the west.**

WHEREAS, The City and County of San Francisco has fee title ownership of property underlying most public right-of-ways, which includes streets and sidewalks; and

WHEREAS, The Department of Public Works has determined that said public service easements are exclusive to the San Francisco Public Utilities Commission ("SFPUC"); and

WHEREAS, The area to be vacated consists of the following:

1. Portions of Higuera Avenue, Vidal Drive, Arballo Drive, and Garces Drive that are identified as Street Vacation Parcels 1, 2, 3, 4, 5, and 6 on Public Works SUR Map Nos. 2022-003, 2022-004, 2022-005, 2022-006, 2022-007, and 2022-008, all dated June 14, 2022 (the "Street Vacation Area"), and

2. Certain SFPUC public service easements identified as SFPUC Easement Vacation Parcels 5, 6, 7, 8, 9, 10, and 11 on Public Works SUR Map Nos. 2022-009, 2022-010, 2022-011, 2022-012, 2022-013, 2022-014, and 2022-015, all dated June 14, 2022 (the "Easement Vacation Area"); and

WHEREAS, On February 10, 2011, at a duly noticed public hearing, the Planning Commission certified the Final Environmental Impact Report ("Final EIR") for the Parkmerced Mixed-Use Development Project (the "Project"), by Motion No. 18269, finding that the Final EIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, contains no significant revisions to the Draft EIR, and the content of the report and the procedures through which the Final EIR was prepared, publicized and reviewed comply with the provisions of the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq., "CEQA"), the CEQA Guidelines (California Code of Regulations Title 14 Sections 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"); and

WHEREAS, At the same hearing during which the Planning Commission certified the Final EIR, the Planning Commission by Motion No. 18270 adopted findings, as required by CEQA, regarding the alternatives, mitigation measures, and significant environmental effects analyzed in the Final EIR, a statement of overriding considerations for approval of the Project, and a proposed mitigation monitoring and reporting program (collectively, "CEQA Findings"); and

WHEREAS, On May 24, 2011, at a duly noticed public hearing, the Board of Supervisors reviewed and considered the Final EIR on appeal. By Motion No. M11-83, the Board of Supervisors upheld the Planning Commission's certification of the Final EIR and found the Final EIR to be complete, adequate and objective and reflecting the independent judgment of the City and in compliance with CEQA and the CEQA Guidelines; and

WHEREAS, On June 7, 2011, at a duly noticed public hearing, the Board of Supervisors considered the Project's approvals, which included amendments to the City's General Plan (approved by Ordinance 92-11), Zoning Map (approved by Ordinance No. 91-11), and Planning Code (approved by Ordinance No. 90-11), as well as approval of a Development Agreement, also approved on June 7, 2011 by Ordinance No. 89-11 (the "Development Agreement") (collectively, the "Project Approvals"). The SFPUC Commission on June 14, 2011 adopted a consent to the Development Agreement (SFPUC Commission Resolution No. 11-0091); and

WHEREAS, In a letter dated March 2, 2022, the Planning Department determined that the proposed vacations contemplated herein are consistent with the General Plan and with the Eight Priority Policies of City Planning Code Section 101.1, comply with applicable provisions of the Planning Code, and are consistent with the Project as defined in the Development Agreement and the Project Approvals; and

WHEREAS, Section 6.1.1 of the Development Agreement requires that the City vacate portions of streets at the locations generally shown in Exhibit J of the Development Agreement, and to convey such real property by quitclaim deed as and when needed in connection with the development of an approved Development Phase for the Project. The Planning Director approved Development Phase 1 of the Project on June 3, 2015. Development Phase 1 is comprised of four Subphases (1A, 1B, 1C, and 1D). On August 27, 2019, the Planning Director issued a letter approving certain requested amendments and revisions to the Phase 1 application ; and

WHEREAS, The vacation of the Street Vacation Area and Easement Vacation Area is necessary to implement Subphase 1C of the Project, to fulfill the objectives and requirements of the Development Agreement, and to fulfill the objectives of the Parkmerced Special Use District (Planning Code Section 249.64). The proposed vacations and other actions described herein implement the Project contemplated by the Project Approvals, including the construction of buildings and streets consistent with the Parkmerced Design Standards and Guidelines, the Parkmerced Transportation Plan, and the Parkmerced Infrastructure Report, all of which are incorporated by reference into the Development Agreement; and

