

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

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

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

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

18 Section 1. Findings.

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

24 (b) In order to fund the construction of the Transbay Transit Center, the Transbay Joint
25 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~~7~~, 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. 206731206694, dated June 27~~June 15~~, 2022, the PW Director
19 determined and the City Engineer certified that: (1) the Vacation Area is unnecessary for the
20 City's present or prospective public street, sidewalk, and service easement purposes; (2) the
21 public interest, convenience, and necessity do not require any easements or other rights be
22 reserved for any public or private utility facilities that are in place in the Vacation Area and that
23 any rights based upon any such public or private utility facilities not specifically excepted shall
24 be extinguished upon the effectiveness of the vacation; (3) in accordance with California
25 Streets and Highways Code Sections 892 and 8314, the Vacation Area is not useful as a

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

7 (l) In PW Order No. 206731206694, the PW Director also found that the street
8 vacation 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. 206731206694, the PW Director recommended that the vacation
19 of the 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
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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 20231 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. 206731206694 concerning the summary
18 vacation of the Vacation Area and other actions in furtherance thereof, and the Board
19 incorporates herein 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. 206731206694.

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
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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.

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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.

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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.

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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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