

File No. 101427

Committee Item No. _____

Board Item No. 35

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____ Date _____

Board of Supervisors Meeting

Date December 7, 2010

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input checked="" type="checkbox"/> | <input checked="" 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 |
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| <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 checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

✓ See *Index of Documents*

(See File 101409 for complete documents)

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Completed by: Alisa Somera Date December 2, 2010

Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

27

1 [Authorizing the Acquisition of Real Property by Eminent Domain for Transbay Transit Center
2 Program - 85 Natoma Street No. 9]

3
4 **Resolution authorizing the acquisition of real property commonly known as 85 Natoma**
5 **Street No. 9, San Francisco, California (Assessor's Block No. 3721, Lot No. 117) by**
6 **eminent domain for the public purpose of constructing the Transbay Transit Center**
7 **Program; adopting environmental findings under the California Environmental Quality**
8 **Act (CEQA), CEQA Guidelines, and Administrative Code Chapter 31; and adopting**
9 **findings of consistency with the General Plan and City Planning Code Section 101.1.**

10
11 WHEREAS, The Transbay Transit Center Program (the Project) consists of, among
12 other things, a new Transit Center at the current site of the Transbay Terminal in the City and
13 County of San Francisco (the City); a temporary terminal on the block bounded by Main,
14 Beale, Folsom, and Howard Streets; reconstructed bus ramps from the Transit Center to the
15 San Francisco-Oakland Bay Bridge; an offsite bus storage/layover area under Interstate 80 on
16 the two blocks bounded by Perry, Stillman, 2nd, and 4th Streets; a Caltrain station near 4th
17 and Townsend Street; and the Transbay Redevelopment Plan; and

18 WHEREAS, The Project's primary objectives include connecting multiple modes of
19 transit; extending Caltrain and High Speed Rail into the new downtown Transit Center;
20 increasing transit use and reducing travel time; and creating a new transit-oriented
21 neighborhood around the Transit Center; and

22 WHEREAS, The Project will provide a critical transportation improvement, including a
23 modern regional transit hub connecting eight Bay Area counties and the State of California
24 through eleven transit systems; and

1 WHEREAS, California Government Code Sections 25350.5 and 37350.5 authorize the
2 City's Board of Supervisors (this Board) to acquire any property necessary to carry out any of
3 the powers or functions of the City by eminent domain; and

4 WHEREAS, The real property commonly known as 85 Natoma Street No. 9, San
5 Francisco, California (Assessor's Block 3721, Lot 117) (the Subject Property), which is more
6 particularly described in Exhibit A and shown in Exhibit B, is required for the construction of
7 the Project; and

8 WHEREAS, On April 22, 2004, the City's Planning Commission (the Commission)
9 certified in Motion No. 16773 that the Final Environmental Impact Statement/Environmental
10 Impact Report and Section 4(f) Evaluation (Final EIS/EIR) for the Project was in compliance
11 with CEQA, the CEQA Guidelines, and Chapter 31 of the City Administrative Code. The Final
12 EIS/EIR and Motion No. 16773 are on file with the Clerk of the Board of Supervisors in File
13 No. 040616 and are incorporated by reference; and

14 WHEREAS, On April 22, 2004, in Resolution No. 2004-11, the Peninsula Corridor Joint
15 Powers Board also certified the Final EIS/EIR and made findings similar to those of the
16 Commission with regard to CEQA and the CEQA guidelines. Resolution No. 2004-11 is on
17 file with the Clerk of the Board of Supervisors in File No. 040616 and is incorporated by
18 reference; and

19 WHEREAS, On April 20, 2004, in Resolution No. 45-2004, the San Francisco
20 Redevelopment Agency also certified the Final EIS/EIR and made findings similar to those of
21 the Commission with regard to CEQA and the CEQA guidelines. Resolution No. 45-2004 is
22 on file with the Clerk of the Board of Supervisors in File No. 040616 and is incorporated by
23 reference; and

24 WHEREAS, On April 22, 2004, the Board of Directors of the Transbay Joint Powers
25 Authority (TJPA), by Resolution No. 04-004, approved the components of the Project within its

1 jurisdiction and adopted CEQA Findings, including a Statement of Overriding Considerations
2 and a Mitigation Monitoring and Reporting Program. Resolution No. 04-004 is on file with the
3 Clerk of the Board of Supervisors in File No. 041079 and is incorporated by reference; and

4 WHEREAS, On June 15, 2004, this Board adopted Motion No. 04-67, in Board File No.
5 040629, affirming the Commission's decision to certify the Final EIS/EIR. Motion No. 04-67 is
6 on file with the Clerk of the Board of Supervisors in File No. 040629 and is incorporated by
7 reference; and

8 WHEREAS, The Board of Supervisors in Resolution No. 612-04, adopted
9 environmental findings in relation to the Transbay Terminal, Caltrain Downtown Extension,
10 and Transbay Redevelopment Plan. Copies of said Resolution and supporting materials are in
11 Clerk of the Board of Supervisors File No. 41079. The Board of Supervisors, in Ordinance
12 No. 124-05 as part of its adoption of the Transbay Redevelopment Plan, adopted additional
13 environmental findings. Copies of said Ordinance and supporting materials are in Clerk of the
14 Board of Supervisors File No. 50184. Said Resolution and Ordinance and supporting
15 materials are incorporated by reference herein for the purposes of this Resolution; and

16 WHEREAS, The Board of Directors of the TJPA have approved addenda to the Final
17 EIS/EIR as follows: Addendum No. 1 (Resolution No. 06-011) (June 2, 2006); Addendum No.
18 2 (Resolution No. 07-013) (April 19, 2007); Addendum No. 3 (Resolution No. 08-003)
19 (January 17, 2008); Addendum No. 4 (Resolution No. 08-039) (October 17, 2008); and
20 Addendum No. 5 (Resolution No. 09-019) (April 9, 2009) (collectively, Addenda). The
21 Addenda and adopting resolutions are on file with the Clerk of the Board of Supervisors in File
22 No. 101409 and are incorporated by reference; and

23 WHEREAS, The Final EIS/EIR files and other Project-related Planning Department
24 files are available for review by this Board and the public. The Planning Department files are
25

1 available at 1660 Mission Street. Those files are part of the record before this Board and are
2 incorporated by reference; and

3 WHEREAS, The City's Planning Department has found that the acquisition of the
4 Subject Property for the Project is consistent with the General Plan and the Eight Priority
5 Policies of the City Planning Code Section 101.1 to the extent applicable; and

6 WHEREAS, The City and TJPA staff obtained appraisals of the Subject Property in
7 compliance with California Government Code Section 7267 et seq. and all related statutory
8 procedures for possible acquisition of the Subject Property, and submitted a joint offer to the
9 Subject Property owner of record to purchase the Subject Property as required by California
10 Government Code Section 7267.2; and

11 WHEREAS, On October 14, 2010, the TJPA's Board of Directors adopted Resolution
12 No. 10-045, in which it found that (a) the public interest and necessity require the Project; (b)
13 the Project is planned to maximize the public good and minimize private injury; (c) the Subject
14 Property is necessary for the Project; (d) the City and the TJPA have made a sufficient offer of
15 purchase and complied with all procedural prerequisites to the exercise of eminent domain;
16 and (e) acquisition of the Subject Property for the Project will fulfill the mandates of various
17 State and City laws, including San Francisco Proposition H-Downtown Caltrain Station
18 (November 1999), San Francisco Proposition K-San Francisco Transportation Sales Tax
19 (November 2003), California Public Resources Code Section 5027.1(a), and California Streets
20 and Highways Code Sections 2704.04(b) and 30914(c), all of which concern reconstruction of
21 the new Transit Center on the site of the existing Transbay Terminal and the new Transit
22 Center's accommodation of a Caltrain extension and high speed passenger rail line; and

23 WHEREAS, In adopting Resolution No. 10-045, the TJPA Board of Directors
24 recommended that this Board adopt a Resolution of Necessity to condemn the Subject
25

1 Property and initiate eminent domain proceedings to acquire the Subject Property for the
2 Project; and

3 WHEREAS, In adopting Resolution No. 10-045, the TJPA Board of Directors also
4 found that in the event that the City elects to adopt a Resolution of Necessity and initiate
5 eminent domain proceedings to acquire the Subject Property, the TJPA will bear the costs of
6 litigating any eminent domain action, and will provide all compensation ordered by the court
7 for the condemned Subject Property; and

8 WHEREAS, This Board finds and determines that each person whose name and
9 address appears on the last equalized County Assessment Roll as an owner of the Subject
10 Property has been given notice and a reasonable opportunity to appear and be heard on this
11 date on the matter referred to in California Code of Civil Procedure Section 1240.030 in
12 accordance with California Code of Civil Procedure Section 1245.235; now, therefore, be it

13 RESOLVED, That this Board, having reviewed and considered the Final EIS/EIR and
14 Addenda, and the record as a whole, finds that the action taken herein is within the scope of
15 the Project and activities evaluated in the Final EIS/EIR and Addenda, that the Final EIS/EIR
16 and Addenda are adequate for use by this Board for the action taken herein, and adopt the
17 Addenda for purposes of the action taken herein; and, be it

18 FURTHER RESOLVED, That this Board finds that since the Final EIS/EIR and
19 Addenda were finalized, there have been no substantial Project changes and no substantial
20 changes in Project circumstances that would require major revisions to the Final EIS/EIR and
21 Addenda due to new significant environmental effects or an increase in the severity of
22 previously identified significant impacts, and there is no new information of substantial
23 importance that would change the conclusions set forth in the Final EIS/EIR and Addenda;
24 and, be it

1 FURTHER RESOLVED, That this Board hereby adopts as its own and incorporates by
2 reference herein, as though fully set forth, the findings of the Planning Department that the
3 acquisition of the Subject Property is consistent with the General Plan and the Eight Priority
4 Policies of City Planning Code Section 101.1; and, be it

5 FURTHER RESOLVED, That by at least a two-thirds vote of this Board under
6 California Code of Civil Procedure Sections 1240.030 and 1245.230, this Board finds and
7 determines each of the following:

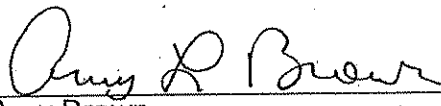
- 8 1. The public interest and necessity require the Project;
- 9 2. The Project is planned and located in the manner that will be most compatible with
10 the greatest public good and the least private injury;
- 11 3. The Subject Property is necessary for the Project;
- 12 4. The offer required by California Government Code Section 7267.2 has been made
13 to the owner of record of the Subject Property; and, be it

14 FURTHER RESOLVED, That the City Attorney is hereby authorized and directed to
15 take all steps necessary to commence and prosecute proceedings in eminent domain against
16 the owner of record of the Subject Property and the owner or owners of any and all interests
17 therein or claims thereto for the condemnation thereof for the Project, to the extent such
18 proceedings are necessary, and is authorized and directed to take any and all actions or
19 comply with any and all legal procedures to obtain an order for immediate or permanent
20 possession of the Subject Property, as described in Exhibit A and shown in Exhibit B, in
21 conformity with existing or amended law; and, be it

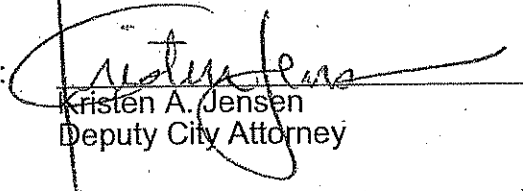
22 FURTHER RESOLVED, That this Board adopts as its own and incorporates by
23 reference herein, as though fully set forth, each of the findings made by the TJPA in adopting
24 Resolution No. 10-045 on October 14, 2010.
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RECOMMENDED:
REAL ESTATE DIVISION, GENERAL SERVICES AGENCY

By: 
Amy Brown
Director of Real Estate

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

By: 
Kristen A. Jensen
Deputy City Attorney

**EXHIBIT A
LEGAL DESCRIPTION**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

Condominium Unit No. 9, Lot No. 117, as shown upon the Condominium Map and diagrammatic floor plan entitled "Map of 85 Natoma Street A Live/Work Condominium Project" which was filed on December 18, 2000, in Book 66 of Condominium Maps, at Pages 18 to 22, inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California (referred to herein as "the Map"), and as further defined in the "Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership of 85 Natoma Street", recorded on April 9, 2001, in Book H862, Page 70 and following, Official Records of the City and County of San Francisco, State of California (referred to herein as "the Declaration").

Excepting therefrom, any portion of the common area lying within said Unit.

Also excepting therefrom:

- (a) Easements through said Unit, appurtenant to the Common Area and all other Units, for support and repair of the common area and all other units.
- (b) Easements, appurtenant to the common area for encroachment upon the air space of the Unit by those portions of the common area located within the Unit.

PARCEL B:

An undivided 23.40% interest in and to the Common Area as shown on the Map and defined in the Declaration, excepting therefrom the following:

- (a) Exclusive easements, other than those shown in Parcel "C" herein, as shown on the Map and reserved unto other units for use as defined in the Declaration; and
- (b) Non-exclusive easements appurtenant to all units for ingress and egress, support, repair and maintenance.

PARCEL C:

The following easements appurtenant to Parcel A above as set forth and defined in the Declaration:

- (a) The exclusive easement to use the Parking area designated as P-1 on the Map.
- (b) The exclusive easement to use the Deck area designated as D-9 and D-9A, on the Map.

PARCEL D:

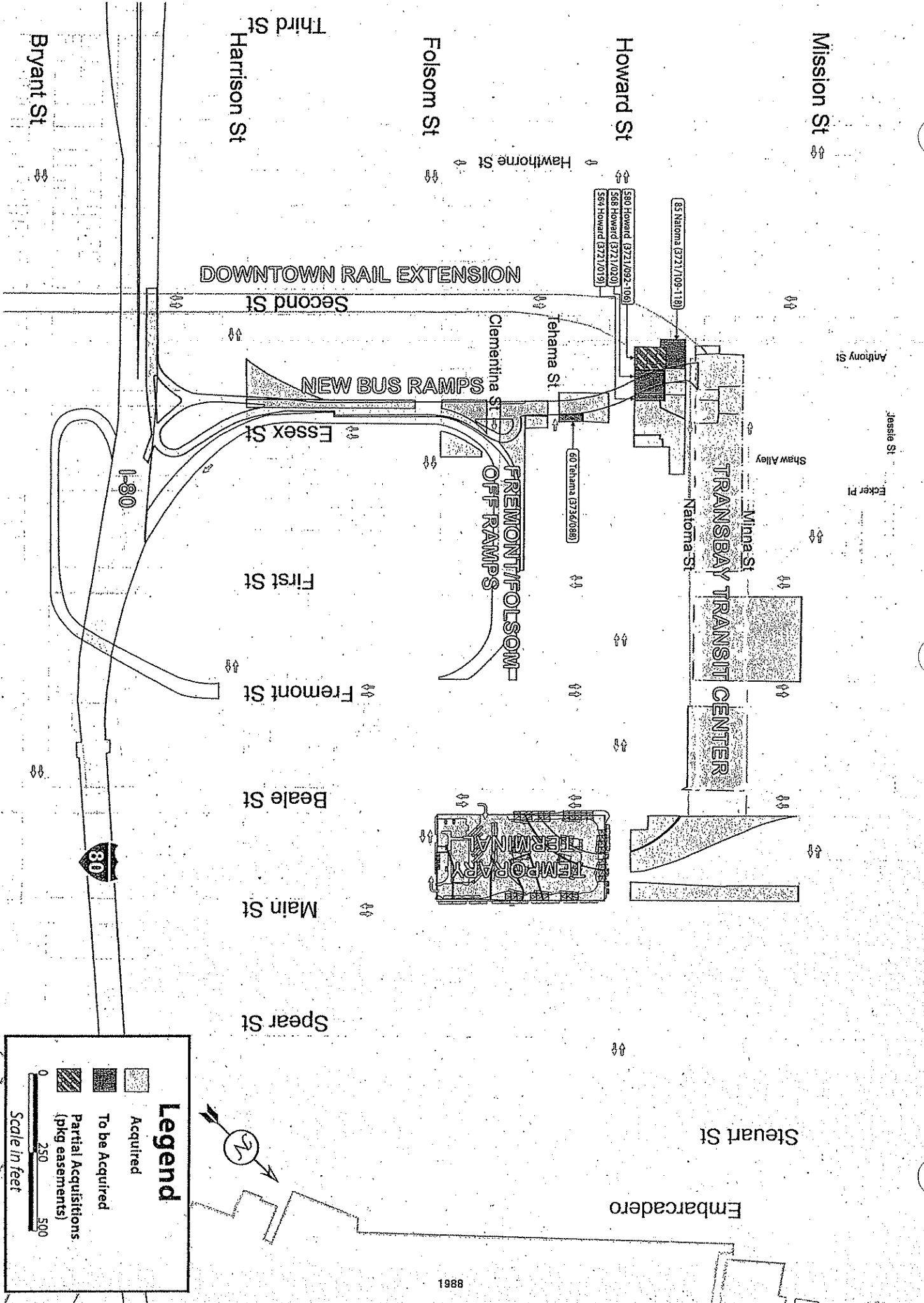
A non-exclusive easement appurtenant to Parcel A above for support, repair and maintenance, and for ingress and egress through the Common Area in accordance with California Civil Code Section 1361(a).

PARCEL E:




Encroachment easements appurtenant to the Unit in accordance with the provisions of the Declaration.

APN: Lot 117, Block 3721 (85 Natoma #9)

EXHIBIT B
MAP



Legend

-  Acquired
-  To be Acquired
-  Partial Acquisitions (pkg easements)

Scale in feet

0 250 500

Index of Documents in Administrative Record for Board File Nos. 101426 and 101427

85 Natoma Street #9, San Francisco (Block 3721, Lot 117)

Date	Document
Procedural	
10/14/10	TJPA Board of Directors Resolution No. 10-045
11/23/10	Letter from TJPA to San Francisco Board of Supervisors re: 85 Natoma #9
	Assessor's Master Sheet – 85 Natoma #9 (FY 2009-2010)
	TJPA Notices of Public Hearing to Acquire Various Real Properties by Eminent Domain for Transbay Transit Center Program – 85 Natoma #9
11/20/10	San Francisco Planning Department General Plan Consistency Determination – 85 Natoma #9
Offer Letter	
08/02/10	Offer to purchase 85 Natoma #9 – City and TJPA to Jeffrey G. Knowles <u>Enclosure 1: Appraisal</u> <u>Enclosure 2: Relocation Assistance Brochure</u> <u>Enclosure 3: Eminent Domain Brochure</u> <u>Enclosure 4: Agreement for Purchase and Sale of Real Estate</u>
Property Description	
05/20/09	Preliminary Title Report
	Legal Description and Map
	Map of 85 Natoma in relationship to Transbay Project
	Map of 85 Natoma in relationship to Transbay Project – aerial photo of train box
	Map of 85 Natoma in relationship to Transbay Project – overhead drawing of west end of train box
Correspondence	
03/15/06	Letter from Jeff Knowles to Shute, Mihaly & Weinberger (SMW)
03/17/06	Letter from SMW to Jeff Knowles
08/17/06	Letter from Jeff Knowles to SMW
10/26/06	Letter from Jeff Knowles to SMW
11/14/06	Letter from SMW to Jeff Knowles
02/21/07	Letter from Jeff Knowles to SMW
06/30/09	Letter from SMW to Jeff Knowles (enclosures omitted)
07/15/09	Email from/to SMW and Wendy Roess-DeCenzo
08/24/09	Letter from TJPA to Jeff Knowles (enclosures omitted)
10/15/09 – 10/20/09	Email from/to SMW, Patrick McNerney, and Kurt Biddle

Index of Documents in Administrative Record for Board File Nos. 101426 and 101427

85 Natoma Street #9, San Francisco (Block 3721, Lot 117)

Date	Document
09/23/10	Email from/to SMW and Patrick McNerney (enclosures omitted)
10/01/10	Email from/to SMW and Jeff Knowles
10/11/10 (misdated as 9/11/10)	Letter from SMW to Jeff Knowles
10/01/10 – 10/12/10	Email from/to SMW, Patrick McNerney, and Jeff Knowles (enclosures omitted)
10/01/10 – 10/18/10	Email from/to SMW and Jeff Knowles (enclosures omitted)
10/18/10	Letter from SMW to Jeff Knowles
Studies and Reports	
	Caltrans Highway Design Manual (excerpts)
	Cambridge Systematics – Caltrain Downtown Extension and Transbay Ridership Analysis
09/2007	TJPA Final Relocation Impact Study I
01/2010	TJPA Final Relocation Impact Study II
	TJPA Relocation Assistance Brochure - Business
	TJPA Relocation Assistance Brochure - Residential
NEPA/CEQA	
04/2004	Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project: Final Environmental Impact Statement/Environmental Impact Report and Section 4(f) Evaluation (Final EIS/EIR) <u>Volume I: Chapters 1-8; Appendices A-G</u> <u>Volume II: Responses to Public Comments on the Draft EIS/EIR</u> <u>Volume III: Written Public Comments and Public Hearing Transcripts on the Draft EIS/EIR</u>
04/22/04	TJPA Resolution No. 04-004
02/08/05	Federal Transit Administration: Record of Decision <u>Appendix A: Mitigation Monitoring and Reporting Program</u> <u>Appendix B: Memorandum of Agreement between the FTA and the California State Historic Preservation Officer</u>
05/25/06	Final EIS/EIR - First Addendum
04/19/07	Final EIS/EIR - Second Addendum
1/17/08	Final EIS/EIR - Third Addendum
10/03/05	Final EIS/EIR - Fourth Addendum
04/09/09	Final EIS/EIR - Fifth Addendum

Index of Documents in Administrative Record for Board File Nos. 101426 and 101427

85 Natoma Street #9, San Francisco (Block 3721, Lot 117)

Date	Document
05/2010	Federal Railroad Administration: Reevaluation Updating the Transbay Program 2004 Final EIS (exhibits omitted except where noted) <u>Exhibit 6(a)</u> : Federal Transit Authority internal memo re: Environmental Clearance for advance construction on "train box" portion of Transbay Transit Center <u>Exhibit 6(b)</u> : Federal Railroad Administration letter to TJPA re: California allocation of High Speed Rail grants <u>Exhibit 9(a)</u> : California High-Speed Rail Authority: Report to the Legislature <u>Exhibit 9(b)</u> : California High-Speed Rail Authority Briefing April 2010 Meeting Agenda Item #7 re: Transbay Transit Center Design/Trainbox
08/04/10	Federal Railroad Administration: Record of Decision <u>Appendix A</u> : Mitigation Monitoring and Reporting Program <u>Appendix B</u> : Memorandum of Agreement Between the FTA and the California State Historic Preservation Officer
Transbay Legislation	
	Cal. Public Resources Code Section 5027.1
	Cal. Streets & Highway Code Section 2704.04
	Cal. Streets & Highway Code Section 30914
04/04/01	TJPA Joint Powers Agreement
11/02/99	San Francisco Proposition H
11/02/03	San Francisco Proposition K
03/02/04	San Francisco Regional Measure 2
11/04/08	California Proposition A
09/19/02	Senate Bill 1856 (Costa)
07/22/03	Assembly Bill 812 (Yee)
10/08/03	Senate Bill 916 (Perata)
12/19/01	Metropolitan Transportation Commission Resolution No. 3434
01/02/01	San Francisco Board of Supervisor Resolution No. 13-01
02/12/01	San Francisco Board of Supervisor Resolution No. 104-01
06/04/01	San Francisco Board of Supervisor Resolution No. 455-01
10/15/01	San Francisco Board of Supervisor Resolution No. 804-01
07/08/03	San Francisco Board of Supervisor Resolution No. 441-03
06/15/04	San Francisco Board of Supervisor Resolution No. 04-067
09/28/04	San Francisco Board of Supervisor Resolution No. 612-04
06/21/05	San Francisco Board of Supervisor Resolution No. 124-05
06/21/05	San Francisco Board of Supervisor Resolution No. 125-05
02/07/06	San Francisco Board of Supervisor Resolution No. 78-06

Index of Documents in Administrative Record for Board File Nos. 101426 and 101427

85 Natoma Street #9, San Francisco (Block 3721, Lot 117)

Date	Document
05/09/06	San Francisco Board of Supervisor Resolution No. 94-06
05/09/06	San Francisco Board of Supervisor Resolution No. 95-06
05/09/06	San Francisco Board of Supervisor Resolution No. 99-06

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. 10-045

WHEREAS, The TJPA has determined that 60 Tehama Street, 564 Howard Street, 568 Howard Street, 8 condominium units in 85 Natoma Street, and easement interests held by the owner of 580 Howard in certain parking spaces and access in and through 85 Natoma in San Francisco (the "Properties") are required for the Transbay Transit Center Program; and

WHEREAS, The TJPA and the City and County of San Francisco ("City") made joint offers to the owners of the Properties to purchase each Property for its fair market value, in compliance with federal and state law, including California Government Code section 7267.2, as follows:

Property	Owner	Date of Offer	Amount of Offer
60 Tehama	Peter F. Byrne Revocable Trust	September 15, 2009	\$1,000,000
564 Howard	564 Howard Street, LLC	September 15, 2009	\$1,450,000
568 Howard	InvesMaster	September 15, 2009	\$6,200,000
85 Natoma #1	Patrick McNerney	August 2, 2010	\$1,230,000
85 Natoma #2	Steel Arc Properties, LLC	August 2, 2010	\$1,100,000
85 Natoma #3	Abbas A. Razaghi and the 2005 Heydayian/Nouri Family Trust	August 2, 2010	\$740,000
85 Natoma #4	Alyce Stanwood	August 2, 2010	\$780,000
85 Natoma #5	Terri Brown	September 15, 2009	\$1,250,000
85 Natoma #7	Abbas A. Razaghi and the 2005 Heydayian/Nouri Family Trust	August 2, 2010	\$765,000
85 Natoma #9	Wendy Roess-DeCenzo and Christopher John DeCenzo	August 2, 2010	\$2,850,000
85 Natoma #C1	Martin Properties, LLC	August 2, 2010	\$150,000
580 Howard -- easement interest in parking in and across 85 Natoma	580 Howard Historic Properties, LLC	August 2, 2010	9 indoor spaces at \$75,000 each 4 outdoor spaces at \$65,000 each

WHEREAS, The TJPA determined the fair market value for the Properties based on two independent appraisals of each Property and a review by a third-party appraiser; the TJPA obtained the Federal Transit Administration's (FTA) concurrence with the fair market value conclusion for each Property; and

WHEREAS, The Property owners have not accepted the TJPA's offers to purchase their respective Properties and the TJPA does not expect to reach a negotiated agreement for the purchase of these Properties; and

WHEREAS, The TJPA needs possession of the Properties in early 2011 to proceed with construction of the Transbay Program in a timely manner; and

WHEREAS, Acquisition of the Properties by eminent domain is authorized by law and falls within the scope of the City's authority to exercise eminent domain on the TJPA's behalf. The public interest and necessity require the Transbay Program, the project for which the Properties are to be taken. The Transbay Program is planned to maximize the public good and minimize private injury. The Properties are necessary for the Transbay Program. The City and the TJPA have made sufficient offers of purchase, and complied with all procedural prerequisites to the exercise of eminent domain; and

WHEREAS, The Final Environmental Impact Statement/Environmental Impact Report for the Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project (SCH. No. 95063004) (the "Final EIS/EIR"), certified in accordance with the provisions of the California Environmental Quality Act (Cal. Public Resources Code sections 21000 et seq.) and the State CEQA Guidelines (Cal. Code of Regulations Title 14, sections 15000 et seq.) and as subsequently amended, identifies the Properties as required for the Transbay Transit Center Program; and

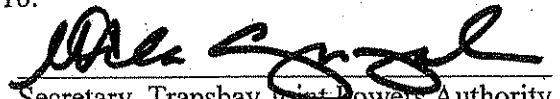
WHEREAS, The acquisition of the Properties for the Transbay Program will fulfill the mandates of various State and City laws, including San Francisco Proposition H-Downtown Caltrain Station (November 1999), San Francisco Proposition K-San Francisco Transportation Sales Tax (November 2002), California Public Resources Code Section 5027.1 (a), and California Streets and Highways Code Sections 2704.04 (b) and 30914 (c), all of which concern reconstruction of the new Transit Center on the site of the existing Transbay Terminal and the new Transit Center's accommodation of a Caltrain extension and high speed passenger rail line; now, therefore, be it

RESOLVED, That the TJPA recommends that the City Board of Supervisors adopt Resolutions of Necessity for the City to condemn on behalf of the TJPA the following properties, and initiate eminent domain proceedings to acquire the following properties for the Transbay Transit Center Program:

- 60 Tehama Street (Block 3736, Lot 88)
- 564 Howard Street (Block 3721, Lot 19)
- 568 Howard Street (Block 3721, Lot 20)
- 85 Natoma Street #1 (Block 3721, Lot 109)
- 85 Natoma Street #2 (Block 3721, Lot 110)
- 85 Natoma Street #3 (Block 3721, Lot 111)
- 85 Natoma Street #4 (Block 3721, Lot 112)
- 85 Natoma Street #5 (Block 3721, Lot 113)
- 85 Natoma Street #7 (Block 3721, Lot 115)
- 85 Natoma Street #9 (Block 3721, Lot 117)
- 85 Natoma Street #C1 (Block 3721, Lot 118)
- 9 easement interests in indoor parking spaces in and across the 85 Natoma garage
- 4 easement interests in outdoor parking spaces accessed across the 85 Natoma garage; and be it

FURTHER RESOLVED, In the event that the City elects to adopt the Resolutions of Necessity and initiate eminent domain proceedings to acquire the properties, the TJPA will bear the cost of litigating any eminent domain action, including compensation ordered by the court for the condemned property.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of October 14, 2010.