WHEREAS, On May 24, 2022, by SFPUC Resolution No. 22-0097, the San Francisco Public Utilities Commission determined that upon meeting the conditions specified in this Order, any easements located in the Easement Vacation Area are surplus and unnecessary for the City's public utility purposes, and that the value of any replacement infrastructure and of surrendering liability for any existing facilities is a benefit to the SFPUC and serves as consideration for this vacation action, and authorized the General Manager of the SFPUC or the Director of Property to quitclaim these real property interests; and

WHEREAS, Pursuant to the California Streets and Highway Code Sections 8300 et seq. and Public Works Code Section 787(a), Public Works, Bureau of Street Use and Mapping (the "Department") has initiated the process to vacate the Street Vacation Area and Easement Vacation Area; and



WHEREAS, The Department sent notice of the proposed street vacation, draft SUR drawings, a copy of the petition letter, and a Public Works referral letter to the Department of Technology, San Francisco Municipal Transportation Agency, AT&T CenturyLink, Comcast, ExteNet, Point to Point communications, Verizon/MCI, XO-Communications, Sprint, Bay Area Rapid Transit District, San Francisco Fire Department, San Francisco Water Department, Pacific Gas and Electric ("PG&E"), Bureau of Engineering, Department of Parking and Traffic, Utility Engineering Bureau, San Francisco Planning Department, and the San Francisco Public Utilities Commission ("SFPUC"), and notice of the proposed easement vacation, draft SUR drawings, a copy of the petition letter, and a Public Works referral letter to the SFPUC. No public or private utility company or agency objected to the proposed street vacation or easement vacation; consequently, Public Works finds the Street Vacation Area and Easement Vacation Area are unnecessary for the City's present or prospective public street purposes; and

WHEREAS, The applicant, collectively Parkmerced Owner, LLC and PM Phase 1C Owner LLC, is the owner of all of the private property adjacent to the Street Vacation Area and Easement Vacation Area; and

WHEREAS, The vacations are being carried out pursuant to the California Streets and Highways Code section 8300 *et seq.*, and section 787 of the San Francisco Public Works Code; and

WHEREAS, The vacations of the Street Vacation Area and Easement Vacation Area do not deprive any private landowner of access to the built public street grid; and

WHEREAS, The public interest, convenience, and necessity require that the City reserve or acquire by separate agreement:

1. From the vacation of the Street Vacation Area, reserve a public right of way easement to continue public street and utility use, which easement shall automatically extinguish when the Director has issued notice of completion on replacement access and any public utilities serving the affected area, or earlier on recordation of a quitclaim deed (or other notice of termination) at the Director's discretion based on consultation with the affected City departments and utility providers., and
2. From the vacation of the Easement Vacation Area, obtain non-exclusive easements for the benefit of the SFPUC for any SFPUC utilities that are located under, in, upon, or over any portion of the Easement Vacation Area in which the SFPUC's in-place and functioning utilities are located, to the extent necessary to maintain, operate, repair, and remove existing sewer or water pipes and other convenient structures, equipment and fixtures for the operation of such utilities; provided, however, that such non-exclusive easements reserved would be automatically extinguished when alternative replacement facilities are completed to the satisfaction of the City Engineer and the Board of Supervisors accepts the facilities or earlier by quitclaim deed if the SFPUC General Manager determines that there are no functioning utilities within the relevant Easement Vacation Area; and

WHEREAS, The public interest, convenience, and necessity require that no other easements or other rights should be reserved by City for any public or private utilities or facilities that may be in place in

the Street Vacation Area or Easement Vacation Area and that any rights based upon any such public or private utilities or facilities are unnecessary and should be extinguished; and

WHEREAS, no portion of the Street Vacation Area should be vacated until these conditions are satisfied:

1. The City shall reserve a public right of way easement as described above, and
2. Project Sponsor shall provide an irrevocable offer of dedication to the City in form substantially similar to that provided in Exhibit L of the Development Agreement for all lands needed for construction of proposed improvements shown on the Street Improvement Permit for Subphase 1C of the Project. Subdivider shall make such irrevocable offers of dedication prior to City approval of the Final Subdivision Maps or issuance of a Street Improvement Permit for Subphase 1C of the Project, whichever is earlier. The offer of dedication shall be subject to the reservation of an easement in favor of Project Sponsor for all domestic water utilities and recycled water systems, within the dedicated area, which easement, as to the domestic water utilities, shall be extinguished upon completion of all Development Phases of the Project and formal acceptance of the domestic water utilities by the City, and, as to the recycled water systems, shall be extinguished upon completion of Development Phase 1 and formal acceptance of the recycled water systems by the City, all pursuant to the Development Agreement. The sum total of the square footage of the land proposed for dedication to the City shall be equal to or exceed the square footage of the Street Vacation Area, and
3. Project Sponsor shall provide Public Works with an acceptable Public Improvement Agreement ("PIA") pursuant to Section 1351 of the San Francisco Subdivision Code and the Subdivision Map Act for all improvements within the Final Map or required for development of the area shown in the Final Map prior to approval of a Final Map or issuance of a Street Improvement Permit for Subphase 1C of the Project, whichever is earlier. Such PIA shall address security provisions and provide interim easements or licenses via separate offer, such that the City can complete the improvements if Subdivider fails to do so, and
4. Where a future Development Phase of the Project (Development Phase 2 and onward) anticipates a future dedication of right of way adjacent to a street shown on a tentative map as being partially improved, PW shall require Project Sponsor, prior to submittal of a Final Map mylar for such future phase (Development Phase 2 and onward), but after acceptance and recordation of the quitclaim deeds for the Street Vacation Area contemplated by this ordinance, to record a Notice of Restrictions on those strips of land anticipated in such future phase to be dedicated for the ultimate street construction as agreed upon in the Development Agreement, subject to the review and approval of the City Attorney; and

WHEREAS, no portion of the Easement Vacation Area should be vacated until these conditions are satisfied:

1. The City shall obtain non-exclusive easements for the benefit of the SFPUC as described above, and
2. Project Sponsor shall provide Public Works with an acceptable PIA pursuant to Section 1351 of the San Francisco Subdivision Code and the Subdivision Map Act for all improvements within



the Final Map or required for development of the area shown in the Final Map prior to approval of a Final Map or issuance of a Street Improvement Permit for Subphase 1C of the Project. Such PIA shall address security provisions and provide interim easements or licenses via separate offer, such that the City can complete the improvements if the Subdivider fails to do so; and

WHEREAS, In accordance with Streets and Highways Code Section 892 and 8314, upon satisfaction of the conditions specified herein, the Street Vacation Area and Easement Vacation Area will no longer be necessary or useful as a nonmotorized transportation facility or any other present or prospective future public street, sidewalk, and public service easement purposes, because the Development Agreement requires the dedication and construction of an extensive street, bicycle path, pedestrian path, park, and trail system that is more extensive than the areas being vacated hereby and that is designed to integrate with existing built streets in the adjacent neighborhoods.

NOW THEREFORE BE IT ORDERED THAT,

The Director approves all of the following documents either attached hereto or referenced herein:

1. Ordinance to vacate the Street Vacation Area as shown on Department of Public Works drawings SUR 2022-003, SUR 2022-004, SUR 2022-005, SUR 2022-006, SUR 2022-007, and SUR 2022-008, and the Easement Vacation Area as shown on Department of Public Works drawings SUR 2022-009, SUR 2022-010, SUR 2022-011, SUR 2022-012, SUR 2022-013, SUR 2022-014, and SUR 2022-015.
2. Street Vacation Area SUR Map Nos. 2022-003, 2022-004, 2022-005, 2022-006, 2022-007, and 2022-008, dated June 14, 2022.
3. Easement Vacation Area SUR Map Nos. 2022-009, 2022-010, 2022-011, 2022-012, 2022-013, 2022-014, and 2022-015, dated June 14, 2022.

The Director recommends that the Board of Supervisors move forward with the legislation to vacate said Street Vacation Area and Easement Vacation Area, subject to the reservations described above, and to authorize the quitclaims, as described above.

The Director further recommends the Board of Supervisors authorize the Mayor, Clerk of the Board, Director of Property, SFPUC General Manager, County Surveyor, and Director of Public Works to take any and all actions which they or the City Attorney may deem necessary or advisable to effectuate the purpose and intent of said vacations.

RECOMMENDED:

APPROVED:

X DocuSigned by:  
*William E Blackwell Jr*  
Blackwell, William  
Acting City and County Surveyor

X DocuSigned by:  
*Carla Short*  
Short, Carla  
Interim Director of Public Works