Secretary, Transbay Joint Powers Authority



TRANSBAY JOINT POWERS AUTHORITY

Maria Ayerdi-Kaplan • Executive Director

November 23, 2010

Board of Supervisors
City and County of San Francisco
Room 244, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Board File Nos. 101426 and 101427

Re: Urging the Board of Supervisors to Pass a Resolution of Necessity Authorizing the Acquisition of 85 Natoma Street #9, Assessor's Block 3721, Lot 117, by Eminent Domain for the Transbay Transit Center Program

Dear President Chiu and Honorable Members of the Board of Supervisors:

As you are aware, the Transbay Transit Center Program (Project) is a national model for transit-oriented development. The Project will combine transportation, housing, and other urban amenities to create a livable, revitalized neighborhood in downtown San Francisco. It will connect eleven transit systems under one roof, including future high-speed rail from Southern California; reduce traffic congestion; and lower carbon emissions. The Project also is a catalyst for economic expansion; it will create more than 125,000 direct, indirect, and induced jobs over the life of the Project, and the Transit Center will serve more than 100,000 transit riders each week day.

The City and County of San Francisco (City), Alameda-Contra Costa Transit Authority (AC Transit), the Peninsula Corridor Joint Powers Board (Caltrain), and the State of California Department of Transportation (Caltrans) (*ex-officio*) are the members of the Transbay Joint Powers Authority (TJPA). The TJPA is charged with the finance, design, development, construction, and operation of the Project, which has enjoyed the strong and continued support of the City and your Board. The TJPA recently received \$400 million in high-speed rail funds from the American Recovery and Reinvestment Act of 2009. This Project is one of the first high-speed rail projects to break ground in the nation.

The Project has three basic parts: a new multi-modal Transbay Transit Center on the site of the existing Transbay Terminal at First and Mission Streets, a tunnel extending Caltrain and California High-Speed Rail from the current railway terminus at Fourth and King Streets to the new Transit Center (DTX), and a Redevelopment Plan that will result in transit oriented development of the area around the Transit Center, including 2,600 new homes, 35 percent of which will be affordable.

With the City's cooperation, the TJPA has successfully acquired thirteen properties for the Project through voluntary purchase-sale agreements with private property owners over the past five years. The TJPA also acquired one property, 80 Natoma, through a negotiated agreement following the filing of an eminent domain action by the City.

As described in the March 2004 Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and subsequent addenda, the TJPA needs to acquire the property located at 85 Natoma Street #9, Assessor's Block 3721, Lot 117 (the Property) for the Project. A copy of the Final EIS/EIR and addenda are on file with the Clerk of the Board of Supervisors in File Nos. 101426 and 101427, as are maps showing the relationship of the Property to the Project.

The TJPA has adopted a Relocation Assistance Program and has explained to owners and occupants of the Property that this program will assist them with relocation to replacement locations. Copies of information regarding the Relocation Assistance Program are on file with the Clerk of the Board of Supervisors in File Nos. 101426 and 101427.

As described in detail below, the City and the TJPA have made a joint offer to purchase the Property for its fair market value. The owner has not accepted the TJPA's offer and the TJPA does not expect to reach a negotiated agreement for the purchase of this Property at this time. A copy of the offer to purchase is on file with the Clerk of the Board of Supervisors in File Nos. 101426 and 101427.

The TJPA needs possession of the Property in early 2011 to proceed with scheduled construction of the Project. Acquisition of the Property by eminent domain is authorized by law and falls within the scope of the City's authority to exercise eminent domain on the TJPA's behalf. The City and the TJPA have complied with all procedural prerequisites to the exercise of eminent domain. Accordingly, on October 14, 2010, the TJPA Board of Directors adopted Resolution No. 10-045, urging the San Francisco Board of Supervisors to pass a Resolution of Necessity and to authorize the use of eminent domain to acquire the Property for the Project. A copy of the TJPA resolution is on file with the Clerk of the Board of Supervisors in File Nos. 101426 and 101427.

As described in the TJPA's Resolution, in the event that the City elects to adopt a Resolution of Necessity and initiate eminent domain proceedings to acquire the Property, the TJPA will bear all legal fees and costs of litigating any eminent domain action, and will be responsible for all compensation ordered by the court for the condemned Property.

Use of Eminent Domain

The California Constitution requires a public agency taking private property for public use to pay just compensation to the property owner. Prior to exercising eminent domain, however, federal and state law require that the agency make reasonable efforts to negotiate a voluntary acquisition of the property. The agency must offer to purchase the property for its fair market value, as determined by an independent appraisal.

If the property owner declines the agency's offer to purchase, then the agency may initiate eminent domain proceedings by adopting a Resolution of Necessity for the property that includes:

- a statement of the public use for which the property is to be taken;
- a reference to the statute that authorizes it to acquire the property by eminent domain;
- a description of the property; and
- findings that:
 - the public interest and necessity require the project for which the property is to be taken,
 - the project is planned to maximize public good and minimize private injury,
 - the property is necessary for the project, and
 - the public entity has made an offer to purchase the property for its fair market value as determined by an appraisal.

After adopting the Resolution of Necessity, the agency may file a complaint in eminent domain in the superior court of the county where the property is located. If the agency deposits with the court the probable amount of compensation for the property, which is its fair market value, then the court may award the agency possession of the property within 120 days to allow the agency to start construction of the project on the property. A judge resolves any legal challenges to the agency's right to use eminent domain, and either a judge or a jury decides the question of "just compensation" based on evidence presented by both sides. The agency pays the just compensation amount, and the court awards the agency title to the property.

The Resolution of Necessity

As described above, the City must make certain findings regarding the Project and the necessity of the Property for the Project. The Property is critical to the development of the Project and its acquisition falls within the scope of the City's authority to exercise eminent domain. The City and the TJPA have complied with all procedural prerequisites to the exercise of eminent domain. Thus, the City can make the requisite findings as follows.

Finding #1: The public interest and necessity require the project for which the property is to be taken.

The Project will be a national model for transit-oriented development, combining public transit, housing, and other urban amenities to create a livable, revitalized neighborhood in downtown San Francisco. In particular, the Transit Center will connect eleven transit systems under one roof, including future high-speed rail from Southern California, thereby reducing traffic

congestion and lowering emissions of carbon dioxide and other pollutants. The Project also will serve as a catalyst for economic expansion as it will create more than 125,000 direct, indirect, and induced jobs over the life of the Project; build 2,600 new homes; and serve more than 100,000 transit riders each week day.

The new Transit Center will be built on the current site of the Transbay Terminal in downtown San Francisco. The current Transbay Terminal was constructed in 1939 to facilitate rail travel across the San Francisco-Oakland Bay Bridge. Following World War II, the lower deck of the Bay Bridge was converted to automobile traffic and the Transbay Terminal became a bus only facility. As part of the Program, and because it was not seismically sound and could not meet current or future transportation needs of the region or the State, the bus terminal is currently under demolition. The new Transit Center will be a one million square foot regional transportation hub. The new bus ramp will provide safe and efficient access between the Transit Center, the Bay Bridge, and a new offsite bus storage facility. The Transit Center will feature a 5.4-acre public park on its roof and will include ground floor retail on Natoma and Minna streets, public art, and a public plaza/park for the benefit of the surrounding neighborhood.

The DTX will bring the Caltrain rail line underground into the heart of San Francisco, taking drivers off the road, eliminating many tons of carbon dioxide each year, and connecting San Francisco to the rest of California via the future California High Speed Rail. Extending Caltrain into the central business district will save commuters almost an hour a day in travel time, particularly those travelling to and from the Peninsula, approximately 33,000 of whom will use the Transit Center each weekday. The DTX is also designed to accommodate high speed rail and rail connections to the East Bay, making the new Transit Center the Northern California terminus for high speed rail. By connecting all major cities in California with a state-of-the-art transportation system, high-speed trains will increase mobility while reducing air pollution and greenhouse gas emissions.

This improved connectivity and design are particularly important because use of public transit is expected to increase dramatically over the next twenty years. By 2030, AC Transit ridership will increase by 140 percent without the new Transit Center, and by even more in response to the improved facility. During the same time period, Caltrain ridership is projected to increase by over 90 percent if its terminal remains at 4th and King Streets, and by almost 150 percent once the DTX brings riders to the downtown Transit Center. The outdated Transbay Terminal could not serve existing ridership adequately and clearly lacked capacity for such increases.

By improving the efficiency and connectivity of public transit, the Project also will reduce use of automobiles and resulting vehicle miles travelled. This, in turn, will save commuters both traffic delays and the cost of operating and maintaining their vehicles. It also will reduce accidents and emissions of greenhouse gases and other pollutants. Economists have estimated that these changes represent hundreds of millions of dollars of direct benefits to travelers, including both transit riders who enjoy more efficient service and drivers who enjoy less crowded roads. Overall, the Project offers enormous benefits to the local and regional economies.

The Project also will fulfill the mandates of various local and state laws. These include San Francisco Proposition H, passed in November 1999, which directs the City to extend Caltrain from the current station to the Transit Center, and San Francisco Proposition K, passed in November 2003, which directs the City to expend transportation sales tax funds in part on the

DTX. The Project also complies with California Public Resources Code Section 5027.1(a) and California Streets and Highways Code Sections 2704.04(b) and 30914(c), all of which endorse reconstruction of the new Transit Center on the site of the existing Transbay Terminal and the new Transit Center's accommodation of a Caltrain extension and high speed passenger rail line. Copies of the referenced legislation are on file with the Clerk of the Board in File Nos. 101426 and 101427.

In Motion No. 16773, the City's Planning Commission adopted findings certifying the Project's Final EIS/EIR and recognized that the Project is necessary and beneficial to the public for improvement of regional transit services and replacement of the existing, seismically inadequate Terminal. In Motion No. 04-067, the Board of Supervisors adopted the Planning Commission's findings. In Resolution No. 612-04, the Board of Supervisors adopted environmental findings in relation to the Project. In Ordinance No. 124-05, the Board of Supervisors adopted additional environmental findings as part of its adoption of the Transbay Redevelopment Plan. On November 20, 2010, the Planning Department issued a determination that acquisition of the Property for the Project is consistent with the General Plan and Eight Priority Policies. Copies of the referenced legislation and letter are on file with the Clerk of the Board in File Nos. 101426 and 101427.

The inadequacy of the old Transbay Terminal and the substantial benefits offered by the Project make clear that the public interest and necessity require the Project.

Finding #2: The project is planned to maximize public good and minimize private injury.

The Project has undergone years of intense planning. It is designed to promote mass transit ridership, optimize connectivity with other transit projects such as California High Speed Rail, enhance redevelopment opportunities, and generate thousands of jobs in San Francisco and statewide. To foster ridership and connectivity, the TJPA has coordinated its planning and design efforts with public transportation providers such as San Francisco Muni, Bay Area Regional Transit (BART), AC Transit, Caltrain, Amtrak, California High Speed Rail, Golden Gate Transit, SamTrans, Greyhound, WestCAT Lynx, and paratransit. The TJPA also has cooperated in the planning efforts of the City Planning Department and the San Francisco Redevelopment Agency to facilitate redevelopment of the Transbay Neighborhood and to ensure that the Project results in transit-oriented development.

To build a new state-of-the-art Transit Center that can accommodate the needs of these diverse transit providers under a single roof, the TJPA must acquire several private properties. To minimize displacement of businesses and residents, the TJPA has scrutinized Project alternatives and selected the Project design and alignment that achieves the goals of safety, efficiency, and convenience, while minimizing cost and the need to acquire right of way. The Final EIS/EIR and its addenda describe alternatives that the TJPA considered and rejected as inferior to the approved plan and design.

As set forth in Board of Supervisors Resolution No. 612-04, which authorized the acquisition of property located at 80 Natoma Street by eminent domain, the Project is also planned to minimize private injury through mitigation measures that protect affected property owners and residents. A copy of the resolution is on file with the Clerk of the Board in File Nos. 101426 and 101427, and File No. 41079. The Final EIS/EIR and its addenda describe these measures, which include

B07005

Real Property Master

Displayed: 11/05/2010

Read Only	Block	Lot	Roll	2010	RollCde	S	Secured		
'ol 25 APN	3721	117	Year	2010	EvtDate	8/27/2002	Seq	001	VSC ENR 50
Location	85 NATOMA ST #9		Typ	REG O	REG ROLL	Date	6/30/2010		
Owner	ROESS-MCNERNEY WENDY			Bill Num		Res#	A0176		
Care Of				Not.Date		Next			
Address	70 LINDEN AVE			TransCde	SD	Sale - Direct	Enrollm		
CtyStZip	ATHERTON	CA	94027	Date	2/26/2002	2002H114623			
Status Cde	* Taxable			Exl Date	8/27/2002				
Use Code	SRES Single Family Residential			NewConst					
Class Code	LZ Live/Work Condominium			NC Date		Apl#			
Nbrhd Code	09-B Financial District South			TempCode					
CPI Factor	2370% TRA 1-016			TempDate					
Tax Rate	1.1640 Acct #			Appr Id	222	4/28/2006			
Last Sale	SD 2/26/2002		1,269,500	506 Int	480	Penalty	0		
Base Years	2003			Land	148,774	Improvmnt	1,739,586	Total L&I	1,888,360
Temp Land	0	Temp Impr	0	Temp Land	0	Temp Impr	0	Total Temp	0
Pers Prop	0	Fixtures	0	Pers Prop	0	Fixtures	0	Exemptions	0
Remarks	SEE NOTES			Remarks	0	Taxable	1,888,360		

F1=Hlp F2=Mnu F3=Ext/Sav F4=Vw F6=Prpgt F9=Chrs F12=Cncl F22=CanAsmt F24=Dup

Sent via US Mail on November 22, 2010:

Wendy Roess-DeCenzo and Christopher John DeCenzo
70 Linden Ave.
Atherton, CA 94027

Jeffrey G. Knowles
Coblentz, Patch, Duffy & Bass LLP
One Ferry Building, Suite 200
San Francisco, CA 94111-4213

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT, in accordance with Section 1245.235 of the Code of Civil Procedure, the Board of Supervisors of the City and County of San Francisco, as a Committee of the Whole, will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Tuesday, December 7, 2010

Time: 3:00 p.m.

Location: Legislative Chamber, Room 250 located at City Hall, 1 Dr. Carlton B. Goodlett, Place, San Francisco, CA

Subject: Public Hearing on Adopting Resolution to Acquire Real Property by Eminent Domain: authorize acquisition of real property commonly known as 85 Natoma Street #9, San Francisco, California (Assessor's Parcel No. Block 3721, Lot 117) by eminent domain for the public purpose of constructing the Transbay Transit Center Program.

Said public hearing will be held to make findings of whether the public interest and necessity require the City and County of San Francisco to acquire, by eminent domain, the following real property on behalf of the Transbay Joint Powers Authority (TJPA): fee ownership of the real property commonly known as 85 Natoma Street #9, San Francisco, California (Assessor's Parcel No. Block 3721, Lot 117) (Property), by eminent domain, for the public purpose of constructing the Transbay Transit Center Program (Project); adopting environmental findings under the California Environmental Quality Act (CEQA), CEQA Guidelines, and Administrative Code Chapter 31; and adopting findings of consistency with the General Plan and City Planning Code Section 101.1. A description of the Property is set forth in **Schedule 1**, available in the official file for review in the Office of the Clerk of the Board.

The purpose of said hearing is to hear all persons interested in the matter. You have a right to appear and be heard on the matters referred to in California Code of Civil Procedure Section 1240.030, including, but not limited to, whether: (1) the public interest and necessity require the Project; (2) the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) the Property sought to be acquired is necessary for the Project; and (4) the City and the TJPA have made the offer required by California Government Code §7267.2 to the owner(s) of record of the Property.

Owners of the property who have been notified of such public hearing and who, within fifteen (15) days after the mailing of such notice, have filed a written request to do so, may appear and be heard at the public hearing. The Board, at its discretion, need not give an opportunity to any other person to appear and be heard.

The procedure of the Board requires that the finding of public interest and necessity be made by a two-thirds vote of all its members.

At the close of the public hearing, a vote will be made on a resolution entitled **“Resolution authorizing the acquisition of real property commonly known as 85 Natoma Street #9, San Francisco, California (Assessor’s Parcel No. Block 3721, Lot 117) by eminent domain for the public purpose of constructing the Transbay Transit Center Program; adopting environmental findings under the California Environmental Quality Act (CEQA), CEQA Guidelines, and Administrative Code Chapter 31; and adopting findings of consistency with the General Plan and City Planning Code Section 101.1.”**

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on these matters may submit written comments prior to the time the hearing begins. These comments will be made part of the official public record in these matters and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA, 94012.

Information relating to this matter is available in the Office of the Clerk of the Board and agenda information relating to this matter will be available for public review on Thursday December 2, 2010.

SCHEDULE 1

Legal description for the fee simple interest in real property commonly known as 85 Natoma Street #9, San Francisco, California (Assessor's Parcel No. Block 3721, Lot 117)

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

Condominium Unit No. 9, Lot No. 117, as shown upon the Condominium Map and diagrammatic floor plan entitled "Map of 85 Natoma Street A Live/Work Condominium Project" which was filed on December 18, 2000, in Book 66 of Condominium Maps, at Pages 18 to 22, inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California (referred to herein as "the Map"), and as further defined in the "Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership of 85 Natoma Street", recorded on April 9, 2001, in Book H862, Page 70 and following, Official Records of the City and County of San Francisco, State of California (referred to herein as "the Declaration").

Excepting therefrom, any portion of the common area lying within said Unit.

Also excepting therefrom:

- (a) Easements through said Unit, appurtenant to the Common Area and all other Units; for support and repair of the common area and all other units.
- (b) Easements, appurtenant to the common area for encroachment upon the air space of the Unit by those portions of the common area located within the Unit.

PARCEL B:

An undivided 23.40% interest in and to the Common Area as shown on the Map and defined in the Declaration, excepting therefrom the following:

- (a) Exclusive easements, other than those shown in Parcel "C" herein, as shown on the Map and reserved unto other units for use as defined in the Declaration; and
- (b) Non-exclusive easements appurtenant to all units for ingress and egress, support, repair and maintenance.

PARCEL C:

The following easements appurtenant to Parcel A above as set forth and defined in the Declaration:

- (a) The exclusive easement to use the Parking area designated as P-1 on the Map.
- (b) The exclusive easement to use the Deck area designated as D-9 and D-9A, on the Map.

PARCEL D:

A non-exclusive easement appurtenant to Parcel A above for support, repair and maintenance, and for ingress and egress through the Common Area in accordance with California Civil Code Section 1361(a).

PARCEL E:

Encroachment easements appurtenant to the Unit in accordance with the provisions of the Declaration.

APN: Lot 117, Block 3721 (85 Natoma #9)

Sent via US Mail on November 19, 2010:

Altamar Brands, LLC
85 Natoma #9
San Francisco, CA 94105

Altamar Brands, LLC
c/o Kevin Sachs
2101 East Coast Highway #250
Corona Del Mar, CA 92625

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Said public hearing will be held to make findings of whether the public interest and necessity require the City and County of San Francisco to acquire, by eminent domain, the following real property on behalf of the Transbay Joint Powers Authority (TJPA): fee ownership of the real property commonly known as 85 Natoma Street #9, San Francisco, California (Assessor's Parcel No. Block 3721, Lot 117) (Property), by eminent domain, for the public purpose of constructing the Transbay Transit Center Program (Project); adopting environmental findings under the California Environmental Quality Act (CEQA), CEQA Guidelines, and Administrative Code Chapter 31; and adopting findings of consistency with the General Plan and City Planning Code Section 101.1. A description of the Property is set forth in **Schedule 1**, available in the official file for review in the Office of the Clerk of the Board.

The purpose of said hearing is to hear all persons interested in the matter. You have a right to appear and be heard on the matters referred to in California Code of Civil Procedure Section 1240.030, including, but not limited to, whether: (1) the public interest and necessity require the Project; (2) the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) the Property sought to be acquired is necessary for the Project; and (4) the City and the TJPA have made the offer required by California Government Code §7267.2 to the owner(s) of record of the Property.

Owners of the property who have been notified of such public hearing and who, within fifteen (15) days after the mailing of such notice, have filed a written request to do so, may appear and be heard at the public hearing. The Board, at its discretion, need not give an opportunity to any other person to appear and be heard.

The procedure of the Board requires that the finding of public interest and necessity be made by a two-thirds vote of all its members.

At the close of the public hearing, a vote will be made on a resolution entitled **“Resolution authorizing the acquisition of real property commonly known as 85 Natoma Street #9, San Francisco, California (Assessor’s Parcel No. Block 3721, Lot 117) by eminent domain for the public purpose of constructing the Transbay Transit Center Program; adopting environmental findings under the California Environmental Quality Act (CEQA), CEQA Guidelines, and Administrative Code Chapter 31; and adopting findings of consistency with the General Plan and City Planning Code Section 101.1.”**

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on these matters may submit written comments prior to the time the hearing begins. These comments will be made part of the official public record in these matters and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA, 94012.

Information relating to this matter is available in the Office of the Clerk of the Board and agenda information relating to this matter will be available for public review on Thursday December 2, 2010.

SCHEDULE 1

Legal description for the fee simple interest in real property commonly known as 85 Natoma Street #9, San Francisco, California (Assessor's Parcel No. Block 3721, Lot 117)

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

Condominium Unit No. 9, Lot No. 117, as shown upon the Condominium Map and diagrammatic floor plan entitled "Map of 85 Natoma Street A Live/Work Condominium Project" which was filed on December 18, 2000, in Book 66 of Condominium Maps, at Pages 18 to 22, inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California (referred to herein as "the Map"), and as further defined in the "Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership of 85 Natoma Street", recorded on April 9, 2001, in Book H862, Page 70 and following, Official Records of the City and County of San Francisco, State of California (referred to herein as "the Declaration").

Excepting therefrom, any portion of the common area lying within said Unit.

Also excepting therefrom:

- (a) Easements through said Unit, appurtenant to the Common Area and all other Units, for support and repair of the common area and all other units.
- (b) Easements, appurtenant to the common area for encroachment upon the air space of the Unit by those portions of the common area located within the Unit.

PARCEL B:

An undivided 23.40% interest in and to the Common Area as shown on the Map and defined in the Declaration, excepting therefrom the following:

- (a) Exclusive easements, other than those shown in Parcel "C" herein, as shown on the Map and reserved unto other units for use as defined in the Declaration; and
- (b) Non-exclusive easements appurtenant to all units for ingress and egress, support, repair and maintenance.

PARCEL C:

The following easements appurtenant to Parcel A above as set forth and defined in the Declaration:

- (a) The exclusive easement to use the Parking area designated as P-1 on the Map.
- (b) The exclusive easement to use the Deck area designated as D-9 and D-9A, on the Map.

PARCEL D:

A non-exclusive easement appurtenant to Parcel A above for support, repair and maintenance, and for ingress and egress through the Common Area in accordance with California Civil Code Section 1361(a).

PARCEL E:

Encroachment easements appurtenant to the Unit in accordance with the provisions of the Declaration.

APN: Lot 117, Block 3721 (85 Natoma #9)



Amy L. Brown
Director of Real Estate



August 2, 2010

Via Certified Mail

Jeffrey G. Knowles
Coblentz, Patch, Duffy & Bass LLP
One Ferry Building, Suite 200
San Francisco, CA 94111-4213

Re: 85 Natoma Street #9 (Block 3721, Lot 117): Offer to Purchase

Dear Mr. Knowles:

This letter constitutes a joint offer by the City and County of San Francisco ("City") and the Transbay Joint Powers Authority (TJPA) to purchase 85 Natoma Street #9 (Block 3721, Lot 117) (the "Property") from your clients, Wendy Roess-DeCenzo and Christopher DeCenzo, for Two Million Eight Hundred Fifty Thousand Dollars (\$2,850,000) for the unencumbered fee simple interest in the Property.

The amount of the offer is the fair market value of the Property, as reflected in the attached Appraisal. The City's and the TJPA's joint offer is the full amount of the Appraisal. Also attached is a proposed Agreement for Purchase and Sale of Real Estate, containing the terms of the proposed purchase of the Property.

The TJPA must seek an additional source of funds for the acquisition of the Property from its funding partner, the San Mateo County Transportation Authority (SMCTA). Thus, the offer is contingent on the TJPA receiving funding from SMCTA.

As the owner of property acquired by a public agency, Ms. Roess-DeCenzo and Mr. DeCenzo may be entitled to relocation assistance. The attached Relocation Assistance Brochure should answer most questions concerning relocation assistance.

We also attach an information pamphlet detailing the process of eminent domain and your rights under the Eminent Domain Law.

Under Code of Civil Procedure Section 1263.025, should the property owner elect to obtain an independent appraisal, the TJPA will pay for the actual reasonable costs of the appraisal up to \$5,000, subject to the following conditions:

I:\Managers\Admin\U\85 Natoma #9.doc

(a) The property owner, not the City or the TIPA, must order the appraisal. Should the property owner enter a contract with the selected appraiser, the City and the TIPA will not be parties to the contract.

(b) The selected appraiser must be a Certified General Appraiser with experience in appraising property in eminent domain actions, and licensed by the California Office of Real Estate Appraisers (OREA).

(c) Appraisal cost reimbursement requests must be made in writing and submitted to the TIPA. The property owner must provide a copy of the invoice for all work completed by the appraiser.

We look forward to working with you to arrive at a mutually satisfactory agreement. Please contact the TIPA's legal counsel, Deborah (Keeth) Miller at 415-552-7272, at your earliest convenience to discuss this offer.

Very truly yours,



TRANSBAY JOINT POWERS AUTHORITY



Robert Beck, PE, Senior Program Manager

Date: 8/2/10

CITY AND COUNTY OF SAN FRANCISCO,
DEPARTMENT OF REAL ESTATE


 _____
Amy L. Brown, Director of Real Estate
Real Estate Division, General Services Agency

Date: 8/2/10

Enclosures

- (1) Appraisal
- (1) Relocation Assistance Brochure
- (1) Eminent Domain Brochure
- (1) Agreement for Purchase and Sale of Real Estate

cc (w/o encls): Maria Ayerdi-Kaplan
Kristen Jensen
Deborah Keeth



CHICAGO TITLE COMPANY

PRELIMINARY REPORT

*In response to the application for a policy of title insurance referenced herein, **Chicago Title Company** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.*

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in Attachment One. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the Policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The Policy(s) of title insurance to be issued hereunder will be policy(s) of Chicago Title Insurance Company, a Nebraska corporation.

Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.



Chicago Title Company

BY

[Signature] President

ATTEST

[Signature] Secretary



Chicago Title Company

ISSUING OFFICE: 2150 John Glenn Drive, Suite 300 • Concord, CA 94520
925 288-8000 • FAX 925 288-6415

PRELIMINARY REPORT

Amended

Title Officer: Meg Heppell

Title No.: 05-**36901759**-B-MH

Locate No.: CACTI7738-7738-2369-0036901759

TO: Chicago Title Company-San Francisco
388 Market Street, Suite 1300
San Francisco, CA 94111

ATTN: Sue Trowbridge
YOUR REFERENCE: 160251226/Transbay

SHORT TERM RATE: Yes

PROPERTY ADDRESS: 85 Natoma Street #9, San Francisco, California

EFFECTIVE DATE: May 20, 2009, 07:30 A.M.

The form of Policy or Policies of title insurance contemplated by this report is:

ALTA Owner's Policy (10/17/92)

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A CONDOMINIUM, as defined in Sections 783 & 1351(f) of the California Civil Code, in fee

2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

Wendy Roess-Decenzo and Christopher John Decenzo, wife and husband, as joint tenants

3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

PA\PA 11/30/2005

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

Condominium Unit No. 9, Lot No. 117, as shown upon the Condominium Map and diagrammatic floor plan entitled "Map of 85 Natoma Street A Live/Work Condominium Project" which was filed on December 18, 2000, in Book 66 of Condominium Maps, at Pages 18 to 22, inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California (referred to herein as "the Map"), and as further defined in the "Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership of 85 Natoma Street", recorded on April 9, 2001, in Book H862, Page 70 and following, Official Records of the City and County of San Francisco, State of California (referred to herein as "the Declaration").

Excepting therefrom, any portion of the common area lying within said Unit.

Also excepting therefrom:

(a) Easements through said Unit, appurtenant to the Common Area and all other Units, for support and repair of the common area and all other units.

(b) Easements, appurtenant to the common area for encroachment upon the air space of the Unit by those portions of the common area located within the Unit.

PARCEL B:

An undivided 23.40% interest in and to the Common Area as shown on the Map and defined in the Declaration, excepting therefrom the following:

(a) Exclusive easements, other than those shown in Parcel "C" herein, as shown on the Map and reserved unto other units for use as defined in the Declaration; and

(b) Non-exclusive easements appurtenant to all units for ingress and egress, support, repair and maintenance.

PARCEL C:

The following easements appurtenant to Parcel A above as set forth and defined in the Declaration:

(a) The exclusive easement to use the Parking area designated as P-1 on the Map.

(b) The exclusive easement to use the Deck area designated as D-9 and D-9A, on the Map.

PARCEL D:

A non-exclusive easement appurtenant to Parcel A above for support, repair and maintenance, and for ingress and egress through the Common Area in accordance with California Civil Code Section 1361(a).

PARCEL E:

Encroachment easements appurtenant to the Unit in accordance with the provisions of the Declaration.

APN: Lot 117, Block 3721

AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

1. **Property taxes**, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2009-2010.
2. **The herein described property** lies within the boundaries of a Mello-Roos Community Facilities District ("CFD"), as follows:

CFD No: 90-1
For: School Facility Repair and Maintenance
Disclosed by: Notice of Special Tax Lien recorded July 5, 1990 in Book F160, Page 1044 and by Supplemental Notice of Special Tax Lien recorded July 11, 1990, in Book F165, Page 1 et. seq., Official Records of the City and County of San Francisco

This property, along with all other parcels in the CFD, is liable for an annual special tax. This special tax is included with and payable with the general property taxes of the City and County of San Francisco. The tax may not be prepaid.

Further information may be obtained by contacting:

San Francisco Unified School District
Office of the Superintendent for Business
135 Van Ness Ave.
San Francisco, CA 94102
Phone (415) 241-6024

3. **The lien of supplemental taxes**, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation code of the State of California.
4. **Notice of Special Restrictions** under the City Planning Code of the City and County of San Francisco upon the terms and conditions contained therein

Recorded: October 8, 1998, Instrument No. 98-G447785-00, Reel H237, Image 624, of Official Records

Reference is made to said document for full particulars.

5. **Matters** contained in that certain document entitled "Property Line Window Agreement" dated October 8, 1998, executed by Martin Properties, LLC recorded October 8, 1998, Instrument No. 98-G447787-00, Reel H237, Image 626, of Official Records, which document, among other things, contains or provides for: "As the owner(s) of 85 Natoma Street (Assessor's Block 3721, Lot 90) I(we) hereby state that the proposed openings along the northeast property line will be protected of closed with approved windows or wall construction in the event that the adjoining property is improved in such a manner that the openings no longer comply with Sec. 504(d) of the San Francisco Building Code".

Reference is hereby made to said document for full particulars.

- 6. **Matters** contained in that certain document entitled "Easement Agreement" dated October 25, 2000, executed by and between Martin Properties, LLC and 580 Howard Street Owners Association recorded November 6, 2000, Instrument No. 2000-G860199-00, Reel H758, Image 426, of Official Records, which document, among other things, contains or provides for: terms and conditions for the use of a portion of the common area by the residents of 580 Howard Street for ingress, egress and parking.

Reference is hereby made to said document for full particulars.

- 7. **Recitals** as shown on that certain map filed December 18, 2000, Book 66 of Condominium Maps, Page 18 to 22, inclusive.

Reference is made to said map for full particulars.

- 8. **An encroachment** of the improvements, situated on said land into or onto Natoma Street, as disclosed by the Map.

- 9. **The matters** set forth in the document shown below which, among other things, contains or provides for: certain easements; liens and the subordination thereof; provisions relating to partition; restrictions on severability of component parts; and covenants, conditions and restrictions (deleting therefrom any restrictions indicating any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin).

Entitled: Declaration of Covenants, Conditions and Restrictions Establishing a Plan for Condominium Ownership of 85 Natoma Street
 Recorded: April 9, 2001, Instrument No. 2001-G928081-00, Reel H862, Image 70, of Official Records

Said covenants, conditions and restrictions provide that a violation thereof shall not defeat the lien of a first mortgage or first deed of trust made in good faith and for value.

- 10. **Liens and charges** for upkeep and maintenance as set forth in the above mentioned declaration, payable to 85 Natoma Street Owners Association.

- 11. **A deed of trust** to secure an indebtedness in the amount shown below, and any other obligations secured thereby

Amount: \$2,553,000.00
 Dated: February 12, 2004
 Trustor: Wendy Roess-Decenzo and Christopher John Decenzo
 Trustee: PRLAP, Inc.
 Beneficiary: Bank of America, N.A.
 Address: 9000 Southside Blvd., Bldg. 700, File Receipt Dept.
 Jacksonville, FL 32256
 Loan No.: 6590073034
 Recorded: February 20, 2004, Instrument No. 2004-H660977-00, Reel I578, Image 103, of Official Records

- 12.** **The fact** that said land is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document.

Redevelopment Agency: Transbay Redevelopment Project Area
Recorded: August 4, 2006, Instrument No. 2006-I224836, Book J197, Page 575, of Official Records

- 13.** **Covenants, conditions and restrictions** in the declaration of restrictions but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

Recorded: August 4, 2006, Instrument No. 2006-I224836, Book J197, Page 575, of Official Records

- 14.** **This Company will require** an Owner's Affidavit to be completed by the party(ies) named below before any title assurance requested under this application will be issued.

Party(ies): Wendy Roess-Decenzo and Christopher John Decenzo,

The Company reserves the right to add additional items or make further requirements after review of the requested Affidavit.

BC/pka 11/29/05
Meg Update 6/1/2007
Meg Update 6/1/2009

END OF ITEMS

- Note 1.** The name(s) of the buyer(s) furnished with this application for Title Insurance is/are:

Transbay Joint Powers Authority

If these names are incorrect, incomplete or misspelled, please notify the Company.

Note 2. Property taxes for the fiscal year shown below are PAID. For proration purposes the amounts are:

Tax Identification No.:	Lot 117, Block 3721
Fiscal Year:	2008 - 2009
1st Installment:	\$10,865.49
2nd Installment:	\$10,865.49
Exemption:	\$7,000.00
Land:	\$146,205.00
Improvements:	\$1,709,531.00
Personal Property:	\$0.00

Note 3. The Company is not aware of any matters which would cause it to decline to attach the CLTA Endorsement Form 116.2 indicating that the land includes a condominium designated as Unit No. 9 and known as 85 Natoma Street, San Francisco, California to an Extended Coverage Policy.

Note 4. The only deeds affecting said land, which recorded within twenty-four (24) months of the date of this report, as are follows:

Grantor:	Wendy Roess-Decenzo, who acquired title as Wendy Roess-McNerney and Christopher John Decenzo
Grantee:	Wendy Roess-Decenzo and Christopher John Decenzo, wife and husband, as joint tenants
Recorded:	February 20, 2004, Instrument No. 2004-H660976-00, Reel I578, Image 102, of Official Records

Note 5. Effective December 19, 2008 consider City of San Francisco Transfer Tax
 \$100 to \$250,000 at \$2.50 per \$500 (\$5.00 per thousand)
 \$250,000 to \$1,000,000 at \$3.40 per \$500 (\$6.80 per thousand)
 \$1,000,000 or more but less than or Equal to \$5,000,000 at \$3.75 per \$500 (\$7.50 per thousand)
 More than \$5,000,000 at \$7.50 per \$500 (\$15.00 per thousand)

NOTE: These rates are for documents recorded on or after December 19, 2008, regardless of when the instrument was executed.

Note 6. The current owner does NOT qualify for the \$20.00 discount pursuant to the coordinated stipulated judgments entered in actions filed by both the Attorney General and private class action plaintiffs for the herein described property.

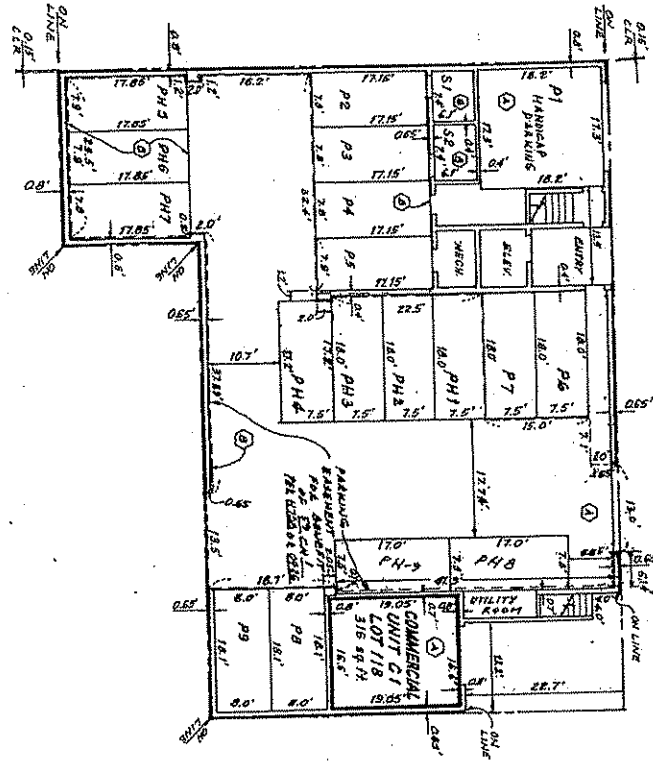
Note 7. Section 12413.1, California Insurance Code became effective January 1, 1990. This legislation deals with the disbursement of funds deposited with any title entity acting in an escrow or subescrow capacity. The law requires that all funds be deposited and collected by the title entity's escrow and/or subescrow account prior to disbursement of any funds. Some methods of funding may subject funds to a holding period which must expire before any funds may be disbursed. In order to avoid any such delays, all funding should be done through wire transfer, certified check or checks drawn on California financial institutions.

Note 8. The charge where an order is canceled after the issuance of the report of title, will be that amount which in the opinion of the Company is proper compensation for the services rendered or the purpose for which the report is used, but in no event shall said charge be less than the minimum amount required under Section 12404.1 of the Insurance Code of the State of California. If the report cannot be canceled "no fee" pursuant to the provisions of said Insurance Code, then the minimum cancellation fee shall be that permitted by law.

Note 9. California Revenue and Taxation Code Section 18662, effective January 1, 1994 and by amendment effective January 1, 2003, provides that the buyer in all sales of California Real Estate may be required to withhold 3 and 1/3% of the total sales price as California State Income Tax, subject to the various provisions of the law as therein contained.

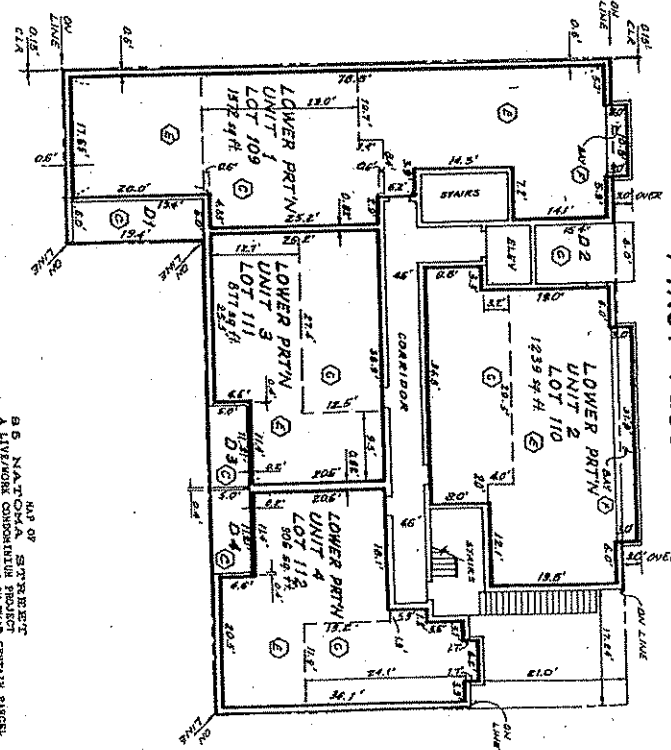
END OF NOTES

ALL DIMENSIONS UNLESS OTHERWISE SPECIFIED ARE IN FEET AND INCHES



GROUND FLOOR

NATOMA STREET



FIRST FLOOR

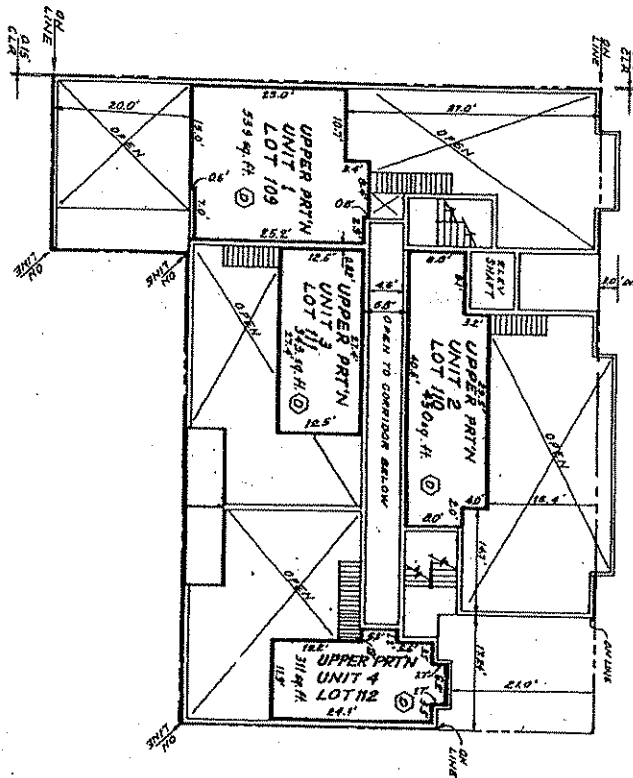
ELEVATION	
ROOM	FLOOR / CEILING
1	12.2 / 21.7
2	13.2 / 21.7
3	23.0 / 30.8
4	23.0 / 30.4
5	25.0 / 33.4

20

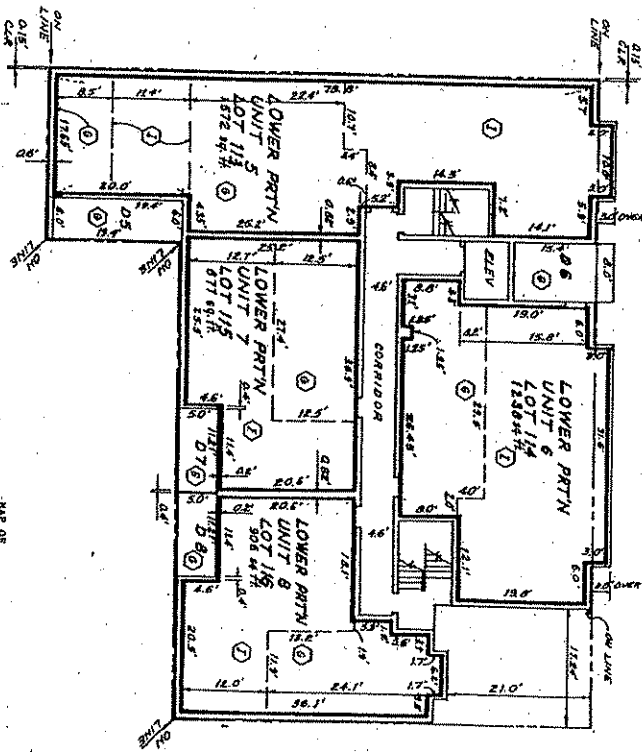
MAP OF
 85 NATOMA STREET
 A LIVE/WORK CONVERSION OF THAT CERTAIN PARCEL
 BEING A SUBDIVISION SHOWN IN BOOK 43 OF SACRED VARS AT PAGE 181
 MAP FILED BEING A PORTION OF ASSessor'S BOOK 1131
 SAN FRANCISCO, CALIFORNIA
GL+A CIVIL ENGINEERS
 SEP, 2000
 SHEET 3 OF 5 SHEETS
 SCALE: 1" = 10'



FIRST FLOOR MEZZANINE
NATOMA STREET



SECOND FLOOR



21

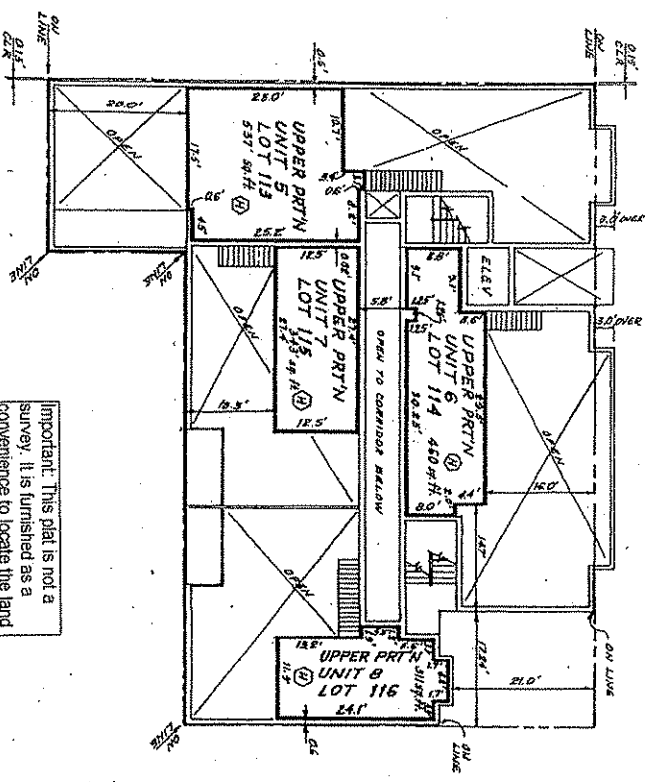
ELEVATION	
DESIG.	FLOOR CEILING
①	31.7 38.4
②	40.5 48.5
③	40.5 56.5

85. N.A.T. 2000. 04/27/2000
 A LIVERMORE COMMUNITY PROJECT
 BEING A REVISION OF LOT 93 AS SHOWN ON THAT CERTAIN PARCEL
 MAP 24, 1988, IN BOOK 413 OF PARCEL MAPS AT PAGE 181
 BEING A REVISION OF THAT CERTAIN PARCEL MAP AS AT PAGE 181
 SAN FRANCISCO, CALIFORNIA

GL+A CIVIL ENGINEERS
 SEP. 2000
 SHEET 4 OF 5 SHEETS
 SCALE: 1" = 10'



SECOND FLOOR MEZZANINE
NATOMA STREET

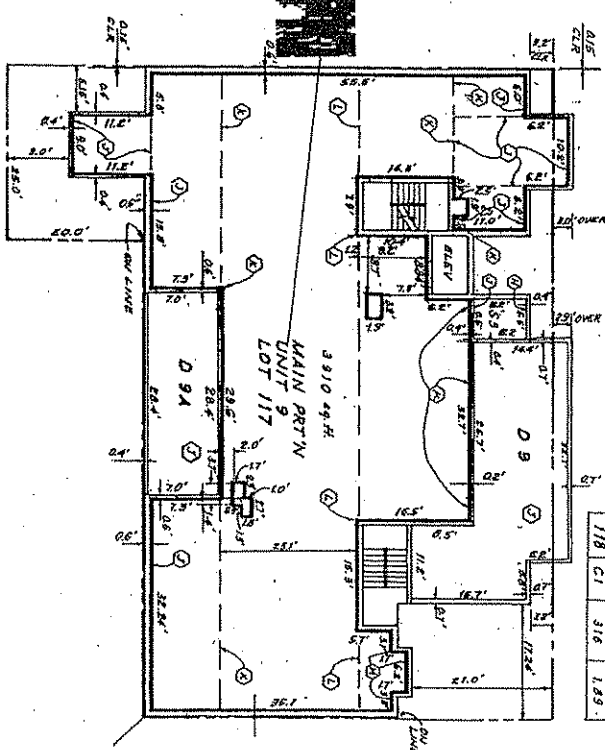


Important: This plat is not a survey. It is furnished as a convenience to locate the land in relation to adjoining streets and other lands and not to guarantee any dimensions, distances, bearings or acreage.

22

ELEVATION	
DESIG.	FLOOR CEILING
①	48.6
②	58.0
③	58.0
④	58.0
⑤	58.0
⑥	58.0

THIRD FLOOR



LOT NO.	UNIT NO.	AREA SQ. FT.	PERCENT SHARE
108	1	2,111	12.64
110	2	1,889	10.71
111	3	1,220	7.30
112	4	1,217	7.28
113	5	2,109	12.62
114	6	1,698	10.16
115	7	1,220	7.30
116	8	1,217	7.28
117	9	3,910	23.40
118	CI	316	1.83

MAP OF
S. S. NATOMA STREET
A LIVE/OVER CONDOMINIUM PROJECT
BEING A SUBDIVISION OF LOT 50 AS SHOWN ON THE CERTAIN PARCEL
MAP AND BEING A PORTION OF ASSASSO'S BLOCK 272
SAN FRANCISCO, CALIFORNIA

SEP. 2000

GL+A CIVIL ENGINEERS

SHEET 5 OF 5 SHEETS

SCALE: 1" = 10'

ATTACHMENT ONE

AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL TITLE INSURANCE POLICY (6-1-87) EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
 - land use
 - improvements on the land
 - land division
 - environmental protectionThis exclusion does not apply to violations or the enforcement of these matters which appear in the public records at policy date.
This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.
2. The right to take the land by condemning it, unless:
 - a notice of exercising the right appears in the public records on the Policy Date
 - the taking happened prior to the Policy Date and is binding on you if you bought the land without knowledge of the taking

In addition to the Exclusions, you are not insured against loss, costs, attorneys' fees, and the expenses resulting from:

1. Any rights, interests, or claims of parties in possession of the land not shown by the public records.
2. Any easements or liens not shown by the public records. This does not limit the lien coverage in Item 8 of Covered Title Risks.

3. Title Risks:
 - that are created, allowed, or agreed to by you
 - that are known to you, but not to us, on the Policy Date—unless they appeared in the public records
 - that result in no loss to you
 - that first affect your title after the Policy Date — this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
4. Failure to pay value for your title.
5. Lack of a right:
 - to any land outside the area specifically described and referred to in Item 3 of Schedule A
 - or
 - in streets, alleys, or waterways that touch your landThis exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

3. Any facts about the land which a correct survey would disclose and which are not shown by the public records. This does not limit the forced removal coverage in item 12 of Covered Title Risks.
4. Any water rights or claims or title to water in or under the land, whether or not shown by the public records.

CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY – 1990 EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;

- (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
 5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
 6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

SCHEDULE B, PART I EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

PART I

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.

**ATTACHMENT ONE
(CONTINUED)**

**AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (10-17-92)
WITH A.L.T.A. ENDORSEMENT-FORM 1 COVERAGE
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land, (ii) the character, dimensions or location of any improvement now or hereafter erected on the land, (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part, or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy); or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgage insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
 - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgement or lien creditor.

**AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (10-17-92)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgement or lien creditor.

The above ALTA policy forms, dated 10-17-92, may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following General Exceptions:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.

**ATTACHMENT ONE
(CONTINUED)**

**CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (10-22-03)
ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE (10-22-03)
EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
 - a. building
 - b. zoning
 - c. Land use
 - d. improvements on Land
 - e. Land division
 - f. environmental protection
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
 - a. notice of exercising the right appears in the Public Records at the Policy Date; or
 - b. the taking happened before the Policy Date and is binding on You if You bought the Land without knowing of the taking.
4. Risks:
 - a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
 - b. that are Known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
 - c. that result in no loss to You; or
 - d. that first occur after the Policy Date -- this does not limit the coverage described in Covered Risk 7, 8, d, 22, 23, 24 or 25.
5. Failure to pay value for Your Title.
6. Lack of a right:
 - a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 18.

LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 14, 15, 16 and 18, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 14:	1.00% of Policy Amount or \$ 2,500.00 (whichever is less)	\$ 10,000.00
Covered Risk 15:	1.00% of Policy Amount or \$ 5,000.00 (whichever is less)	\$ 25,000.00
Covered Risk 16:	1.00% of Policy Amount or \$ 5,000.00 (whichever is less)	\$ 25,000.00
Covered Risk 18:	1.00% of Policy Amount or \$ 2,500.00 (whichever is less)	\$ 5,000.00

**ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions or location of any improvements now or hereafter erected on the Land; (iii) a separation in ownership or a change in the dimensions or areas of the Land or any parcel of which the Land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.
 - (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the Public Records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) created, suffered, assumed or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (this paragraph does not limit the coverage provided under Covered Risks 8, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26); or
 - (e) resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of the Insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the Land is situated.
5. Invalidity or unenforceability of the lien of the Insured Mortgage, or claim thereof, which arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, except as provided in Covered Risk 27, or any consumer credit protection or truth in lending law.
6. Real property taxes or assessments of any governmental authority which become a lien on the Land subsequent to Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 7, 8(e) and 26.
7. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This exclusion does not limit the coverage provided in Covered Risk 8.
8. Lack of priority of the lien of the Insured Mortgage as to each and every advance made after Date of Policy, and all interest charged thereon, over liens, encumbrances and other matters affecting the title, the existence of which are Known to the Insured at:
 - (a) The time of the advance; or
 - (b) The time a modification is made to the terms of the Insured Mortgage which changes the rate of interest charged, if the rate of interest is greater as a result of the modification than it would have been before the modification. This exclusion does not limit the coverage provided in Covered Risk 8.
9. The failure of the residential structure, or any portion thereof to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at Date of Policy.

Notice

You may be entitled to receive a \$20.00 discount on escrow services if you purchased, sold or refinanced residential property in California between May 19, 1995 and November 1, 2002. If you had more than one qualifying transaction, you may be entitled to multiple discounts.

If your previous transaction involved the same property that is the subject of your current transaction, you do not have to do anything; the Company will provide the discount, provided you are paying for escrow or title services in this transaction.

If your previous transaction involved property different from the property that is subject of your current transaction, you must - prior to the close of the current transaction - inform the Company of the earlier transaction, provide the address of the property involved in the previous transaction, and the date or approximate date that the escrow closed to be eligible for the discount.

Unless you inform the Company of the prior transaction on property that is not the subject of this transaction, the Company has no obligation to conduct an investigation to determine if you qualify for a discount. If you provide the Company information concerning a prior transaction, the Company is required to determine if you qualify for a discount which is subject to other terms and conditions.

Effective through November 1, 2014

Fidelity National Financial, Inc.
Privacy Statement

Fidelity National Financial, Inc. and its subsidiaries ("FNF") respect the privacy and security of your non-public personal information ("Personal Information") and protecting your Personal Information is one of our top priorities. This Privacy Statement explains FNF's privacy practices, including how we use the Personal Information we receive from you and from other specified sources, and to whom it may be disclosed. FNF follows the privacy practices described in this Privacy Statement and, depending on the business performed, FNF companies may share information as described herein.

Personal Information Collected

We may collect Personal Information about you from the following sources:

- Information we receive from you on applications or other forms, such as your name, address, social security number, tax identification number, asset information, and income information;
- Information we receive from you through our Internet websites, such as your name, address, email address, Internet Protocol address, the website links you used to get to our websites, and your activity while using or reviewing our websites;
- Information about your transactions with or services performed by us, our affiliates, or others, such as information concerning your policy, premiums, payment history, information about your home or other real property, information from lenders and other third parties involved in such transaction, account balances, and credit card information; and
- Information we receive from consumer or other reporting agencies and publicly recorded documents.

Disclosure of Personal Information

We may provide your Personal Information (excluding information we receive from consumer or other credit reporting agencies) to various individuals and companies, as permitted by law, without obtaining your prior authorization. Such laws do not allow consumers to restrict these disclosures. Disclosures may include, without limitation, the following:

- To insurance agents, brokers, representatives, support organizations, or others to provide you with services you have requested, and to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure in connection with an insurance transaction;
- To third-party contractors or service providers for the purpose of determining your eligibility for an insurance benefit or payment and/or providing you with services you have requested;
- To an insurance regulatory authority, or a law enforcement or other governmental authority, in a civil action, in connection with a subpoena or a governmental investigation;
- To companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements and/or
- To lenders, lien holders, judgment creditors, or other parties claiming an encumbrance or an interest in title whose claim or interest must be determined, settled, paid or released prior to a title or escrow closing.

We may also disclose your Personal Information to others when we believe, in good faith, that such disclosure is reasonably necessary to comply with the law or to protect the safety of our customers, employees, or property and/or to comply with a judicial proceeding, court order or legal process.

Disclosure to Affiliated Companies - We are permitted by law to share your name, address and facts about your transaction with other FNF companies, such as insurance companies, agents, and other real estate service providers to provide you with services you have requested, for marketing or product development research, or to market products or services to you. We do not, however, disclose information we collect from consumer or credit reporting agencies with our affiliates or others without your consent, in conformity with applicable law, unless such disclosure is otherwise permitted by law.

Disclosure to Nonaffiliated Third Parties - We do not disclose Personal Information about our customers or former customers to nonaffiliated third parties, except as outlined herein or as otherwise permitted by law.

Confidentiality and Security of Personal Information

We restrict access to Personal Information about you to those employees who need to know that information to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard Personal Information.

Access To Personal Information/

Requests for Correction, Amendment, or Deletion of Personal Information

As required by applicable law, we will afford you the right to access your Personal Information, under certain circumstances to find out to whom your Personal Information has been disclosed, and request correction or deletion of your Personal Information. However, FNF's current policy is to maintain customers' Personal Information for no less than your state's required record retention requirements for the purpose of handling future coverage claims.

For your protection, all requests made under this section must be in writing and must include your notarized signature to establish your identity. Where permitted by law, we may charge a reasonable fee to cover the costs incurred in responding to such requests. Please send requests to:

Chief Privacy Officer
Fidelity National Financial, Inc.
601 Riverside Avenue
Jacksonville, FL 32204

Changes to this Privacy Statement

This Privacy Statement may be amended from time to time consistent with applicable privacy laws. When we amend this Privacy Statement, we will post a notice of such changes on our website. The effective date of this Privacy Statement, as stated above, indicates the last time this Privacy Statement was revised or materially changed.

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

Condominium Unit No. 9, Lot No. 117, as shown upon the Condominium Map and diagrammatic floor plan entitled "Map of 85 Natoma Street A Live/Work Condominium Project" which was filed on December 18, 2000, in Book 66 of Condominium Maps, at Pages 18 to 22, inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California (referred to herein as "the Map"), and as further defined in the "Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership of 85 Natoma Street", recorded on April 9, 2001, in Book H862, Page 70 and following, Official Records of the City and County of San Francisco, State of California (referred to herein as "the Declaration").

Excepting therefrom, any portion of the common area lying within said Unit.

Also excepting therefrom:

(a) Easements through said Unit, appurtenant to the Common Area and all other Units, for support and repair of the common area and all other units.

(b) Easements, appurtenant to the common area for encroachment upon the air space of the Unit by those portions of the common area located within the Unit.

PARCEL B:

An undivided 23.40% interest in and to the Common Area as shown on the Map and defined in the Declaration, excepting therefrom the following:

(a) Exclusive easements, other than those shown in Parcel "C" herein, as shown on the Map and reserved unto other units for use as defined in the Declaration; and

(b) Non-exclusive easements appurtenant to all units for ingress and egress, support, repair and maintenance.

PARCEL C:

The following easements appurtenant to Parcel A above as set forth and defined in the Declaration:

(a) The exclusive easement to use the Parking area designated as P-1 on the Map.

(b) The exclusive easement to use the Deck area designated as D-9 and D-9A, on the Map.

PARCEL D:

A non-exclusive easement appurtenant to Parcel A above for support, repair and maintenance, and for ingress and egress through the Common Area in accordance with California Civil Code Section 1361(a).

PARCEL E:

Encroachment easements appurtenant to the Unit in accordance with the provisions of the Declaration.

APN: Lot 117, Block 3721

OWNER'S STATEMENT

KNOW ALL MEN BY THESE PRESENTS that the undersigned state that they are the only parties having record...

OWNERS: HARBIN PROPERTIES, LLC
By: [Signature]
Its: [Signature]

OWNER'S ACKNOWLEDGMENT

State of California, County of San Francisco, I, [Name], do hereby certify...



Notary Public in and for said County and State, personally appeared [Name]...

ENGINEER'S ACKNOWLEDGMENT

State of California, County of San Francisco, I, [Name], do hereby certify...

ENGINEER'S STATEMENT
I hereby state that during the month of November 1988, a survey...

CITY ENGINEER'S STATEMENT
I hereby state that I have examined this map and that the subdivision...

APPROVED AS TO FORM
LOUISE BERRY, CITY ATTORNEY
By: [Signature]

APPROVED AS TO FORM
LOUISE BERRY, CITY ATTORNEY
By: [Signature]

RECORDED'S STATEMENT
I, [Name], Clerk of the Board of Supervisors of the City...

Notary seal and signature for the State of California, County of San Francisco.

APPROVALS

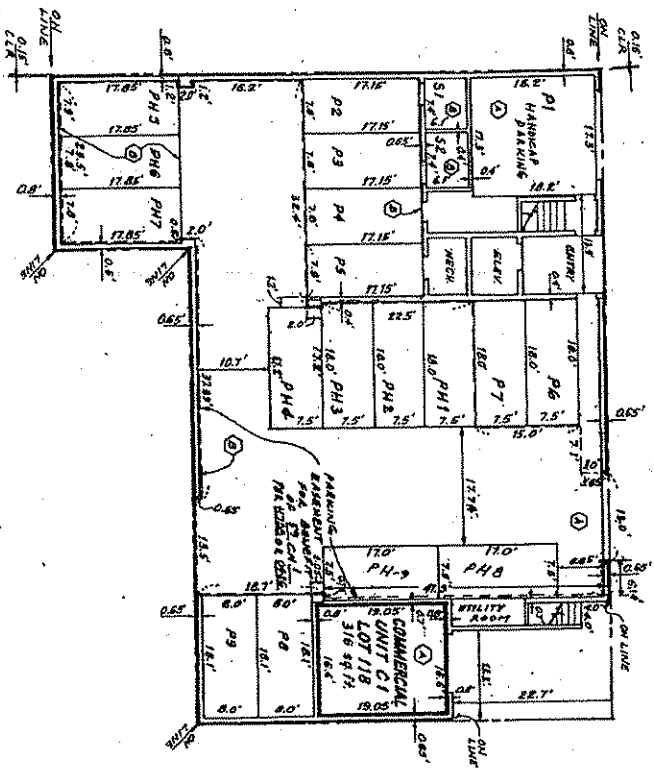
I hereby approve this map, day of [Month], 2000.
By: [Signature]

APPROVED AS TO FORM
LOUISE BERRY, CITY ATTORNEY
By: [Signature]

RECORDED'S STATEMENT
I, [Name], Clerk of the Board of Supervisors of the City...

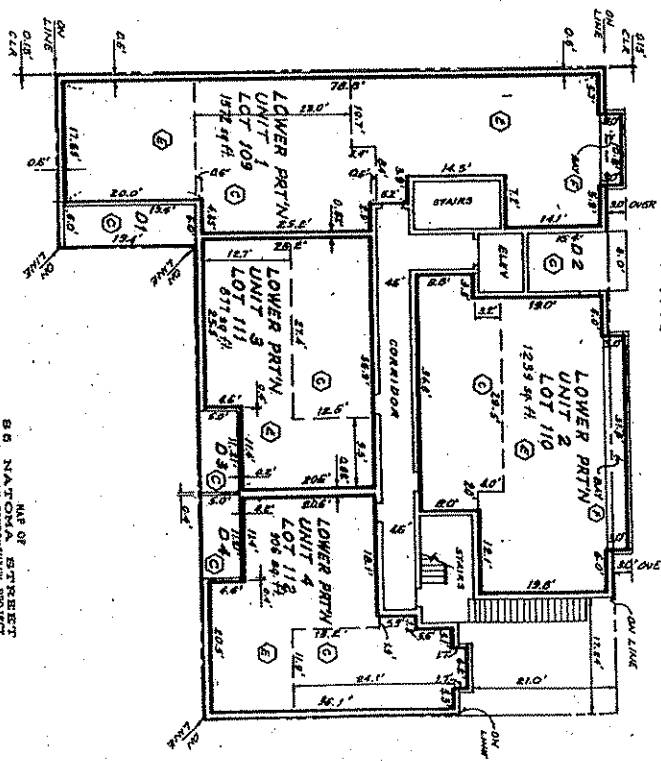
FILED
B. S. NATION, ATTORNEY
BRING A SUBDIVISION OF LOT 90 AS SHOWN ON THAT CERTAIN PARCEL...

GL+A CIVIL ENGINEERS
SHEET 1 OF 5 SHEETS



GROUND FLOOR

NATOMA STREET



FIRST FLOOR

ELEVATION	
NO. 1	NO. 2
12.2	217
13.2	217
23.0	208
25.0	204
25.0	214

20

SEP, 2000

GL+A CIVIL ENGINEERS

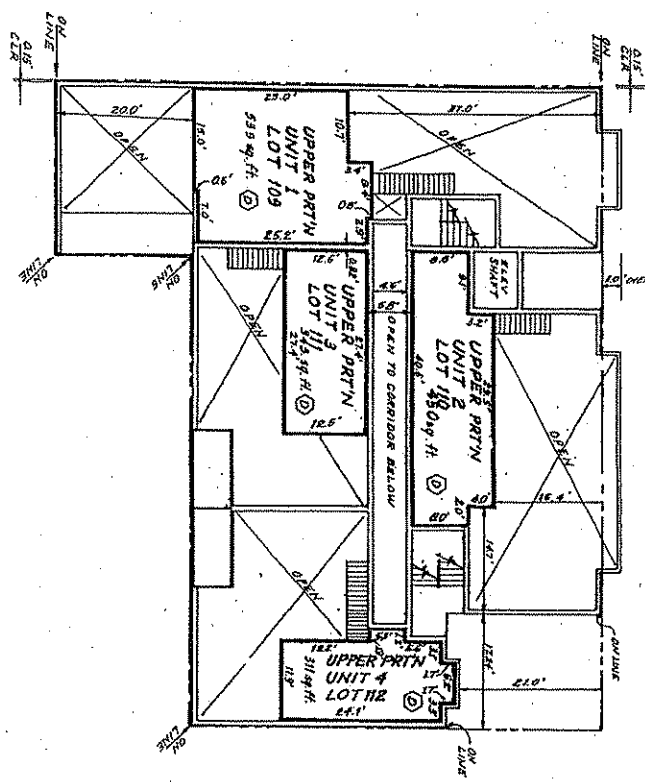
SCALE: 1" = 10'

SHEET 3 OF 5 SHEETS

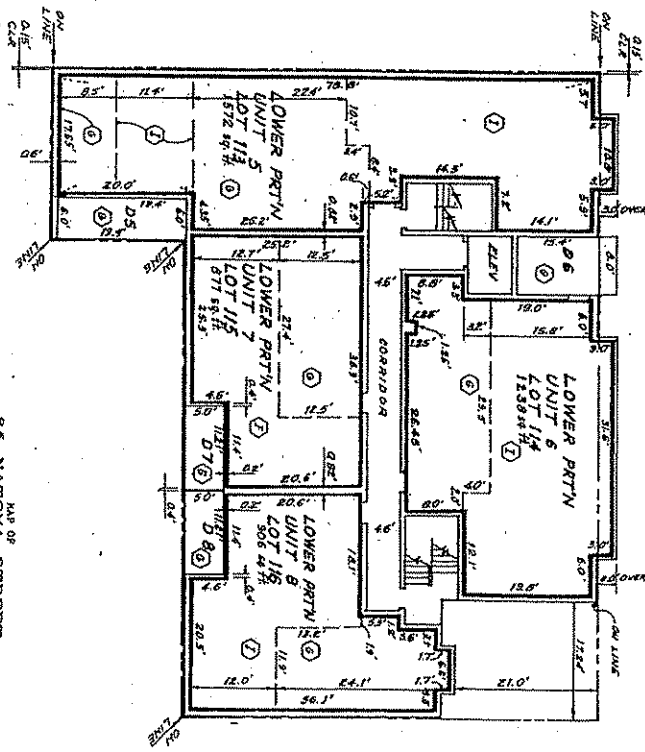
MAP OF STREETS
 IN THE CITY AND COUNTY OF SAN FRANCISCO
 BEING A SUBDIVISION OF LOT 80 AS SHOWN ON THAT CERTAIN MAP
 MAP FILED JUNE 24, 1988 IN BOOK 43 OF PUBLIC MAPS AT 2:00 PM
 1988 IN THE OFFICE OF THE COUNTY CLERK OF SAN FRANCISCO
 COUNTY OF SAN FRANCISCO, CALIFORNIA



FIRST FLOOR MEZZANINE NATOMA STREET



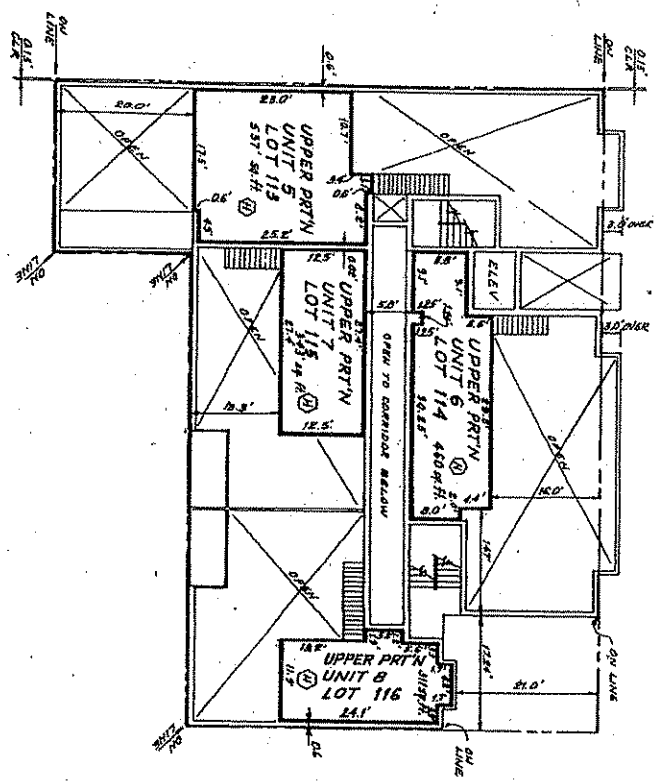
SECOND FLOOR



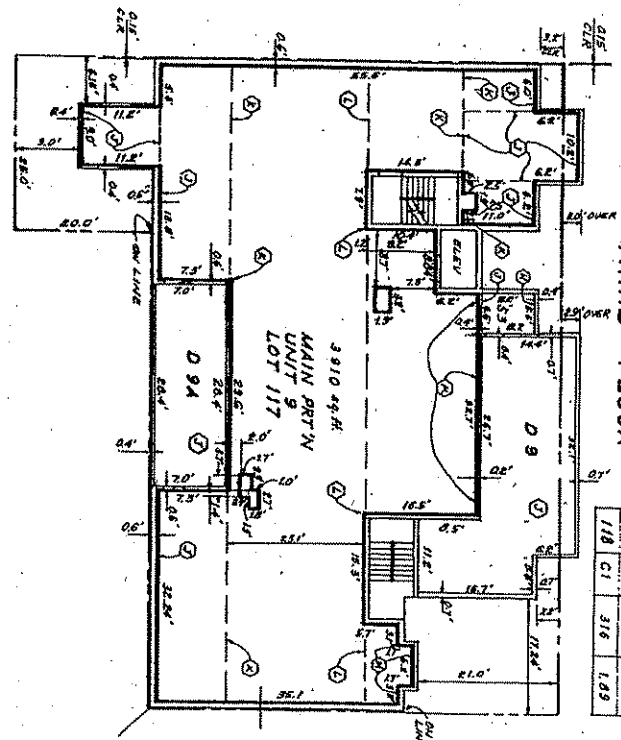
21

ELEVATION	
POS. NO.	FLOOR / CEILING
1	31.7
2	40.5
3	48.9
4	40.5
5	50.5

MAP OF
 86 NATOMA STREET
 A LIVE/WORK CONDOMINIUM PROJECT
 BRING A SUBDIVISION MAP AS SHOWN ON THE CERTAIN PARCEL
 MAP FILED JUNE 24, 1991 IN BOOK 18004 PAGE 181
 BEING A PORTION OF ASSessor'S BLOCK 1721
 SAN FRANCISCO, CALIFORNIA
GL+A CIVIL ENGINEERS
 SEP, 2000
 SHEET 4 OF 5 SHEETS
 SCALE: 1" = 10'



SECOND FLOOR MEZZANINE
NATOMA STREET



THIRD FLOOR

22

DESIG.	FLOOR	ELEVATION
(M)	CEILING	56.9
(M)		58.0
(M)		66.7
(M)		83.5
(M)		58.0
(M)		73.0
(M)		58.0
(M)		71.5
(M)		58.0

LOT NO.	UNIT NO.	AREA SQ. FT.	PRESUMED VOLUME
108	1	2111	12.64
110	2	1698	12.11
111	3	1820	7.36
112	4	1217	7.23
113	5	2109	12.62
114	6	1688	10.16
115	7	1820	7.30
116	8	1217	7.23
117	9	3910	23.40
118	C1	316	1.89

B.S. NATOMAS OF STREET
A LIVE/WORK COMBINATOR PROJECT
BEING A SUBDIVISION OF LOT 18 AS SHOWN ON THAT CERTAIN PAPER
MAP FILED IN THE OFFICE OF THE COUNTY CLERK OF SAN FRANCISCO
BEING A PORTION OF SECTION 2 BLOCK 351
SAN FRANCISCO, CALIFORNIA

GL+A CIVIL ENGINEERS
SCALE: 1" = 10'
SEP. 2000
SHEET 5 OF 5 SHEETS

9081-006

Jeffrey G. Knowles
Direct: (415) 772-5795
Email: jgk@cpdb.com

March 15, 2006

VIA FACSIMILE AND U.S. MAIL

Andrew Schwartz, Esq.
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102

RE: 85 Natoma/Transbay Terminal Project

Dear Andrew:

This office represents Christopher and Wendy Decenzo in connection with their ownership of Unit 9 in 85 Natoma Street, real property that is in the path of development of the proposed Transbay Terminal project. As you know from our telephone conversations recently, the DeCenzo's are interested in selling their property. They have, in fact, made efforts to do so. Those efforts were thwarted, however, by the cloud of eminent domain that hangs over the property. They are, therefore, seeking to have the Transbay Joint Powers Authority ("TJPA"), or any other appropriate governmental entity, purchase their property for fair market value.

The DeCenzos' interest in selling stems from the fact that they now have a two year-old son. The home they now occupy is not suitable for him as he grows older, and the home will be even less suitable should they have more children. Although they have received considerable interest from potential buyers, none are prepared to accept the risk of condemnation.

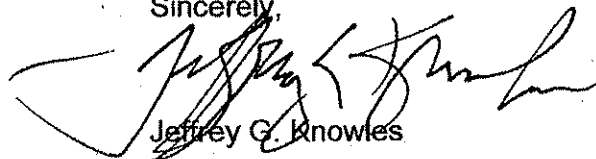
Originally, you indicated that the TJPA would enter into negotiations to purchase the DeCenzo's property, and that the first step in that process would be to prepare an appraisal. In our conversation last week, however, you indicated that the TJPA no

Andrew Schwartz, Esq.
March 15, 2006
Page 2

longer possesses authority to expend funds for the purchase of property, at least in the foreseeable future. You further informed me that a Board of Directors meeting is set to occur on March 16, 2006, and that the meeting may shed light on this process.

Please keep me apprised of all pertinent developments, including anything that may occur at the upcoming board meeting. The DeCenzos stand ready to negotiate in good faith for the sale of their property.

Sincerely,



Jeffrey G. Knowles

JGK:pd

SHUTE, MIHALY & WEINBERGER LLP
ATTORNEYS AT LAW

E. CLEMENT SHUTE, JR. *
MARK I. WEINBERGER (1948-2005)
FRAN M. LAYTON
RACHEL B. HOOPER
ELLEN J. GARBER
TAMARA S. GALANTER
ELLISON FOLK
RICHARD S. TAYLOR
WILLIAM J. WHITE
ROBERT S. PERLMUTTER
OSA L. WOLFF
JANETTE E. SCHUE
MATTHEW D. ZINN
CATHERINE C. ENGBERG
AMY J. BRICKER
JENNY K. HARBINE

396 HAYES STREET
SAN FRANCISCO, CALIFORNIA 94102
TELEPHONE: (415) 552-7272
FACSIMILE: (415) 552-5816
WWW.SMWLAW.COM

GABRIEL M.B. ROSS
DEBORAH L. KEETH
WINTER KING
KEVIN P. BUNDY
ANDREA RUIZ-ESQUIDE
SHERIDAN J. PAUKER
JONAS M. NAHOUM

LAUREL L. IMPETT, AICP
CARMEN J. BORG, AICP
URBAN PLANNERS

DAVID NAWI
ANDREW W. SCHWARTZ
OF COUNSEL

March 17, 2006

*SENIOR COUNSEL

Jeffrey G. Knowles
Coblentz, Patch, Duffy & Bass LLP
One Ferry Building, Suite 200
San Francisco, California 94111-4213

Re: 85 Natoma/ Transbay Transit Center Program

Dear Mr. Knowles:

Your March 19, 2006 letter correctly summarizes our telephone conversations, with the exception of your statement that "the TJPA no longer possesses authority to expend funds for the purchase of property . . ." My statement was to the effect that the plan for the Transbay Transit Center Program had not been finalized, and that the TJPA would not be in a position to acquire property for the Project until the plan for the Project is final. At yesterday's TJPA Board meeting, the Board decided that it would engage in a consultation process with a working group to be formed by the Mayor of San Francisco, to continue the planning process. The issue to be decided is whether the new Transbay Transit Center will be built before the railway extension, or vice versa, or simultaneously. The outcome of this planning process could determine if and when the TJPA intends to acquire 85 Natoma. I will contact you when I have more information.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Andrew W. Schwartz

**COBLENTZ,
PATCH, DUFFY
& BASS LLP** ATTORNEYS
AT LAW

One Ferry Building - Suite 200 main: 415.391.4800
San Francisco, California fax: 415.389.1869
94111-4213 web: www.coblenzlaw.com

8081-006

Jeffrey G. Knowles
Direct: (415) 772-5785
Email: jgk@cpdb.com

August 17, 2006

VIA FACSIMILE & U.S. MAIL

Andrew Schwartz, Esq.
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102

RE: 85 Natoma/Transbay Terminal Project

Dear Andrew:

I write to follow up on our telephone conversation last week concerning Wendy and Christopher DeCenzo's desire to sell their home, Unit 9 at 85 Natoma Street.

You indicated that, because the DeCenzo's home is located in the Phase 2 portion of the Transbay Project, the Transbay Joint Powers Authority would place the purchase of their property in a relatively low priority unless they can demonstrate "hardship." I am not sure what standard is being applied to determine that status, but I am confident that the DeCenzos would qualify.

The DeCenzos completed the construction of their home in 2002. As you may or may not know, their penthouse condominium is exceptional in size, location, finishes, amenities and architectural style. It has, in fact, garnered a great deal of attention from the architectural and popular media. As explained below, however, many of the very qualities that make the home attractive to adults make it unsuitable for children. Accordingly, the DeCenzo's expected to stay in the home only a couple of years while they started a family. In 2003, Wendy DeCenzo became pregnant with their first child. Their son was born on March 9th, 2004.

While Wendy was pregnant, the DeCenzos became aware that their property might be subject to eminent domain. This caused them considerable distress, as they realized it might impede their ability to sell their home, as they had planned, for full.

COBLENTZ
PATCH, DUFFY
& BASS LLP ATTORNEYS
& LAW

Andrew Schwartz, Esq.
August 17, 2006
Page 2

market value. The distress was especially great because the DeCenzos were acutely conscious of the risks and drawbacks the home presents for young families.

The home has 2000 square feet of outdoor living space – all of it six stories above the street. As you might imagine, this is safe for neither the DeCenzos son nor the traffic below. Like many two-and-a-half-year-olds, their son is relentlessly exploring his environment without regard to danger. He is climbing on every structure he is able to scale – including the railing on the six-story-high deck. He has, in fact, begun dragging a stool to the edge of the 42-inch-high enclosure so that he can climb over it. He has also begun throwing objects off of the deck onto the street below.

But these are not the only dangers the property presents to the DeCenzos' son. For example, while concrete floors are highly attractive and fashionable from a design standpoint, they are hardly conducive to a toddler's well-being. Recently, after the DeCenzos' son fell and struck his head on the floor, they had to rush him to the hospital and have a CAT scan performed. Additionally, one stairway in the home was so dangerous for the DeCenzos' son that they simply removed the bottom two stairs, making them difficult to use.

Even apart from the risk posed by the physical qualities of the home itself, its location is also problematic for a family with small children. It is, as you know, in an urban environment that, like many such neighborhoods, presents risks from traffic, crime and dangerous conditions in the neighborhood (including those that attend construction). Indeed, the DeCenzos' home was burglarized, while they were present, on June 26, 2006. Convenient parking, which becomes increasingly important when one has children, is also scarce. The home has no yard where children can play safely.

Finally, the DeCenzo's, like many young parents, are interested in living in a location with superior public schools. Their current residence does not offer that benefit.

Against this background, the DeCenzo's have been actively but unsuccessfully seeking to sell or lease their home, and relocate, for more than 18 months. In February 2005, they had reached a tentative agreement with a buyer to sell their home for \$4.5 million. The cloud of eminent domain ultimately doomed that sale before it closed. Again this year, they had reached a tentative agreement to lease their home for the sum of \$21,000 per month. This deal, too, failed, at least in part based on the uncertainty presented by the Transbay project (fear of eminent domain time line and potential construction noise from the Transbay project).

You asked in our conversation about where the DeCenzo's would like to relocate. They have been looking in Palo Alto, and elsewhere on the peninsula. They have been

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Andrew Schwartz, Esq.
August 17, 2006
Page 3

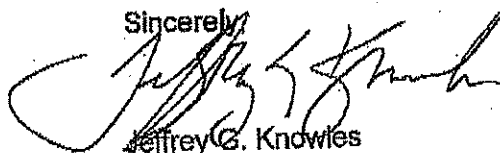
shopping for homes that have none of the drawbacks of their current residence and offer some or all of the benefits it lacks. In light of their inability to sell or lease their current home, however, they have been unable to make that move.

Let me close by pointing out that Mrs. DeCenzo is pregnant again. The DeCenzo's are, obviously, hoping to grow their family. The risks and drawbacks their home poses for children would therefore increase commensurately.

The DeCenzos would very much like to relocate but are not prepared to sacrifice the very substantial value that a sale or lease under the existing conditions would entail. They ask, therefore, that the TJPA purchase their home for fair market value now.

Please contact me with questions.

Sincerely,



Jeffrey G. Knowles

JGK:pd

cc: Wendy DeCenzo

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October 26, 2006

VIA FACSIMILE

Andrew Schwartz, Esq.
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102

RE: 85 Natoma/Transbay Terminal Project

Dear Andrew:

Ahead of tomorrow's meeting of the Transbay Joint Powers Authority ("TJPA") Board, I write to supplement my correspondence on behalf of Chris and Wendy DeCenzo.

My clients have now confirmed that Ms. DeCenzo is pregnant with twins. The arrival of these two children will merely compound the difficulties outlined in my earlier letter with respect to the DeCenzo's toddler-age son. In the interim, the property will pose problems in connection with Ms. DeCenzo's pregnancy. The configuration of the home's parking arrangements is such that Ms. DeCenzo must enter her car from the passenger side, which she will soon be unable to accomplish as her pregnancy advances.

Separately, another prospective tenant expressed a strong interest in leasing my clients' home for 2 years at \$20,000 per month. Ultimately, however, that tenant declined to enter into a lease as a result of the complications surrounding the Transbay project. The DeCenzos have learned that the individual subsequently rented another property at \$30,000 per month, paying for both a year in advance and a one-year option.

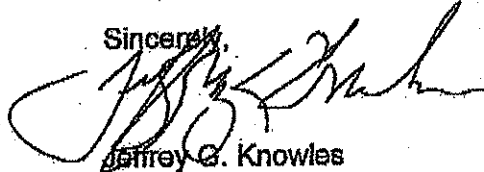
These developments underscore the hardship my clients will suffer if the TJPA does not purchase their property in the near future for fair market value. The simple fact is that the home is no longer appropriate for their growing family, but they can neither rent nor sell it for fair value as a result of the planned project.

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Andrew Schwartz, Esq.
October 26, 2006
Page 2

I look forward to hearing from you.

Sincerely,



Jeffrey G. Knowles

JGK/rmg

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OF COUNSEL

November 14, 2006

Jeffrey G. Knowles
Coblentz, Patch, Duffy & Bass LLP
One Ferry Building, Suite 200
San Francisco, California 94111-4213

Re: 85 Natoma Street #9

Dear Jeff:

As you know, this firm represents the Transbay Joint Powers Authority ("TJPA") on matters relating to the Transbay Transit Center Program ("Program"). We are writing in response to your letters dated August 17, 2006 and October 27, 2006 requesting that the TJPA acquire 85 Natoma Street #9 at least several years in advance of the planned acquisition for the Program based on the parcel owners Christopher and Wendy Decenzo's alleged hardship.

As we have informed you, the public agencies that provide 100 percent of the funding to the TJPA for the Program have limited funds available for property acquisition. Accordingly, to justify an extraordinary request for funds for purchase of properties many years in advance of the Program's need for the property, the TJPA must be presented with clear evidence of special circumstances that differentiate the advance purchase applicant from the owners of other properties planned for acquisition in the future.

At its regular meeting on October 27, 2006, the TJPA Staff presented your letters to the Board in closed session. Following the closed session, it has been determined that the TJPA will consider your client's request for an advance purchase; provided, however, that your clients provide more information supporting their claim of hardship.

The guidelines provided by the California Department of Transportation's ("Caltrans") Right of Way Manual, sections 5.03.00.00 et seq., enclosed for your reference, state that requests for advanced acquisition must satisfy four minimum criteria:

- (1) Owner demonstrates need to dispose of property.
Caltrans recognizes the following circumstances may justify an owner's need to dispose of her property: (a) medical (e.g., advanced age, ambulatory defect, major disability or a doctor's recommendation); (b) financial (e.g., loss of employment, retirement, or pending mortgage foreclosure); (c) change of work location; (d) non-decent, safe, and sanitary housing; or (e) monetary loss.
- (2) Owner is unable to dispose of property at fair market value because of transportation facility plans.
The TJPA does not need to acquire properties for Phase II of the Program, including your clients' property, for at least five years. Thus, in order to satisfy this criterion, a property owner would need to demonstrate an inability to sell or rent the property during this five year period at fair market value/rent because of the Program.
- (3) Owner cannot reasonably alleviate the hardship in the absence of the state's purchase.
- (4) State's purchase will either partially or totally alleviate the hardship.

In order to evaluate your clients' claim of hardship and prioritize requests for advanced acquisition, the TJPA needs additional information demonstrating your clients' satisfaction of the four criteria described above, and otherwise substantiating your clients' alleged hardship. In particular, please provide us with pertinent information and supporting documentation, such as:

- Financial information supporting any claimed need to dispose of the property based on financial hardship (sample Caltrans financial statement indicating the required level of detail enclosed for your reference);
- Doctor's statement or equivalent supporting any claimed need to dispose of the property based on medical need;
- Verification from employer or equivalent supporting any claimed need to dispose of the property based on change of employment location;
- Copies of real estate listings or other, similar documentation indicating your client's effort to rent or sell the parcel;
- Letter(s) from a real estate broker or other, similar professional supporting any claimed inability to rent or sell the parcel at fair market value over the next five years;

Jeffrey G. Knowles
November 14, 2006
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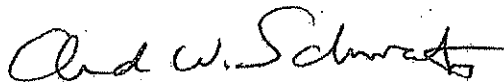
- Evidence supporting the claimed fair market rent and/or sale value of the parcel.
- Evidence supporting any claim of inability to sell or rent the property at fair market value/rent.

This information is necessary for the TJPA's investigation and it will be treated in a confidential manner. At the conclusion of the TJPA's investigation, any confidential material will be returned to you.

Please be advised that to be eligible for any relocation benefits under existing regulations, the claimant must occupy the required property at the time the acquiring agency makes the first offer to buy the property. To be considered a first offer for this purpose, the offer must include the dollar amount offered for the purchase, as distinguished from a more general discussion of the TJPA's need to acquire the property.

If you have any questions or need assistance regarding the application, please contact me.

Very truly yours,
SHUTE, MIHALY & WEINBERGER LLP



Andrew W. Schwartz

Enclosures

cc: Maria Ayerdi

PATJPAROW\85 Natoma\9\dk001(hardship request).doc

5.03.00.00 - HARDSHIP

5.03.01.00 General

Hardship is defined as a situation where unusual personal circumstances of an owner are aggravated by a proposed transportation facility and cannot be solved by the owner without acquisition by the State. There are two types of hardships:

- Those which occur in advance of the regular right of way acquisition process.
- Those which occur when the requirements for commencing the regular right of way acquisition process have been met, but funding and activity on the project have been deferred.

The Districts are authorized to approve both types of parcels for hardship acquisition.

Departmental practice is to investigate to determine need and to appraise and acquire the property with minimal delay. In some instances this may require extraordinary efforts such as obtaining independent staff appraisals. Owners of hardship parcels should receive full consideration and service consistent with normal acquisition procedures, including appropriate relocation assistance and sufficient time to consider State's offer. The District shall make the first written offer to the applicant within 90 days from the date of the DDD-R/W's approval letter or the Federal authorization if requested.

5.03.02.00 RAP Eligibility

The District should notify the applicant in writing of the requirements for RAP eligibility when the hardship investigation commences. If the hardship application is not approved, the applicant should be informed of benefits that will be lost if applicant vacates prior to regular acquisition (first written offer). - (See Exhibit 5-EX-04.) At the same time, it is important to ensure that double relocation payments are not made and Federal reimbursement is not lost. In line with this intent, if an application is approved and the applicant is forced to move prior to the time a written offer can be presented, the District must mail a Notice of Intent to Acquire to

preserve relocation eligibility. (See Forms RW 06-11, 13, and 14.) This letter should not be mailed until after approval of the hardship acquisition and should not be issued unless initiation of negotiations will commence less than 90 days subsequent to said Notice. This action will preserve the relocation eligibility of applicants and will avoid the possibility of creating more than one eligible relocatee.

5.03.03.00 Cessation of Hardship

If it determines that a hardship no longer exists, the Acquisition Branch must immediately withdraw any outstanding offer to purchase and advise the owner of the right to appeal the case to the District Hardship Appeals Board. (See Sections 5.03.06.00 through 5.03.06.03.)

5.03.04.00 Guidelines for Processing Requests

5.03.04.01 Hardship Criteria

The following minimal requirements must be met and documented if a hardship request is approved:

- Owner demonstrates need to dispose of property.
- Owner is unable to dispose of property at fair market value because of transportation facility plans.
- Owner cannot reasonably alleviate the hardship in the absence of the State's purchase.
- State's purchase will either partially or totally alleviate the hardship.

Inconveniences experienced by all or most owners along a route are not satisfactory reasons for hardship purchase (for example, an owner's simple desire to move to another area).

5.03.04.02 Need to Dispose of Property

Some of the reasons that may require an owner to sell immediately and that can result in a

significant financial loss in the absence of State purchase are listed in the table below entitled "Reasons Requiring Immediate Sale."

5.03.04.03 Hardship Application Submittal

The items listed in the table on the following page entitled "Submittal Items-Hardship Application" are considered when evaluating applications. At the initial meeting, the Agent informs the owner of the hardship criteria and

explains why it is necessary to submit this information.

To expedite requests, some of the requirements may be eliminated at the discretion of the District as indicated in the table.

If any hardship request appears to be unjustified, the District may request all the information, including a financial statement and tax returns.

REASONS REQUIRING IMMEDIATE SALE	
Reasons	Explanation
Medical	<ul style="list-style-type: none"> • Advanced Age - needs care or assistance from others • Ambulatory Defects or Diseases - where present facilities are inadequate or cannot be maintained by owner • Major Disabilities • Doctor's Recommendation - to change climate or physical environments • Other Equivalent Disabilities
Financial	<ul style="list-style-type: none"> • Litigation - e.g. probate • Loss of Employment • Financial Distress - involving personal or business circumstances • Retirement - e.g., can't afford maintenance or has purchased retirement home • Pending Mortgage Foreclosure, Tax Sale, Etc. • Substantial Burden - maintenance, taxes, and/or rehabilitation costs
Change of Work Location	Creates need to move
Non-Decent, Safe, and Sanitary Housing	For example, overcrowded living conditions if the occupancy level did not exceed DS&S standards at the time the owner originally purchased the property.
Monetary Loss - Income or Vacant Properties	<p>These properties may be acquired when the proposed project is the immediate cause of a monetary loss. The owner must demonstrate an adverse impact of the project on profitability of business or property. A careful review should be made considering such non-transportation influences as:</p> <ul style="list-style-type: none"> • Inability to obtain financing • Inherent risk of ownership associated with this type of property. • Other outside factors affecting the profitability of the business operation or property ownership. • Local governmental regulations affecting development or rehabilitation, such as requiring the owner to set aside right of way from development, without the requirement for dedication.

SUBMITTAL ITEMS - HARDSHIP APPLICATION		
Item	Explanation	Circumstance
Written Request or Statement	Outlining the reasons why owner(s) must sell the property at this time.	
Application	Completed and signed by owner(s). See Exhibit 5-EX-3.	
Financial Statement	See Exhibit 5-EX-10 or 5-EX-11	Not required (at the District's discretion) if the hardship request is due to medical problems, job transfer, advanced age, or retirement move.
Market Substantiation	Evidence of reasonable attempt to market the property: <ul style="list-style-type: none"> • Copy of valid listing. • Statement from a broker citing reasons the property has not or cannot be sold. • Evidence or information obtained by the District. 	If there have been other unsuccessful attempts to sell the property on the project at fair market value, listing the property is not required. The District should state in its recommendation that the property cannot be sold at fair market value because of the proposed project.
Income Tax Authorization	Signed authorization to obtain a copy of Federal and State income tax returns (Exhibits 5-EX-5 and 5-EX-6). The District secures copies of the latest tax returns if additional documentation is needed.	Optional if the District is satisfied with all the financial information submitted by applicant.
Doctor's Statement or Equivalent		Required if hardship request is based on a medical reason.
Verification from Employer		Required if hardship request is based on a transfer of employment.
Index Map and Plat Map	Showing affected parcel in relation to project right of way. Maps should be 11"x17" if possible.	
FNM-76	Copy of the request for Federal participation if applicable.	
Hazardous Waste Statement	Describing potential of hazardous waste at the property, if any.	
District Approval Letter		
Categorical Exemption/ Exclusion Determination	And required statement.	
Review and Written Approval of Regional Legal Office.	Determines if acquisition would influence environmental assessment of proposed project.	Required if project is not environmentally cleared.

The District is responsible for seeing that the information submitted is accurate and appropriately documents the request; e.g., a doctor's letter or affidavit from employer.

5.03.04.04 Documentation of Files

For each application, the District maintains a file that becomes part of the parcel file upon commencement of acquisition. A parcel diary is initiated when application is made. Care should be taken to ensure that reasons for recommending approval or denial of application are clearly outlined in the diary or file. The date of notification of requirements for RAP eligibility shall be entered following the initial contact with the applicant. The application and other items submitted in support of the hardship are to be retained in the file. (See Section 5.03.04.03.)

The DDD-R/W is responsible for approving or denying each application. Statements of the District's action are made by a signed entry in the parcel diary. The following should be explained and included as part of the entry:

- Basis of decision to accept or deny the application.
- Fact that file has been reviewed prior to approval or denial and that reviewer is familiar with the contents of the file.

5.03.04.05 Notification of Approval or Denial

The Department considers hardship requests to be sensitive since the outcome of a request (approval/denial) could have a significant effect on the applicant. The District must ensure that proper notification is given as follows:

- **Request Approved** - the District notifies the applicant promptly by telephone and makes an entry in the diary.
- **Request Denied** - the District sends a letter to the applicant.

When FHWA approval is required, the telephone notification is made after the FHWA has

authorized an FNM-76 for the subject parcel. The responsibility for implementing this procedure rests with the DDD-R/W in each District.

5.03.04.06 Negotiation Alternatives

If negotiations are unsuccessful, the District should either:

- Consider the merits of an Administrative Settlement.
- Explain the condemnation process to the owner. The Agent should inform the owner that if they wish the State to condemn the property, they should send a letter to that effect. The State will then proceed with an action in eminent domain. If owner wishes, the State could prepare such a letter on owner's behalf (see Exhibit 5-EX-7). A copy of the letter shall be submitted with the District's request for the CTC resolution.
- Withdraw the offer in writing. It is important that all offers of relocation assistance or payments to owners and tenants be formally withdrawn in writing no later than 10 days from the date of the determination not to acquire (see RAP Chapter for procedures to follow in withdrawing RAP offers).

5.03.04.07 Vacation of Property

The contract will require grantors to vacate the property within 120 days from the date of the close of escrow, providing replacement housing is available. See Section 8.09.15.00 of the Acquisition Chapter for appropriate clauses and commentary on application.

5.03.05.00 Disposition of Financial Information

The District shall maintain confidentiality of the financial statement and income tax returns and permit only authorized personnel to have access to this information. Authorized personnel are those who process the application and those who make the final decision to approve or disapprove the application. While processing the application, the Agent shall store this information

in the working file and shall not leave it in the open on an unattended desk.

The Agent shall note in the parcel diary when the financial information was received. This is essential to establish that the information was in State's possession before a decision was made on the application. Upon final disposition of the application, this information shall be returned by mail to the applicant and so noted in the parcel diary. If the application is denied, the applicant should be advised in the denial letter that the returned material must be resubmitted on appeal, if any. If for some reason this information cannot be returned, it shall be destroyed and so noted in the parcel diary.

5.03.06.00 Hardship Appeals

Applicants who have been denied by the Department shall have the opportunity to have their situations considered by an appeals board.

5.03.06.01 Appeals Board

Each District shall establish and maintain a Hardship Appeals Board consisting of three members:

- DDD-R/W or a Supervising Right of Way Agent.
- Project Development Branch representative.
- Legal Division representative where available.

Where legal participation is not practical, the third member shall be chosen by and serve at the discretion of the DD. If a member of the Appeals Board is unable to participate in the particular appeals case being reviewed (e.g., due to absence or being personally involved with the case so as to prevent unbiased judgment), the DD shall appoint a substitute member to the Board for the case.

5.03.06.02 Eligibility

The District shall notify all applicants whose requests have been denied that they can appeal the decision in writing to the District Appeals Board. Exhibit 5-EX-12 should be completed by the applicant. The file shall be documented that

the applicant was advised of the opportunity to appeal the request and to appear personally before the Board.

5.03.06.03 Appeals Board Action

The Board reviews the file and documents presented by the applicant, including personal presentation by the applicant if requested, to determine if minimum requirements per Section 5.03.04.00 have been met.

After a careful review of the circumstances, the Board shall prepare a summary of facts and findings and submit it with the Board's recommendation to the DORW for processing and final disposition. The DORW transmits the final decision to the DDD-R/W or a designee who shall notify the applicant of the final decision.

9081-006

Jeffrey G. Knowles
Direct: (415) 772-5795
Email: jgk@cpdb.com

February 21, 2007

VIA FACSIMILE & U.S. MAIL

Andrew Schwartz, Esq.
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102

RE: 85 Natoma/Transbay Terminal Project

Dear Andrew:

On behalf of Wendy and Christopher DeCenzo, I write in response to your letter of November 14, 2006. I write also to express my clients' view that, based on what they have recently learned about the planned project, it appears that Phase I of that project will result in damage to their property for which they must receive compensation under the California Constitution. Finally, I write to advise you that the TJPA's "on-again-off-again" approach to the taking of this property, combined with the lengthy delays and repeated plan alterations of the project, are approaching the point where my clients are contemplating a claim for unreasonable pre-condemnation conduct.

I. The Hardship Issue

Your letter refers to, and encloses, excerpts from the California Department of Transportation ("Caltrans") Right of Way Manual that list the criteria for purchasing property based on "hardship." In our earlier conversation, you indicated that the Transbay Joint Powers Authority ("TJPA") does not consider itself bound by these criteria. Rather, you indicated that the TJPA is treating them as a reference point, retaining discretion to apply them as it deems appropriate.

Against this background, the DeCenzos' request that the TJPA purchase their home based on hardship should be granted. I will address each of the four criteria recited in your letter.

Andrew Schwartz, Esq.
February 21, 2007
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"(1) Owner demonstrates need to dispose of property."

The DeCenzos meet this criterion on at least three of the listed grounds: (a) "change of work location;" (b) "non-decent, safe and sanitary housing;" and (c) "monetary loss."¹

With respect to the first ground, last year Chris DeCenzo's employment moved down the peninsula to Mountain View, extending his daily commute by over an hour. The DeCenzos have attempted to lease property closer to Mr. DeCenzo's employment, but have not been able to make the move because they have been unable to rent or sell their home.

With respect to the second ground, I believe my earlier letter detailed how this home is simply not safe for young children. With a very large roof deck five floors above the street, and stairways and loft spaces within the home that create additional falling hazards for toddlers, the fact that the DeCenzos have a 3-year-old son and twins on the way should be dispositive of this issue. Indeed, the neighborhood itself is not safe for children.

The information that the DeCenzos recently received about the TJPA's construction plans only reinforces the conclusion that this home will not be safe for children (and perhaps not for adults). At a meeting with TJPA officials, she was told that the construction will entail closure of Natoma street in front of her residence, and excavation of a 60-foot deep trench. In addition to the obvious and tremendous inconvenience that the street closure would entail – eliminating the DeCenzo's ability to use their garage – the trench itself will be a new hazard. Indeed, these construction steps will require Ms. DeCenzo to shepherd her three small children on foot through a high-crime neighborhood/construction zone, adjacent to and perhaps across a chasm, in order to access her home. No one can credibly contend that this is a safe living arrangement.

With respect to the third ground – monetary loss – I believe my earlier letter explained that the DeCenzos must move, and that they will suffer a monetary loss because they have been unable to sell or rent the property for fair market value because of the pendency of the project. I enclose copies of documents relating to the DeCenzos efforts, including a redacted draft lease with a prospective tenant who

¹ The criteria you listed appear to distinguish between need based on "financial" issues and need based on "monetary loss." Your letter suggests that a claim of "financial" hardship would require submission of a financial statement. My clients object to any requirement that they provide such detailed private information in order to establish hardship, especially since they can show that pendency of the project has inflicted, and will continue to inflict, financial harm upon them without divulging such personal information.

Andrew Schwartz, Esq.
February 21, 2007
Page 3

ultimately declined to rent the property based, at least in large measure, on the cloud created by the pending project. The DeCenzos will be forced to bear the carrying costs of the home, as well as the costs of buying or renting another home. Monetary loss could hardly be more evident.

"(2) Owner is unable to dispose of property at fair market value because of transportation facility plans."

Under this criterion, you assert that, because TJPA does not propose to take my clients' property for "at least five years," they "would need to demonstrate an inability to sell or rent the property during this five year period at fair market value/rent because of the" project. There are a couple of answers to this contention. We provide a compelling one below in explaining how Phase I of the project will, in fact, constitute a compensable taking of my clients' property. Additionally, we note that, at least until receipt of your letter, the TJPA has been unwilling to commit to any sort of timeframe for when my clients' property would be taken. This has only contributed to the uncertainty that has made fair market rental or sale impossible.

Were it not for the Phase I taking described below, it might be arguable that a formal TJPA commitment that no direct taking will occur for at least five years would facilitate a fair market rental. Assuming for purposes of discussion that the home could be rented, however, it would not eliminate my client's monetary loss. Their equity in the home would remain inaccessible for the five years (or more) that the property is under the cloud of the project, forcing them to incur additional costs to purchase a home. They would either be forced to incur the costs of debt, or to liquidate other working assets (and thereby lose the financial benefit of those assets).

Even absent the more immediate damage discussed below, it is unlikely that fair market rental is achievable even if the TJPA officially committed to no direct taking in the next five years. The construction disruption of Phase I alone will make this location highly undesirable for the foreseeable future. Also, the home's position at the high end of the residential market makes the pool of potential renters both small and demanding. They are likely to be even more sensitive to the disruption and uncertainty created by the project.

Collectively, we believe these considerations demonstrate an inability to dispose of the property over the next five years and beyond.

Andrew Schwartz, Esq.
February 21, 2007
Page 4

"(3) Owner cannot reasonably alleviate the hardship in the absence of the state's purchase."

I believe this criterion is effectively addressed above. The inability of the DeCenzos to sell or rent the home, combined with their pressing need to move, means that they will suffer significant economic loss unless the TJPA purchases their home for fair market value.

"(4) State's purchase will either partially or totally alleviate the hardship."

Again, I believe this addressed above. If the DeCenzos were to receive fair market value for their home, it would fully alleviate their hardship.

II. The Inverse Condemnation Issue.

As indicated above, my clients recently learned certain details of certain changes in the location of the proposed bus ramps at the Transbay Terminal. They had been originally told (and you had indicated to me last year) that at least one bus ramp was proposed to run through their building. You later informed me that the location had been changed and that the ramp would no longer run through my client's property.

At the meeting referenced above, TJPA officials informed my clients that the proposed ramp had been relocated so that it would run *ten feet* from my clients' home, including the area of the roof deck and the master bedroom, along the length of the building. Apparently, this change was made for the express purpose of avoiding payment for the taking of my clients' property.

It is inconceivable that a ramp intended for intensive use by city buses and perhaps other very large vehicles, in that proximity to my clients' property, would not render their home virtually uninhabitable. The noise, vibration, dust, foul odors and noxious fumes that such traffic would necessarily entail would not only disrupt the peaceful use of their home but also create a serious health risk for them, their children and possibly their guests.

As you know, Article I, Section 19 of the California Constitution requires payment of just compensation when private property is "taken or damaged for public use." Case law makes clear that this obligation will arise, even absent physical invasion or damage, when "an intangible intrusion onto the property has occurred which has caused no damage to the property but places a *burden* on the property that is direct, substantial and peculiar to the property itself." *Oliver v. AT&T Wireless Services* (1999) 76 Cal.App.4th 521.

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The proposed bus ramp would create a circumstance remarkably parallel to the facts in *Harding v. State of California* (1984) 159 Cal.App.3d 359. There, the state government widened an existing freeway right-of-way by purchasing several parcels of land and then started construction on a project to raise the grade of the freeway by 23 feet directly in front of the plaintiffs' home. The government did not directly take any part of the plaintiffs' property. The plaintiff sued for inverse condemnation, alleging that the project resulted in a loss of air, light, views and "damage due to dust, dirt, straw and highway debris which caused respiratory problems for plaintiff, and further damage due to noise from the freeway." *Id.* at 363. The trial court granted summary judgment on the inverse condemnation claim, and Court of Appeal reversed.

The *Harding* court recognized that "early cases deny compensation for diminution in value due to noise, dust and discomfort produced by a nearby highway when the highway was not located on land previously taken from the claimant." *Id.* at 366. The court then observed, however, that modern view is different: "More recent cases have placed less emphasis on whether part of the freeway actually passes over or was located on claimant's land and more emphasis on the actual harm suffered." *Id.* The court therefore concluded that, under the principle enunciated by the Supreme Court in *Varjabedian v. City of Madera* (1977) 20 Cal.3d 285 that an award is proper where an intangible burden is "direct, substantial and peculiar," the entitlement to just compensation must "not be dependent upon an arbitrary standard that is tied to a physical appropriation or chance location of plaintiffs' property." As the plaintiffs in *Harding* had demonstrated "unique damage to their property from dust, debris and highway noise," it was error for the trial court to grant summary judgment against them.

The proposed bus ramp will create a burden at least as "direct, substantial and peculiar" as the one at issue in *Harding*. It is therefore inaccurate to conclude that no compensable taking or damage to this property will occur until Phase II of the project. Indeed, this circumstance means that no fully informed buyer or tenant will enter into a fair market value transaction (or, for that matter, *any* economically meaningful transaction) with my clients regardless of any assurance by the TJPA about the timing of Phase II. This alone should satisfy the TJPA that the contemplated delay in Phase II is not a reason to delay payment of fair market value to my clients.

III. The Potential *Klopping* Claim.

As you know, unreasonable pre-condemnation conduct by a government authority can entitle a private property owner to a recovery. *Klopping v. City of Whittier* (1972) 8 Cal.3d 39. The course and duration of the TJPA's conduct here has now crossed the line where such an action by my clients would be viable. That conduct includes but is not limited to (a) its unwillingness to commit to a timeframe in which the property would or would not be taken; (b) extreme delay between the time of initial

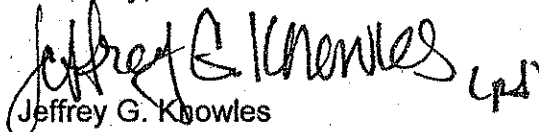
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statements that the property would likely be taken to the present; and (c) redesign of the project apparently for the purpose of delaying payment to my clients while simultaneously depriving them of the quiet enjoyment of their home.

Needless to say, my clients would prefer to sell their home to the TJPA for fair market value without resort to litigation. They also appreciate the TJPA's concerns about setting a precedent with respect to the acquisition of property in the path of only the second phase of the project. But the fact is that my clients' property is uniquely situated with respect to both Phase I and Phase II of the property. That should mitigate if not eliminate concerns about setting a precedent with respect other properties. We ask again that the TJPA purchase my clients' home for fair market value.

I look forward to hearing from you.

Sincerely,


Jeffrey G. Knowles

JGK:pd

Enclosures



85 Natoma - Penthouse

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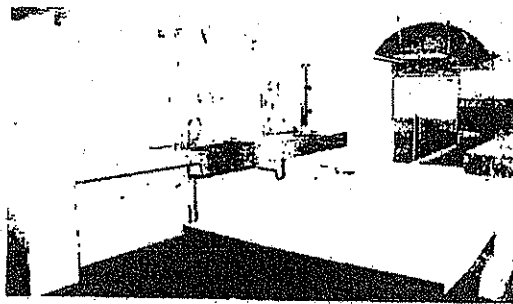
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*NO EXPRESS OR IMPLIED WARRANTY IS CONTAINED IN THE INFORMATION AND SOURCES HEREIN. ALL PROPERTY DETAILS AND INFORMATION ARE DEEMED TO BE RELIABLE BUT NOT GUARANTEED BY JAVRO.

DRAFT 85 Natoma
BASIC LEASE INFORMATION
85 Natoma Street
San Francisco, California

DATE OF THIS LEASE: June 9, 2006
LANDLORD: Wendy Roess-DeCenzo
TENANT: Randal Kirk
PREMISES: Unit #9, 85 Natoma St, San Francisco 94105
LEASE COMMENCEMENT DATE: August 15, 2006
LEASE EXPIRATION DATE: August 14, 2008

TOTAL MONTHLY RENT \$ 21,000.00
LANDLORD'S ADDRESS FOR NOTICES: Roess LLC
P.O. Box 77791
San Francisco, CA 94107
Attention: Wendy Roess-DeCenzo

TENANT'S ADDRESS FOR NOTICES: 85 Natoma Street, Unit # 9
San Francisco, California, 94105
Attention: Randal Kirk

SECURITY DEPOSIT: \$ 42,000.00
BROKER: James Wavro
EXHIBITS: A, B, C & D, Commission Agreement, Agency Confirmation

The basic lease information is part of this Lease; however, if any of the basic lease information contradicts any provision of this Lease, the provisions of this Lease will prevail.

Each of Landlord and Tenant hereby acknowledges and agrees that the information appearing on this page entitled Basic Lease Information is true and correct as of the Commencement Date shown above:

LANDLORD:
Wendy Roess-DeCenzo

TENANT:
Randal Kirk, an individual

By: Roess LLC

By: _____
Wendy Roess-DeCenzo
Managing Partner

By: _____
Randal Kirk, an individual

85 Natoma Lease Agreement

1. **PARTIES.** This Lease, dated as of this 9th day of June, 2006 made and entered into by and between Randal Kirk hereinafter designated "Tenant(s)" and Roess LLC, hereinafter designated "Landlord."

2. **LEASED PREMISES.** The Landlord in consideration of the covenants and agreements herein contained on the part of the Tenant to be kept and performed, does hereby let to Tenant, and Tenant does hereby lease and take from Landlord, the following premises: 85 Natoma Street Unit 9, San Francisco, California, a live/work unit.

3. **TERM.** The initial term of this Lease commences August 15, 2006 and expires August 14, 2008, unless sooner terminated or extended as hereinafter provided.

4. OPTION TO RENEW

A. Tenant is hereby granted the option (the "First Option") to either continue the tenancy for an additional one (1) year period, August 15, 2008 through August 14, 2009, at a rental rate of \$23,000.00 (Twenty Three Thousand Dollars) per month or extend the term of this Lease after the expiration of the Lease Term on a month-to-month basis (the "Extended Lease Term") at a rental rate of \$24,000.00 (Twenty Four Thousand Dollars). Upon commencement of the First Option or Extended Lease Term, Rent shall increase beginning on August 15, 2008. Tenant may not extend the Lease Term pursuant to any option granted by this Section if Tenant is in default, and the period, if any, in which to cure such default has expired, as of the date of exercise of such option or as of the date this Lease would have terminated but for the exercise of such option or if Tenant has been in default two (2) times during the Lease Term.

B. Tenant shall be deemed to have waived the First Option, unless Tenant has given Landlord notice in writing of its decision to exercise such option no earlier than ninety (90) days nor later than sixty (60) days before the date the Lease Term would end but for said option. Time is of the essence in regard to Tenant's notice to exercise, and unless notice to exercise is timely given, Tenant's right to exercise of the First Option, shall be terminated.

5. **ENTRY BY LANDLORD.** Landlord shall, with 24 hour written or oral notice, have the right to enter the Premises to inspect the same, including surface and subsurface conditions, to exhibit the Premises to prospective purchasers or tenants, to post notices of non-responsibility, to repair the Premises and any portion of the Building of which the Premises is a part that Landlord may deem necessary or desirable, without abatement of rent. In an emergency, Landlord may enter the Premises without prior notice. Tenant hereby waives any claim for damages for any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby.

6. **USE OF LEASED PREMISES.** Tenant shall occupy and use the Leased Premises as an arts-related Live/ Work unit, which use must be conducted at all times in a lawful and reputable manner and so as not to create a nuisance and in full compliance with its allowable usage under sections 102.13 and 102.2 of the San Francisco Planning Code and the Notice of Special Restrictions. No other use shall be allowed without the prior written consent of Landlord. Tenant shall not use the premises in such a way as to violate any law or ordinance, commit waste or nuisance, or annoy, disturb, inconvenience, or interfere with the quiet enjoyment of any other Tenant. Activities that could be construed to be hazardous or detrimental to the Landlord, the Leased Premises or the general public shall be prohibited.

Tenant shall continuously occupy and reside in the Leased Premises during the term of this Lease. Non-occupancy of the Leased Premises or using it solely for non-residential purposes for a period in excess of thirty (30) days shall be a material default of this Lease at the option of Landlord.

7. RENT

A. Tenant shall pay to Landlord as "Rent" each calendar month, the sum of Twenty One Thousand Dollars (\$21,000.00), which includes Tenant's estimated share of utilities and services, One Thousand Fifty Five Dollars (\$1055.00), payable in advance on or before the First day of each such month. Rent for any period less than a calendar month shall be prorated.

B. **LATE CHARGES; INTEREST.** Tenant acknowledges that late payment of any installment of Monthly Rent will cause Landlord to incur costs not contemplated by this Lease and that the exact amount of such costs would be extremely difficult and impracticable to fix. Therefore, if any installment of Monthly Rent due from Tenant is not received within five (5) days of the due date, Tenant shall pay to Landlord on demand an additional sum of six percent (6%) of the overdue installment, which sum represents a fair and reasonable estimate of the costs that Landlord will incur by reason of late payment by Tenant. Failure by Tenant to pay rent when due, including any interest accrued under this subsection, shall constitute a Default by Tenant under this Lease giving rise to all the remedies afforded Landlord under

this Lease for non-payment of rent.

8. SECURITY DEPOSIT. Concurrently with Tenant's execution of this Agreement, Tenant shall deposit with Landlord the sum of Twenty Thousand Dollars (\$42,000.00), which shall be held by Landlord as security for the faithful performance by Tenant of all terms, covenants, and conditions of this Lease Agreement during the term hereof.

If Tenant defaults with respect to any provision of this Lease Agreement, including, but not limited to the provisions relating to the payment of Rent, Landlord may use, apply or retain all or any part of this security deposit for the payment of any Rent or any other sum in default, or for the payment of any amount which Landlord may spend or become obligated to spend by reason of Tenant's default, or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of said deposit is so used or applied, Tenant shall, within five (5) days after written demand therefore, deposit cash with Landlord in an amount sufficient to restore the security deposit to its original amount and Tenant's failure to do so shall be a default under this Lease Agreement. Landlord is not a trustee of the security deposit paid hereunder and may commingle it and use it in ordinary business. The security deposit shall be returned to Tenant at the expiration of this Lease Agreement, less any amounts necessary to compensate Landlord for any defaults by Tenant. Landlord may deliver the funds deposited hereunder to a purchaser of the real property, and thereupon Landlord shall be discharged from any further liability with respect to such deposit. The security deposit shall not be considered the "last month's" rent.

9. PAYMENTS.

A. RENTAL. Tenant shall pay the rent herein specified to Landlord at the time or times and in the manner specified to Ross LLC, P.O. Box 7791, San Francisco, CA 94107-7791 or to such other person(s) as Landlord otherwise designates. Landlord reserves the right to demand payment by certified funds (Cashier's check or money order) upon any default by Tenant.

B. PARTIAL RENT PAYMENTS. Landlord's acceptance of a partial rent payment shall not constitute a waiver of any rights of the Tenant or the Landlord, including, without limitation, any right the Landlord may have to recover possession of the Leased Premises, in unlawful detainer or otherwise.

10. ENTRY BY LANDLORD. Landlord shall, with 24 hour written or oral notice, have the right to enter the Premises to inspect the same, including surface and subsurface conditions, to exhibit the Premises to prospective purchasers or tenants, to post notices of non-responsibility, to repair the Premises and any portion of the Building of which the Premises is a part that Landlord may deem necessary or desirable, without abatement of rent. In an emergency, Landlord may enter the Premises without prior notice. Tenant hereby waives any claim for damages for any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby.

11. SUBROGATION WAIVER. Landlord and Tenant do hereby mutually waive as against each other, all rights of recovery for damage sustained by either, caused by the other, to the extent that such damage is compensated for by insurance maintained by the damaged party. Landlord and Tenant further agree that no party shall have any claim against the other by way of subrogation or assignment.

12. CASUALTY LOSS; RESTORATION. Tenant shall immediately notify, both by phone and in writing, Landlord of destruction or damage to the Leased Premises from any cause whatsoever.

13. REPAIRS. Tenant accepts the Leased Premises in its "AS IS" condition, repair and appearance and Tenant agrees the Leased Premises are suitable for Tenant's intended use. Tenant hereby acknowledges it has made an independent inspection of the Leased Premises, and Tenant waives any implied or expressed warranty of suitability. Tenant shall, at Tenant's sole cost and expense, keep the Leased Premises and every part thereof in good condition and repair, and in compliance with all applicable laws and regulations. Tenant shall upon the expiration or sooner termination of this Lease Agreement hereof, surrender the Leased Premises to the Landlord in good condition, broom clean, with all keys, ordinary wear and tear and damage from causes beyond the reasonable control of Tenant excepted. Any damage to adjacent premises caused by Tenant's use of the Leased Premises shall be repaired at the sole cost and expense of Tenant.

14. UTILITIES. Tenant shall pay Tenant's pro rata share of the costs of the utilities provided by Landlord to the Premises. Landlord shall furnish hot and cold domestic water, garbage pickup and sewer service to the Premises. Tenant shall be solely responsible for all costs associated with obtaining and utilizing electrical and telephone service in the Premises. If any utilities are not separately metered, Tenant shall pay Tenant's proportional share thereof as reasonably determined by Landlord.

15. PETS. No animal or pet shall be kept on or about the Premises without Landlord's prior written consent.

16. ALTERATIONS. Tenant shall not make any structural or non-structural alterations to the Leased Premises or place any additional structures upon the Leased Premises without the prior written consent of Landlord. Any such work shall be subject to Landlord's review and approval and shall be completed in a workmanlike manner. Alterations shall be at Tenant's sole expense and subject to Landlord's discretion shall remain the property of Landlord at the expiration or earlier termination of this Lease Agreement.

17. WINDOW COVERINGS. Tenant shall use window coverings provided by the landlord.

18. **FIXTURES.** All trade and other fixtures and personal property which may be installed upon the Leased Premises by Tenant shall remain the property of Tenant, subject to the Landlord's lien provided for herein. Tenant may remove such fixtures and personal property at any time but shall repair or replace any portion of the Leased Premises damaged by such removal.

19. **SIGNS.** N/A

20. **DEFECTS AND LIENS.** Landlord shall not be liable for any claims arising out of any defect whatsoever in the Leased Premises or any improvement or equipment therein, or any structural part thereof, however arising, or from the acts of negligence of the Tenant or any third party while on said Leased Premises, or for any damages, loss or injury to the property or person of the Tenant or third party from any cause whatsoever. Should tenant cause, suffer or permit any lien to be placed, imposed or attached to or upon the Leased Premises or any part thereof by reason of any act or omission of the Tenant or third party, Tenant hereby agrees to be held solely responsible and shall hold Landlord harmless for said lien. Tenant further agrees to cause any such said lien to be released and discharged in a reasonably expedient manner.

21. **SUBLETTING AND ASSIGNING.** Tenant shall not either voluntarily, or by operation of law, assign, transfer, mortgage, pledge, hypothecate, or encumber (includes forming a partnership) this Lease Agreement or any interest therein, and shall not sublet the Leased Premises or any part thereof, or any right or privilege appurtenant thereto, or allow any other person to occupy or use the Leased Premises, without Landlord's prior written consent. Consent to any such assignment or subletting shall in no way relieve Tenant of any liability under this Lease Agreement. Any such assignment or subletting without Landlord's written consent shall be void, and shall, at the option of the Landlord be an irremediable breach of this lease and cause for immediate termination as provided here and by law.

22. **HOLD HARMLESS.** Tenant agrees to indemnify, defend and hold harmless Landlord from any claim, suit, cause of action or loss ("Claim") for any reason whatsoever arising out of or related to this Lease Agreement or the Leased Premises, whether or not such claim is covered by insurance, or from any activity, work or other things done, permitted or suffered by the Tenant in or about the Leased Premises. Tenant hereby assumes all risk of damages to property or injury to persons in, upon or about the Leased Premises, from any cause other than Landlord's gross negligence and Tenant hereby waives all claims in respect thereof against Landlord. Tenant shall give prompt notice to Landlord in case of casualty or accidents in the Leased Premises.

Landlord or its agents shall not be liable for any loss or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the building containing the Leased Premises or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface or from any other place resulting from damages or any other cause whatsoever. Landlord or its agents shall not be liable for interference with the light, air or any latent defect in the Leased Premises.

23. **SURRENDER; HOLDING OVER**

A. **SURRENDER.** Upon the expiration or other termination of this Lease, Tenant shall surrender the Premises and all improvements and Alterations to Landlord broom-clean and in their original condition, except for reasonable wear and tear and damage from casualty, and Tenant shall remove from the Premises all of Tenant's personal property and trade fixtures. If such removal is not completed at the expiration or other termination of this Lease, Landlord may remove the same at Tenant's expense. Any damage to the Premises or the Building caused by such removal shall be repaired promptly by Tenant or, if Tenant fails to do so, Landlord may do so at Tenant's expense. The removal of Alterations from the Premises shall be governed by Section 15 hereof. Tenant's obligations under this Section shall survive the expiration or other termination of this Lease. Upon expiration or termination of this Lease or of Tenant's possession, Tenant shall surrender all keys to the Premises or any other part of the Building and shall make known to Landlord the combination of locks on all safes, cabinets and vaults that may be located in the Premises.

B. **HOLDOVER.** If Tenant remains in possession of the Premises after the expiration or earlier termination of this Lease, Tenant's continued possession shall be on the basis of a tenancy at sufferance and Tenant shall pay as Rent during the holdover period an amount equal to the greater of (i) one hundred fifty percent (150%) of the fair market rental (as reasonably determined by Landlord) for the Premises or (ii) two hundred percent (200%) of the Rent and Additional Rent payable under this Lease for the last full month prior to the date of such expiration.

24. **DEFAULT.**

A. **TENANT'S DEFAULT.** If Tenant defaults in the payment of any amounts herein provided when due, or in the performance of any other covenant or agreement herein, and such default is not cured within five (5) days in the case of monetary defaults or ten (10) days in the case of any other default after written notice is given to Tenant, Landlord may, at its option, declare this Lease Agreement terminated and the terms thereof ended by giving written notice to Tenant, and this Lease Agreement shall be of no further force or effect, except for amounts due or which shall have accrued before the date of such termination. Alternatively, Landlord may elect not to terminate the Lease and hold Tenant liable for Rent and other expenses as they come due during the balance of the primary term or any renewal term of the Lease Agreement.

In addition to other remedies as provided by law, Landlord may re-enter and secure the Premises and remove all persons and property therefrom, and Tenant hereby consents to the imposition of a Landlord's lien on Tenant's property. Such property shall be held for a

reasonable time and may then be sold or retained by Landlord as compensation for claims that Landlord may have against Tenant. Any such actions taken by Landlord to enforce the provisions of this Lease Agreement and correct any default by Tenant shall be deemed proper and within the legal rights of Landlord. Tenant agrees to hold harmless the Landlord and/or its representatives for any damage or trespass as a result of actions taken by Landlord to enforce its remedies. Tenant further agrees to pay any and all costs of collection and/or legal actions (including attorneys' fees and expenses) Landlord may incur to enforce the provisions of this Lease Agreement.

B. LANDLORD'S DEFAULT. In the case of a default by Landlord of any covenant or agreement herein, Landlord shall commence to cure such default within thirty (30) days after written notice specifying the nature of such default is given by Tenant to Landlord. If such default is not cured within a reasonable time thereafter, Tenant's sole remedy for such breach shall be an action for specific performance, injunction or damages, but shall not include any right to withhold rents payable hereunder or to terminate this Lease Agreement.

25. NOTICES. All notices to be given to Landlord hereunder shall be given at the addresses set out below until another place shall be designated in writing by Landlord. All notices shall be deemed to have been given when mailed by certified mail, postage prepaid, or personally delivered to:

Roess LLC
P.O. Box 77791,
San Francisco, California 94107 7701

DRAFT

26. GENERAL PROVISIONS.

- A. EXHIBITS AND RIDERS.** Clauses, plats, riders and addendum, if any, affixed to this Lease Agreement are a part hereof. See Exhibits A, B and C.
- B. JOINT OBLIGATION.** If there is more than one Tenant, the obligations hereunder imposed shall be joint and several.
- C. MARGINAL HEADINGS.** The marginal headings and article titles to the articles of this Lease Agreement are not a part of this Lease Agreement and shall have no effect upon the construction or interpretation of any part hereof.
- D. WAIVER.** No provisions of this Lease shall be deemed waived by Landlord unless such waiver is in writing signed by Landlord. The waiver by Landlord of any breach of any provision of this Lease shall not be deemed a waiver of any subsequent breach of the same or any other provision of this Lease. No delay or omission in the exercise of any right or remedy of Landlord upon any default by Tenant shall impair such right or remedy, or be construed as a waiver. Landlord's acceptance of any payments of rent due under this Lease shall not be deemed a waiver of any default by Tenant under this Lease.
- E. SUCCESSORS AND ASSIGNS.** The covenants and conditions herein contained, shall inure to the benefit of Landlord and Tenant and their heirs, successors, executors, administrators and assigns.
- F. INABILITY TO PERFORM.** This Lease Agreement and the obligations of the Tenant hereunder shall not be affected or impaired because Landlord is unable to fulfill any of its obligations hereunder or is delayed in doing so, if such inability or delay is caused by reason of strike, labor troubles, acts of God, delay in the issuance of a certificate of final completion by the City of San Francisco, or any other cause beyond the reasonable control of the Landlord.
- G. SEVERANCE.** If any term, covenant, condition or provision of this Lease Agreement shall be held invalid or unenforceable, the remainder of this Lease Agreement shall not be affected thereby, and each other term, covenant condition and provision hereof shall be valid and be enforced to the fullest extent permitted by law.
- H. CUMULATIVE REMEDIES.** No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies at law or in equity.
- I. CHOICE OF LAW.** This Lease Agreement shall be governed by the laws of the State of California.
- J. SALE OF PREMISES BY LANDLORD.** In the event of any sale of the Leased Premises by Landlord, Landlord shall be relieved of all liability under any and all its covenants and obligations contained in or derived from this Lease Agreement arising out of any act, occurrence or omission occurring after the consummation of such sale; and the purchaser, at such sale or a subsequent sale of the Leased Premises shall be deemed, without any further agreement between the parties or their successors in interest or between the parties and any such purchaser, to have assumed and agreed to carry out any and all of the covenants and obligations of the Landlord under this Lease Agreement.
- K. BROKERS COMMISSION.** Tenant represents and warrants that it has not incurred liabilities or claims for brokerage commissions or finder's fees with respect to the execution of this Lease Agreement and that it has not dealt with nor has knowledge of any real estate broker, agent or salesperson with respect to this Lease Agreement. Tenant agrees to indemnify, defend Landlord against, and hold Landlord harmless from all such liabilities or claims, including, without limitation, attorney's fees and expenses regarding any claimed commissions or finder's fees.
- L. SMOKE DETECTORS.** The Premises is equipped with functioning smoke detection devices. Tenant shall be responsible for testing the device monthly and immediately reporting any problems, maintenance or need for repairs to Landlord. Tenant is responsible for changing all smoke detector batteries as necessary. Landlord shall have the right, but not the obligation, to enter the Premises to check and maintain the smoke detection device as provided by law. Tampering or disabling a smoke detection device may result in immediate termination of this Lease as provided herein and by applicable law.
- M. SOLE AGREEMENT.** This Lease Agreement embodies the entire agreement between the parties relative to the subject matter hereof and shall not be modified, changed, or altered in any respect except in writing.

N. ATTORNEY'S FEES AND COSTS. In the event of any legal action between Landlord and Tenant to enforce any of the provisions and/or rights hereunder, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorney's fees from the non-prevailing party.

O. EFFECTIVE: Lease Agreement effective upon date signed by Tenant and Landlord.

26. SPECIAL PROVISIONS:

A. TENANT IMPROVEMENTS: N/A

B. BSTOPPEL CERTIFICATES: At any time and from time to time, upon ten (10) days prior notice from Landlord, Tenant shall execute, acknowledge and deliver to Landlord a statement certifying to the best of Tenant's knowledge the Commencement Date of this Lease, stating that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified and the date and nature of each such modification), that Landlord is not in default under this Lease (or, if Landlord is in default, specifying the nature of such default), that Tenant is not in default under this Lease (or if Tenant is in default, specifying the nature of such default), the current amounts of and the dates to which the Rent has been paid, and setting forth such other matters as may be reasonably requested by Landlord. Any such statement may be conclusively relied upon by a prospective purchaser of the Real Property or by a lender obtaining a lien on the Real Property as security.

C. MEGAN'S LAW: The Department of Justice, sheriffs' departments and police departments servicing jurisdictions of 200,000 or more and many other local law enforcement authorities maintain for public access a database of the locations of persons required to register pursuant to paragraph (1) of subdivision (a) of Section 290.4 of the Penal Code. The database is updated on a quarterly basis and is a source of information about the presence of these individuals in any neighborhood. The Department of Justice also maintains a Sex Offender Identification Line through which inquiries about individuals may be made. This is a "900" telephone service. Callers must have specific information about individuals they are checking. Information regarding neighborhoods is not available through the "900" telephone service.

D. PROPOSITION 65 WARNING: The State of California requires that Landlord warn each Tenant that the Building contains chemicals known to the State of California to cause cancer, and birth defects, and other reproductive harm. These chemicals may be contained in emissions and fumes from building materials, products and materials used to maintain the property, and emissions, fumes, and smoke from Tenant and guest activities, including but not limited to the use of motor vehicles, barbecues, and tobacco products. These chemicals may include, but are not limited to carbon monoxide, formaldehyde, tobacco smoke, unleaded gasoline, soot, tars, and mineral oils.

E. MODIFICATION OF LEASE: This Lease cannot be changed orally, but only by agreement in writing signed by the party against whom, or against whose successors and assigns, enforcement of the change is sought.

F. AUTHORITY: The parties hereto each represent to the other that the person(s) signing this Lease has/have been duly authorized to execute and deliver this Lease on behalf of the party for which they sign.

27. ADDITIONAL DISCLOSURE

A. LIVE/WORK RESTRICTIONS: Restrictions and conditions have been placed on this property of which notice is hereby given: Section 102.13 limits residential occupancy to not more than four adults and defines live/work units as a combination of a residential living space with an integrated work space principally used by one or more of the residents. The live/work unit shall be occupied by a tenant whose primary non-residential activity in the unit is an arts activity as defined in Section 102.2 of the City Planning Code. At least one occupant of each of the live/work units, whether occupying the unit as an owner or tenant, shall hold and maintain a valid and active San Francisco Business License, registered for the project location. The Business license shall authorize an arts activity as defined in Section 102.2 of the City Planning Code.

B. MOVE IN/MOVE OUT FEE: Tenant shall pay to Landlord upon commencement of this lease a non-refundable One Thousand Dollars (\$1,000.00) move-in/move-out maintenance fee.

C. Tenant is hereby notified that all stairs, ladders, rails or mezzanine levels are not standard building code. Furthermore, Tenant understands and agrees that use of any mezzanine level, stairs, ladders or rails is at Tenant's or any of Tenant's Associates own risk.

IN WITNESS WHEREOF, Landlord and Tenant have hereto subscribed their names.

LANDLORD:
Wendy Roess-DeCenzo
By: Roess LLC

TENANT(S):
Randal Kirk, an individual

By: _____ Date: _____
Wendy Roess-DeCenzo, Managing Partner

By: _____ Date: _____
Randal Kirk, an individual

EXHIBIT A
RULES AND REGULATIONS FOR THE BUILDING
ATTACHED TO AND MADE A PART OF THIS LEASE
85 Natoma Street, San Francisco, CA

1. Except as provided or required by Landlord in accordance with building standards, no sign, placard, picture, advertisement, name or notice shall be inscribed, displayed, printed, painted or affixed by Tenant on or to any part of the Building or exterior of the Premises leased to tenants or to the door or doors thereof without the written consent of Landlord first obtained and Landlord shall have the right to remove any such sign, placard, picture, advertisement, name or notice without notice to and at the expense of Tenant.
2. Except as provided or required by Landlord in accordance with Building standards, no draperies, curtains, blinds, shades, screens or other devices shall be hung at or used in connection with any window or exterior door or doors of the Premises.
3. The bulletin board or directory of the Building shall be used primarily for display of the name and location of Tenants and Landlord reserves the right to exclude any other names therefrom, to limit the number of names associated with Tenants to be placed thereon and to charge for names associated with Tenants to be placed thereon at rates applicable to all Tenants.
4. The sidewalks, halls, passages, exits, entrances, elevators and stairways of the Building shall not be obstructed by Tenants or used by them for any purpose other than for ingress and egress from their respective Premises. The halls, passages, exits, entrances, elevators, stairways, balconies and roof of the Building are not for the use of the general public and Landlord in all cases reserves the right to control the same and prevent access thereto by all persons whose presence, in the judgment of the Landlord, is or may be prejudicial to the safety, character, reputation or interests of the Building and its Tenants; provided however, that Landlord shall not prevent such access to persons with whom Tenants deal in the ordinary course of business unless such persons are engaged in illegal activities. No person shall go upon the roof of the Building unless expressly so authorized by Landlord.
5. Tenants shall not alter any lock nor install any new or additional locks or any bolts on any interior or exterior door of any Premises leased to Tenant. Each Tenant shall be provided with two (2) keys accessing both the unit and the entry gates. Additional keys may be provided to Tenant, at the request of Tenant, provided that Tenant pays Landlord a \$25.00 deposit for each additional key, up to a maximum deposit of \$150.00. If all keys provided to Tenant are not returned to Landlord at the end of the Lease Term, then Landlord shall retain the full key deposit to allow for building re-keying as may be required by Landlord.
6. The doors, windows, light fixtures and any lights or skylights that reflect or admit light into halls or other places of the Building shall not be covered or obstructed. The toilet rooms, toilets, urinals, wash bowls or other apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown or placed therein. The expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the Tenant who, or whose employees or invitees, cause such expense.
7. Tenants shall not mark, drive nails, screw or drill into the walls, woodwork, brick, concrete or plaster or in any way deface the Building or any Premises leased Tenant.
8. Furniture, freight or equipment of every kind shall be moved into or out of the Building only at such times and in such manner as Landlord shall designate. Landlord may prescribe and limit the weight, size and position of all equipment to be used by Tenants, other than standard office desks, chairs and tables and portable office machines. Safes and other heavy equipment shall, if considered necessary by Landlord, stand on wood strips of such thickness as Landlord deems necessary to distribute properly the weight thereof. All damage to the Building or Premises occupied by Tenants caused by moving or maintaining any property of a Tenant shall be repaired at the expense of such Tenant.
9. No Tenant shall employ any person, other than the janitor provided by Landlord, for the purposes of cleaning the Premises occupied by such Tenant unless otherwise agreed to by Landlord. Except with the written consent of Landlord, no person shall be permitted to enter the Building for the purpose of cleaning the same. Tenants shall not cause any unnecessary labor by carelessness or indifference in the preservation of good order and cleanliness. Landlord shall not be responsible to any Tenant for loss of property on the Premises, however occurring, or

for any damage to the property of any Tenant caused by the employees or independent contractors of Landlord or by any other person. Janitor service will not be furnished when rooms are occupied during the regular hours when janitor service is provided. Window cleaning shall be done only at the regular and customary times determined by Landlord for such services.

10. No Tenant shall sweep or throw or permit to be swept or thrown any dirt or other substance into any of the corridors, halls or elevators or out of the doors or stairways of the Building; use or keep or permit to be used or kept any foul or noxious gas or substance; permit or suffer the Premises occupied by such Tenant to be occupied or used in a manner offensive or objectionable to Landlord or other Tenants by reason of noise, odors or vibrations; Interfere in any way with other Tenants or persons having business in the Building; or bring or keep or permit to be brought or kept in the Building any animal life form, other than human, except seeing-eye dogs when in the company of their masters.

11. No Tenant shall use or keep in the Premises or the Building any kerosene, gasoline or flammable or combustible fluid or material other than limited quantities thereof reasonably necessary for the operation or maintenance of customary office equipment or gas barbecue grill or, without Landlord's prior written approval, use any method of heating or air-conditioning other than that supplied by Landlord.

12. No Tenant shall use or keep or permit to be used or kept any foul or noxious gas or substance in the Premises, or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Building by reason of noise, odors or vibrations, or Interfere in any way with other Tenants or those having business therein. Tenant must comply with any government imposed codes and regulations concerning the use or storage of any substances on the Premises.

13. No boring or cutting for telephone or electric wires shall be allowed without the consent of Landlord and any such wires permitted shall be introduced at the place and in the manner described by Landlord. The location of telephones, speakers, fire extinguisher and all other office equipment affixed to Premises occupied by Tenants shall be subject to the approval of Landlord. Each Tenant shall pay all expenses incurred in connection with the installation of its equipment, including any telephone and electricity distribution equipment.

14. No Tenant shall affix any floor covering in any manner except as approved by the Landlord. The expense of repairing any damage caused by removal of any such floor covering shall be borne by the Tenant by whom, or by whose contractors, employees or invitees, the damage shall have been caused.

15. No mail, furniture, packages, supplies, equipment, merchandise or deliveries of any kind will be received in the building or carried up or down in the elevators except between such hours and in such elevators as shall be designated by Landlord.

16. The exterior, general entrance doors to the Building shall remain locked from the outside at all times, unless otherwise determined by the Landlord. No Tenant shall cause the doors to remain in the unlocked or open position, thereby sacrificing the general security of the building.

17. Landlord may exclude or expel from the Building any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of the rules and regulations of the Building.

18. The word "Building" as used in these rules and regulations means the Building of which a part of the Premises are leased pursuant to the Lease to which these rules and regulations are attached. Each Tenant shall be liable to Landlord and to each other Tenant of the Building for any loss, cost, expense, damage or liability, including attorneys' fees, caused or occasioned by the failure of such first named Tenant to comply with these rules, but Landlord shall have no liability for such failure or for failing or being unable to enforce compliance therewith by any Tenant and such failure by Landlord or non-compliance by any other Tenant shall not be a ground for termination of the Lease to which these rules and regulations are attached by the Tenant thereunder.

19. Each Tenant shall maintain the portions of its Premises which are visible from outside of the Building or from hallways or other public areas of the Building, in a neat, clean and orderly condition.

20. No curtains, draperies, blinds, shutters, shades, screens or other coverings, hangings or decorations shall be attached to, hung or placed in, or used in connection with any window of the Building without prior written consent of

Landlord. In any event, with the prior written consent of Landlord, such items shall be installed on the office side of the Landlord's standard window covering and shall in no way be visible from the exterior of the Building.

21. No Tenant shall install any radio or television antenna, loudspeaker or other device on the roof or exterior walls of the Building without prior written consent of Landlord.

22. There shall not be used in any space, or in the public halls of the Building, either by any Tenant or others, any hand trucks except those equipped with rubber tires and side guards or such other material handling equipment as Landlord may approve. No other vehicles of any kind shall be brought by any Tenant into the Building or kept in or about the Premises.

23. Each Tenant shall store all its trash and garbage within its Premises. No material shall be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in the City of San Francisco without being in violation of any law or ordinance governing such disposal. All garbage and refuse disposal shall be made only through entryways and elevators provided for such purpose and at such times as Landlord shall designate.

24. Canvassing, peddling, soliciting, and distribution of handbills or any other written materials in or about the Building are prohibited, and each Tenant shall cooperate to prevent same.

25. Landlord performs repairs and improvements to the Building on a regular basis. Tenant is aware of the possible noise and minor inconveniences associated with repairs and improvements, and will cooperate with Landlord whenever reasonable. Landlord shall coordinate all repairs and improvements which could create possible inconveniences, so as to minimize disruption to any tenants.

26. Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular Tenant or Tenants, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations against any or all of the Tenants of the Building.

27. These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the terms, covenants, agreements and conditions of any lease of Premises in the Building.

28. No smoking is allowed in the interior or exterior common areas of the building.

29. Landlord reserves the right to make such other reasonable rules and regulations as in its judgment may from time to time be needed for the safety, care and cleanliness of the Building and for the preservation of good order therein.

Exhibit B - LEASE ADDENDUM

This Lease Addendum ("Addendum") shall modify the terms and conditions of the Lease Agreement ("Lease") for the Premises known as 85 Natoma Street, Unit 9, San Francisco, between Roess LLC ("Landlord"), and Randal Kirk ("Tenant(s)") dated June 9, 2006. The terms and conditions are amended as follows:

1. Defined terms used herein and not otherwise defined herein shall have the meaning set forth in the Lease.
1. The Premises shall include use of private garage ("Garage") for two small cars.
2. The Commencement Date of the Garage shall be August 15, 2006, and shall be coterminous with the Lease.
3. Tenant acknowledges that Garage will be used only by Randal Kirk ("Tenant(s)") and that Landlord takes no responsibility for injury or damage to Tenant or Tenant's property related to the use of the Garage.
4. The Monthly Rent for Garage shall be Zero Dollars (\$0.00).
5. Tenant agrees to release Landlord of any and all liability for injury and/or damage to Tenant and Tenant's vehicle.
6. Except as provided herein, all other Terms of the Lease shall remain in force.

This Addendum is executed by Landlord and Tenant as of June 9, 2006.

TENANT:

By: _____
Randal Kirk, an individual

LANDLORD:
Wendy Roess-DeCenzo

By: Roess LLC

By: _____
Wendy Roess-DeCenzo, Managing Partner

Exhibit C - LEASE ADDENDUM

This Lease Addendum ("Addendum") shall modify the terms and conditions of the Lease Agreement ("Lease") for the Premises known as 85 Natoma Street, Unit 9, San Francisco, between Roess LLC ("Landlord"), and Randal Kirk ("Tenant(s)") dated June 9, 2006. The terms and conditions are amended as follows:

1. Defined terms used herein and not otherwise defined herein shall have the meaning set forth in the Lease.
2. The Premises shall include use of the following items ("Furniture"):
 - a) B & B Italia - Dadone Couch (Media Room)
 - b) Kasthall 'MOSS' Area Rug (Media Room)
 - c) Green Sheep Skin Pillows (Media Room)
 - d) Large Leather Pillows (Media Room)
 - e) Red Shag Area Rug (Dining Room)
 - f) B & B Italia White Dining Table (Dining Room)
 - g) 4 - Mid Century Collectable Chairs - Wheat Color (Dining Room)
 - h) B & B Italia - Charles Couch (Living Room)
 - i) Fort Street - Silk Rug (Living Room)
 - j) Black - Mid Century Barber Chair (Living Room)
 - k) 2 Lens Tables - (Living Room)
 - l) 2 Large paintings (1 - Media Room, 1 - Living Room)
 - m) 3 Small paintings (Living Room)
 - n) Mattress and Bedding located in sleeping loft
3. The Commencement Date of the Furniture shall be August 15, 2006, and shall be coterminous with the Lease.
4. Tenant acknowledges that Furniture will be used only by Randal Kirk ("Tenant(s)") and that Landlord takes no responsibility for injury or damage to Tenant or Tenant's property related to the use of the Furniture.
5. The Monthly Rent for Furniture shall be Zero Dollars (\$0.00).
6. Except as provided herein, all other Terms of the Lease shall remain in force.

This Addendum is executed by Landlord and Tenant as of June 9, 2006.

LANDLORD:
Wendy Roess-DeCenzo
By: Roess LLC

TENANT(S):
Randal Kirk, an individual

By: _____ Date: _____
Wendy Roess-DeCenzo,
Managing Partner

By: _____ Date: _____
Randal Kirk, an individual

Exhibit D - LEASE ADDENDUM

This Lease Addendum ("Addendum") shall modify the terms and conditions of the Lease Agreement ("Lease") for the Premises known as 85 Natoma Street, Unit 9, San Francisco, between Roess LLC ("Landlord"), and Randal Kirk ("Tenant(s)") dated June 13, 2006. The terms and conditions are amended as follows:

1. Defined terms used herein and not otherwise defined herein shall have the meaning set forth in the Lease.
2. Any additional Furniture provided by Landlord shall be added to the Furniture inventory outlined in Exhibit C of this agreement.
3. Almost every wall in the Premises has some type of plaster surface and if damaged can not be repaired unless the whole wall is refloated. Landlord requests minimal nail holes for paintings and shelving hung by Tenant.
4. No photo/film shoots for commercial use at the premises without Landlord's express written permission.
5. Tenant is hereby notified that the Premises may be marked for eminent domain. Though Landlord has not been formally notified by the city of San Francisco, Landlord has knowledge of this event through an EIR by the city of San Francisco, conversations with a city consultant, correspondence with my attorney/city attorney and newspaper articles.

This Addendum is executed by Landlord and Tenant as of June 13, 2006.

TENANT:

By: _____
Randal Kirk, an individual

LANDLORD:
Wendy Roess-DeCenzo

By: Roess LLC

By: _____
Wendy Roess-DeCenzo, Managing Partner



RENTAL COMMISSION AGREEMENT

Thank you for working with J.Wavro Associates and its Agents!

COMPENSATION TO BROKER: The amount or rate of real estate commissions is not fixed by law. They are set by each broker individually and may be negotiable between the Owner and Broker.

The Owner agrees to pay to James Wavro, the Broker in this transaction, compensation equal to \$25,200.00 (Twenty Five Thousand Two Hundred Dollars) for services rendered. Owner authorizes Broker to deduct said sum from the deposit received from Tenant. The balance will be forwarded directly within 48 hours of the clearance of all moneys solicited from the Tenant along with a Disbursal Statement for your records.

In any action for commission, the prevailing party will be entitled to reasonable attorney fees.

In the event J.Wavro Associates or any of its Agents procures a Buyer(s) or Tenant(s) who purchases your property during their tenancy or within 180 days after the termination of tenancy our fee is five percent (5.0%) of the selling price, in which case we shall represent the Seller only.

J.Wavro Associates or any of its Agents is not responsible for the behavior of or failure of either party, Lessor (Landlord) or Lessee (Tenant), to comply with the terms of the executed lease set forth herein. If a dispute arises out of or relates to this agreement or the breach thereof, all parties involved agree to first try in good faith to settle the dispute by non-binding mediation under the Commercial Mediation Rules of the American Arbitration Association before resorting to court action or binding arbitration. In any legal action, proceeding, or arbitration between J.Wavro Associates or any of its Agents and you, the Owner, arising out of this agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, and collection costs.

J.Wavro Associates shall accept and send facsimile (FAX) and electronic mail (Email) transmissions in connection with leasing your property. Fax & Email transmissions shall be considered legally binding, "original" documents.

Please acknowledge your approval of these terms by signing below so we may begin marketing efforts on your behalf. Note: California State Law requires "that agreement for compensation for services must be in writing..." Statutes of Frauds (Civil Code Section 1624, part D.)

This agreement applies to the following properties, which the Owner states are legal units:
85 Natoma Street, Unit 9, San Francisco, CA 94105
I represent that I have the power and the authority to sign this agreement, and I have read and agree to all the terms:
Owner/Owner's Agent: Wendy Roers-DeCenzo Date

4241 25th STREET, SUITE A, SAN FRANCISCO, CA 94114
PHONE 415-843-2000 FAX 415-843-2002

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(415) 552-7272 EXT. 257

June 30, 2009

Via Express Mail

Jeffrey G. Knowles
Coblentz, Patch, Duffy & Bass LLP
One Ferry Building, Suite 200
San Francisco, CA 94111-4213

Re: Notice of Decision to Appraise and Notice of Land Acquisition Procedures
County: San Francisco
Assessor's Parcel Number: 3721-117
Street Address: 85 Natoma St. #9

Dear Mr. Knowles:

The TJPA initially planned to acquire Wendy Roess-DeCenzo's and Christopher DeCenzo's property located at 85 Natoma St. #9 in San Francisco (the "Property") in Phase II of the Transbay Program, which is scheduled to begin in 2012. Due to the TJPA's refinement of plans for construction of Phase I, the TJPA has determined that it may acquire the properties in the 85 Natoma building in Phase I, which is currently underway. We are writing to notify the DeCenzos of the TJPA's decision to appraise the Property and to describe the TJPA's land acquisition procedures and policies. The TJPA hopes that this letter will open a dialogue between the DeCenzos and the TJPA regarding the Transbay Program and the acquisition process.

The Transbay Program

The Transbay Program will include a new multi-modal Transit Center on the site of the present Transbay Terminal (at Mission and First Streets); an underground rail tunnel extending from the existing Caltrain terminus at Fourth and Townsend Streets into the

Jeffrey G. Knowles
June 30, 2009
Page 2

new Transbay Transit Center; and development of 2,700 housing units in the vicinity, a third of which will be affordable. The new Transit Center will serve as the terminus of the Caltrain commuter rail and California High Speed Rail.

The Transbay Program will serve as a national model for transit-oriented development – locating public transit in an urban downtown environment close to employment, housing, and other amenities. The new Transit Center will serve eight Bay Area counties through nine transportation systems, including California High Speed Rail, and will serve more than 45 million passengers per year, facilitating wider use of public transit. It will also create more than 125,000 construction jobs, stimulating our local economy.

Notice of Decision to Appraise

The TJPA gives the DeCenzos this notice of its intention to appraise the Property for potential acquisition for the Transbay Program. This notice is required by state law, 25 California Code of Regulations Section 6184.

Based on federal requirements, the TJPA has adopted real property appraisal procedures which require two appraisals of each property, a review appraisal, and the Federal Transit Administration's ("FTA's") concurrence with the TJPA's determination of the fair market value of the Property.

The TJPA has retained two independent real property appraisers, Chris Carneghi, MAI, of Carneghi-Blum & Partners, Inc., and John Clifford, MAI, Clifford & Associates, to make two independent fair market value appraisals of the Property. Each appraiser will contact you to make arrangements for an appraisal of the Property. You and the DeCenzos are invited to accompany the appraisers during their respective inspections of the Property.

The TJPA also has retained an independent appraisal reviewer, David Tattersall, MAI, of David Tattersall & Co., to review the appraisals. The TJPA's review appraiser will review the Carneghi and Clifford appraisals and recommend that the TJPA approve one of the appraisals. The appraisals and the reviewer's recommendations will be forwarded to the FTA for its concurrence.

Following FTA review, the TJPA will make the DeCenzos a written offer of just compensation to purchase the Property. The TJPA's offer will be no less than the approved appraisal of the value of the Property. The TJPA will carefully consider any information that you and the DeCenzos would like to present regarding the value of the Property. The TJPA hopes that this process will result in a voluntary sale of the Property to the TJPA.

Land Acquisition Procedures

The TJPA also gives the DeCenzos notice of the TJPA's land acquisition policies and procedures. This notice is also required by state law, 25 California Code of Regulations Section 6188. The policies and procedures are as follows:

- The basic objectives of the TJPA's land acquisition program are to make every reasonable effort to acquire expeditiously real property by agreements with property owners at the properties' fair market value so as to avoid litigation, to assure consistent treatment of all property owners located within a project area, and to promote public confidence in the TJPA's land acquisition practices.
- In the event that the TJPA decides to acquire the Property, the amount that the DeCenzos will be offered for the Property will be the amount that the TJPA will have determined to be just compensation based on an appraisal of the fair market value of the unencumbered fee simple interest in the unencumbered fee simple interest in the Property. The offer will not be less than the full amount of the TJPA's appraisal of the Property. The offer will disregard any decrease or increase in the fair market value of the Property prior to the date of valuation caused by the Transbay Program for which the Property is to be acquired, other than due to physical deterioration within the reasonable control of the property owner or occupant. The offer will not reflect any consideration of or allowance for any relocation assistance and payments or other benefit that the owner is entitled to receive under any agreement with the TJPA.
- If the DeCenzos reject the TJPA's offer of just compensation for the Property, the TJPA may recommend to the City and County of San Francisco (the "City") that the City use eminent domain, also called "condemnation," to acquire the Property. The TJPA will ask the City to decide whether to institute a formal condemnation proceeding against the Property as soon as possible following any recommendation by the TJPA. The DeCenzos are entitled to have the amount of compensation determined by a court of law under the Eminent Domain Law of the State of California (Code of Civil Procedure §§ 1230.010 et seq.). As required by Government Code Section 7267.2, we have enclosed an Eminent Domain Brochure prepared by the TJPA which answers questions that owners frequently ask concerning the land acquisition process. The TJPA believes that it is in all parties' best interests to reach a voluntary, negotiated sale of the Property to the TJPA.
- The DeCenzos will be entitled to receive full payment prior to vacating the Property unless they have elected to waive such entitlement. The DeCenzos are not required to pay recording fees, transfer taxes, or the pro rata portion of real property taxes that are allocable to any period after the passage of title or possession.

- In addition to receiving just compensation for any property acquired by the TJPA, the DeCenzos and/or any occupants of the Property may be eligible to receive relocation benefits under the California Relocation Assistance Act (Government Code §§ 7260 et seq.) and/or the federal Uniform Relocation Assistance and Real Property Act (42 U.S.C. §§ 4601 et seq.). This notice does not, however, constitute an offer to purchase the Property, nor does it establish the DeCenzos eligibility or the eligibility of any occupant(s) of the Property for relocation assistance or relocation payments. Only those owners and/or occupants in occupancy at the time of the first written offer to purchase the Property may be eligible for relocation payments.

- All relocation services and benefits that the DeCenzos and any occupant may be entitled to will be administered without regard to race, color, national origin, or sex, in accordance with Title VI of the Civil Rights Act of 1964 (41 U.S.C. §§ 2000d et seq.) and Section 162(a) of the Federal Highway Act of 1973 (23 U.S.C. § 324). Enclosed for your information is a copy of the Title VI statute and its implementing regulations, a description of the Title VI complaint process, and a Discrimination Complaint Form, and a booklet prepared by the California Department of Transportation titled "Working Together Works."

- You and the DeCenzos shall be given the opportunity to accompany the TJPA's appraisers during inspections of the Property.

- The TJPA will schedule construction of the Transbay Program such that any person or business legally occupying the Property shall have at least 90 days written notice of the date by which any occupant of the Property must vacate the Property, unless a court finds that the TJPA has an urgent need for possession of the Property and that possession will not displace or unreasonably affect any person in actual and lawful possession of the property to be acquired, or unless there is an emergency that threatens the general health or safety of the community.

- If after acquisition of the Property the TJPA makes arrangements to rent the Property to the DeCenzos or any tenant(s) for a short term or for a period subject to termination by the TJPA on short notice, the rent will not exceed the lesser of the fair rental value of the Property to a short term occupier or the pro rata portion of the fair rental value for a typical rental period.

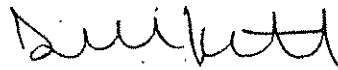
As noted above, Mr. Carneghi and Mr. Clifford will contact you to make arrangements to appraise the Property.

The TJPA is interested in keeping affected property owners fully informed about the Transbay Program and the land acquisition process. Please feel free to contact me at any time if you have any questions or concerns.

Jeffrey G. Knowles
June 30, 2009
Page 5

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Deborah L. Keeth

Enclosures:

TJPA, Eminent Domain Brochure
Title VI Statutes and Regulations
Title VI Complaint Process
Title VI Discrimination Complaint Form
Caltrans, "Working Together Works"

cc (without enclosures):

Maria Ayerdi-Kaplan
Chris Carneghi
John Clifford

Deborah L. Miller

From: Wendy Roess [wendyroess@hotmail.com]
Sent: Wednesday, July 15, 2009 7:26 PM
To: Deborah L. Keeth
Cc: Jeffrey Knowles; Kurt Biddle; Patrick M. McNerney
Subject: RE: Notice of Decision To Appraise - 85 Natoma

Deborah,

When I spoke with Jeff Knowles last week he was not aware of any notification on my behalf, nor has he contacted me since to say he has received any information but I will check with him.

As for 580 Howard, I am not sure you are aware but the building has protected parking under 85 Natoma with easement rights. I guess this is something to be discussed at the meeting with Andrew Schwartz on the 29th.

-Wendy

Subject: RE: Notice of Decision To Appraise - 85 Natoma
Date: Wed, 15 Jul 2009 14:22:29 -0700
From: keeth@smwlaw.com
To: wendyroess@hotmail.com
CC: schwartz@smwlaw.com; jgk@coblentzlaw.com

Wendy -

Thank you for updating us with your contact information.

We understood that you were represented by Jeff Knowles on matters related to Block 3721, Lot 117 so we addressed the notice letter to him. I'm attaching a copy of the letter here. Please let us know if Mr. Knowles is no longer representing you or you would otherwise prefer that we re-direct the TJPA's correspondence to you.

Yes, Kurt Biddle contacted our office as a representative of the 85 Natoma home owner group and requested a meeting. Andrew Schwartz from our firm will attend that meeting.

580 Howard Street is planned for use in Phase II of the Transbay Program, which is not scheduled to begin until 2012. Thus, the TJPA has no current plans to appraise that property at this time.

We'd be glad to answer any questions you may have in advance of the meeting with Mr. Biddle.

Deborah
Deborah L. Keeth, Esq.
Shute, Mihaly & Weinberger LLP
396 Hayes St.
San Francisco, CA 94102
Tel: (415) 552-7272
Fax: (415) 552-5816
keeth@smwlaw.com

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From: Wendy Roess [<mailto:wendyroess@hotmail.com>]
Sent: Wednesday, July 15, 2009 11:53 AM
To: Deborah L. Keeth
Subject: Notice of Decision To Appraise - 85 Natoma

Deborah,

Most recently, a copy of a letter that was drafted by your firm was forwarded to me. It is a letter of notification to appraise specific units at 85 Natoma St., San Francisco. It is also my understanding that everyone in the building has been notified but our unit. I am the owner of the penthouse at 85 Natoma - Parcel Number: 3721-117. Perhaps the notification was sent to the wrong address? Or, is it possible that this was intentional? I also understand you have spoken to Kurt Biddle of Martin Building who is attempting to coordinate a meeting on behalf of the owners and your firm for clarification of the appraisal process. I plan to attend that meeting in the next couple of weeks. I am also an owner in Howard Properties, LLC and Howard Historic Properties, LLC which owns the majority of units at 580 Howard.. the building adjacent to 85 Natoma and shares the parking.

Current Address:

Christopher DeCenzo and Wendy Roess-DeCenzo
70 Linden Ave.
Atherton, CA 94027

415-637-1696

Please provide me some clarification on notification,

Thank you, Wendy



TRANSBAY JOINT POWERS AUTHORITY

Maria Ayerdi-Kaplan • Executive Director

096410

August 24, 2009

Jeffrey G. Knowles
Coblentz Patch Duffy & Bass LLP
One Ferry Building, Suite 200
San Francisco, CA 94111-4213

Re: Transbay Program
Initial Contact Letter and General Information Notice—Landlords W. Roess-DeCenzo and C. DeCenzo
Affected Property: 85 Natoma St. #9 (Block 3721, Lot 117)

Dear Mr. Knowles:

As you know, the Transbay Joint Powers Authority ("TJPA") is considering acquiring the property your clients Wendy Roess-DeCenzo and Christopher J. DeCenzo own located at 85 Natoma St. #9 (Block 3721, Lot 117) in San Francisco (the "Property") in Phase 1 of the Transbay Transit Center Program (the "Transbay Program"), which is currently underway. We understand that Ms. Roess-DeCenzo and Mr. DeCenzo own the Property but lease it to The RIGHT Loft, who occupies the Property as a business location (the "Tenant"). We are not aware of any other occupants of the Property. It is our understanding that although Ms. Roess-DeCenzo and Mr. DeCenzo may store personal property on the site, they do not occupy the site as their business, residence, or otherwise.

We are writing to inform Ms. Roess-DeCenzo and Mr. DeCenzo of their rights, as owners/landlords of the Property, and their Tenant's rights, as occupant of the Property, to receive relocation assistance, should the TJPA acquire the Property.

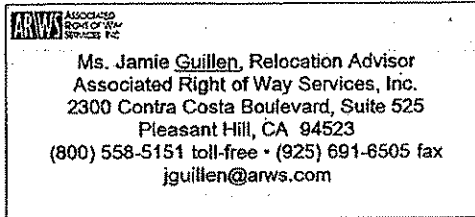
Property Owner/Landlord Relocation Assistance

If the TJPA acquires the Property, Ms. Roess-DeCenzo and Mr. DeCenzo would be required to relocate any of their personal property on the site in order to allow for construction of the Transbay Program. Ms. Roess-DeCenzo and Mr. DeCenzo would be eligible to receive relocation assistance and payments related to the cost to relocate their personal property from the Property, in accordance with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, and the California Relocation Act (the "Relocation Laws"). Ms. Roess-DeCenzo's and Mr. DeCenzo's rights under these laws are discussed in the enclosed Relocation Brochure and summarized below:

- Moving Expenses. If Ms. Roess-DeCenzo and Mr. DeCenzo are required to move personal property from the site as a result of the TJPA's acquisition of the Property for the Transbay Program, they would be eligible to receive reimbursement for certain actual, reasonable moving expenses.
- Eligibility to Receive Payment. There is no eligibility to receive relocation assistance unless/until the TJPA makes an offer to acquire a property. If the TJPA makes an offer to purchase the Property, it will provide Ms. Roess-DeCenzo and Mr. DeCenzo a Notice of Eligibility for relocation assistance related to relocation of their personal property from the site.
- Right to Appeal. A person or business may appeal if it believes the TJPA has failed to properly determine eligibility or the amount of payment authorized by the relocation regulations. A person or business has the right to be represented by legal counsel, but this is not required. If a person or business still believes a proper determination has not been made at the conclusion of the appeal, the person or business may seek judicial review.

- **Nondiscrimination.** All services and/or benefits to be derived from any right of way activity will be administered without regard to race, color, national origin, or sex in compliance with Title VI of the 1964 Civil Rights Act.

The TJPA has hired the relocation assistance consultant Associated Right of Way Services ("ARWS") to help it administer the Relocation Assistance Program. Jamie Guillen of ARWS is Ms. Roess-DeCenzo's and Mr. DeCenzo's Relocation Advisor and can answer their questions related to the relocation of their personal property.



Tenant Relocation Assistance

If the TJPA acquires the Property, Ms. Roess-DeCenzo's and Mr. DeCenzo's Tenant would be relocated in order to allow for construction of the Transbay Program. The TJPA will provide relocation assistance to all eligible tenants that are required to relocate as a result of the Transbay Program, in accordance with the Relocation Laws.

The TJPA has contacted the Tenant to inform it of the TJPA's plan for providing relocation assistance to any persons or businesses that are displaced as a result of the Transbay Program, notify the Tenant of its rights under federal and state law should the Tenant be required to move from the Property for the Transbay Program, and invite the Tenant to meet with ARWS.

The TJPA has notified the Tenant that the TJPA has not issued a notice to vacate the premises, and the TJPA is not requiring the Tenant to move at this time. The TJPA has explained that it has not acquired the Property and the TJPA is not the Tenant's landlord. The TJPA has encouraged the Tenant to continue to honor the terms of any rental agreement with Ms. Roess-DeCenzo and Mr. DeCenzo.

A copy of the letter to the Tenant is enclosed for your information.

Thank you for working with the TJPA to help to plan for this important public transportation project. Please inform us if we have misunderstood Ms. Roess-DeCenzo's and Mr. DeCenzo's ownership or occupancy of the Property, or if there are any other owners or occupants of the Property. Should you have additional questions or if I can be of additional service please contact me by phone at 415-597-4620 or email at esum@transbaycenter.org.

Sincerely,

Edmond Sum, PE
 Engineering Manager

Enclosures: (1) Relocation Brochure, (1) Tenant letter

cc: Jamie Guillen, ARWS

Certification of Delivery	
<input type="checkbox"/>	This Notice was sent via first class and certified mail on _____.
<input type="checkbox"/>	This Notice was personally delivered on _____.
Signature:	Date:

Deborah L. Miller

From: Patrick M. McNerney [pmcnerney@martinbuilding.com]
Sent: Tuesday, October 20, 2009 9:17 AM
To: Deborah L. Keeth
Cc: Kurt Biddle
Subject: RE: TJPA engineering plans
Attachments: image002.jpg; image003.gif

Deborah,

Thank you for sending these documents to us. More specifically, the last file shows us some of the information we were looking for.

Additionally, we would like to see a copy of the updated engineering and layout drawings for the elevated bus ramp that runs adjacent to our properties at 85 Natoma Street and 580 Howard Street. This is very important for us to understand the overall impact of Phase 1 on our properties. I'm sure these drawings are already prepared, so we are hoping to get these right away.

How soon do you think we could receive this?

Thank you very much for your assistance.

Sincerely,

Patrick McNerney
President

MARTIN BUILDING COMPANY
14 Mint Plaza, Fifth Floor
San Francisco, CA 94103
t: 415.348.4600 f: 415.348.8058
www.martinbuilding.com



From: Kurt Biddle
Sent: Tuesday, October 20, 2009 8:30 AM
To: Patrick M. McNerney
Subject: FW: TJPA engineering plans

Here you go.

Let me know if these suffice or you need something else.

Kurt

Kurt Biddle
Asset Manager DRF #01516771

MARTIN BUILDING COMPANY
14 Mint Plaza, Fifth Floor
San Francisco, CA 94103
t: 415.348.4668 f: 415.442.4811
www.martinbuilding.com



From: Deborah L. Keeth [<mailto:keeth@smwlaw.com>]
Sent: Monday, October 19, 2009 5:16 PM
To: Kurt Biddle
Cc: Andrew Schwartz
Subject: RE: TJPA engineering plans

Kurt --

The TJPA has provided me drawings to describe the Transbay Program's effect on 85 Natoma.

The 2004 Final EIS/EIR for the project identified 85 Natoma as required for the underground downtown extension of Caltrain, which is part of Phase II of the project. In particular, Pages 2-26 (Figure 2.2-9), 2-40 (Figure 2.2-23), 5-21 to 5-34, 5-25 (Figure 5.2-3), and 5-29 (Table 5.2-3) describe the use of 85 Natoma. I've attached the referenced pages here. You can also review the entire environmental document on the TJPA's website: www.transbaycenter.org

More recently, the TJPA determined that the underground train box that the TJPA plans to build in Phase I of the project also requires 85 Natoma. I'm attaching a drawing showing the outline of the train box and rail tracks in relation to 85 Natoma.

I think you'll find the drawings on Page 2-40 and 5-25 helpful in seeing how the underground tunnel will connect with the underground train box.

Let me know if you would like to review any other documents or have any follow up questions.

Deborah

Deborah L. Keeth, Esq.
Shute, Mihaly & Weinberger LLP
396 Hayes St.
San Francisco, CA 94102
Tel: (415) 552-7272
Fax: (415) 552-5816
keeth@smwlaw.com

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From: Kurt Biddle [<mailto:kurt@martinbuilding.com>]
Sent: Thursday, October 15, 2009 3:22 PM
To: Deborah L. Keeth
Cc: Andrew Schwartz
Subject: Re: TJPA engineering plans

Thank you Deborah.

On Oct 15, 2009, at 12:09 PM, "Deborah L. Keeth" <keeth@smwlaw.com> wrote:

Kurt –

I am a colleague of Andrew Schwartz. Andrew has been out of town at depositions all week, but he let me know that you are seeking TJPA engineering plans describing impact to 85 Natoma. I'm working with TJPA and will be back in touch shortly.

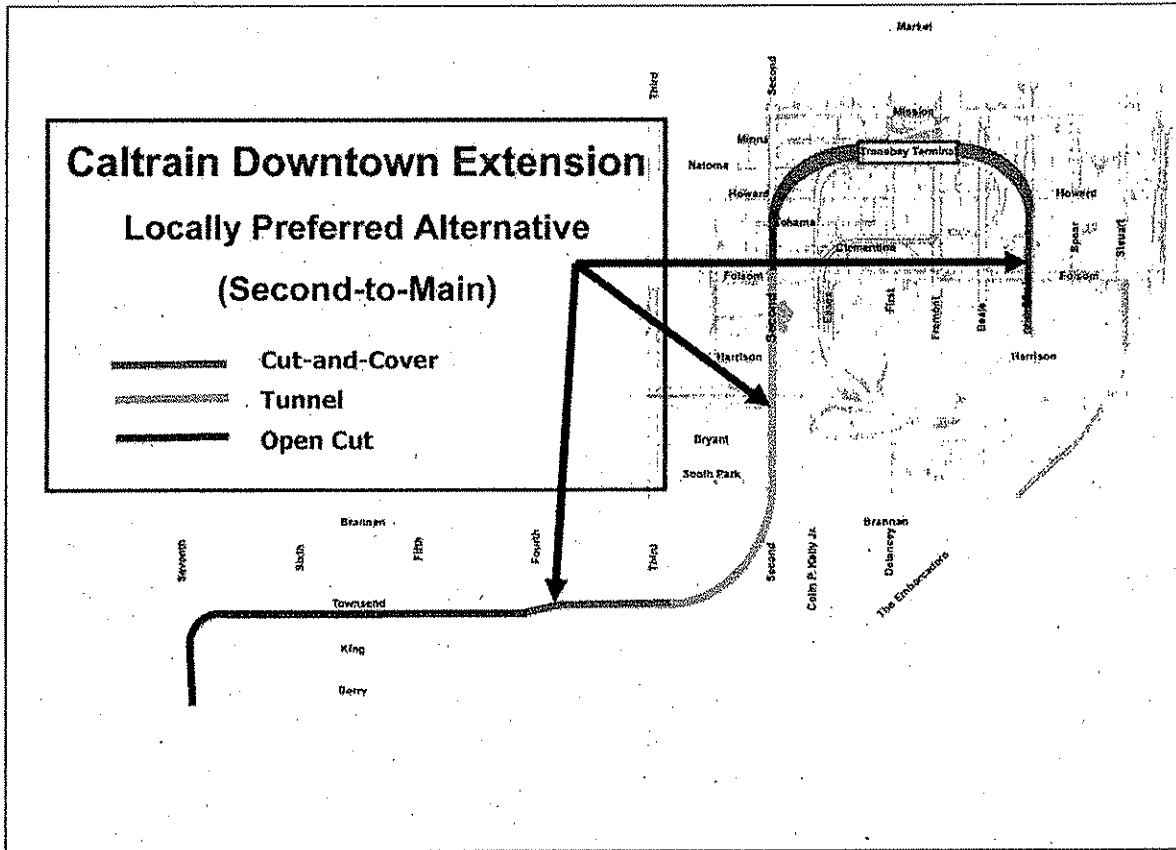
Best,
Deborah

Deborah L. Keeth, Esq.
Shute, Mihaly & Weinberger LLP
396 Hayes St.
San Francisco, CA 94102
Tel: (415) 552-7272
Fax: (415) 552-5816
keeth@smwlaw.com

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Figure 2.2-9: Caltrain Downtown Extension
 Second-to-Main Alternative – Locally Preferred Alternative



The four tracks passing the Fourth and Townsend underground station would merge into two tracks under Townsend Street near Fourth Street. The alignment would then continue east under Townsend Street in a cut-and-cover tunnel configuration. It would then curve north at about Clarence Place just east of Third Street in a cut-and-cover configuration. For the current cut-and-cover option, eleven parcels with ten buildings would need to be acquired and demolished for this 1,100-foot long curve with 716- and 736-foot radii curves from Townsend to Second and Brannan Streets. (These buildings would remain for the tunneling option described below in Section 2.2.2.3.) The alignment would continue as a cut-and-cover section under Second Street for approximately 2,055 feet.

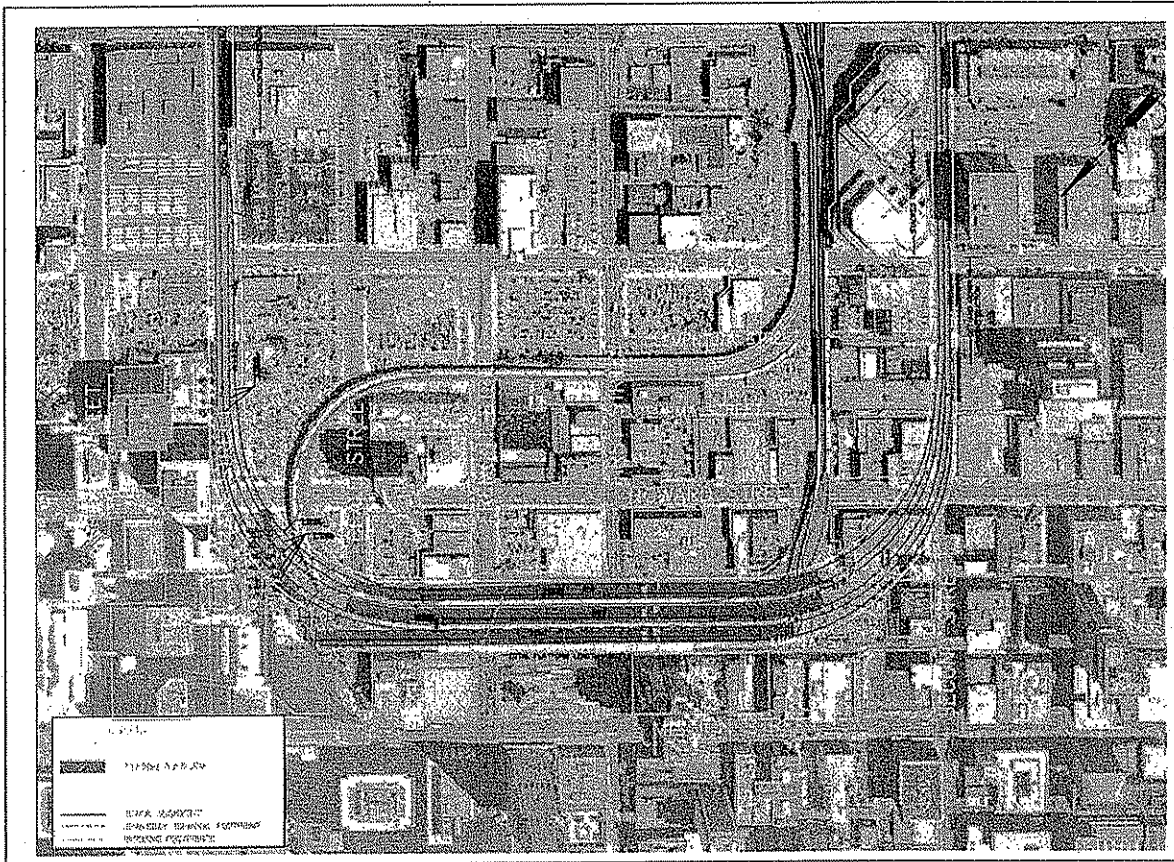
CHAPTER 2: DESCRIPTION OF THE PROJECT ALTERNATIVES

As described below, two alternatives are under consideration from Howard Street north:
(1) Second-to-Main, and (2) Second-to-Mission.

2.2.3.1 Second-to-Main Caltrain Extension Alternative

Figure 2.2-23 shows the refined Second-to-Main Alternative alignment as selected for the Locally Preferred Alternative. As the Second-to-Main Caltrain Extension Alternative approaches Howard Street along Second Street, it would curve 90 degrees northeasterly, along an approximately 970-foot long curve with track curve radii of 498 to 545 feet into the basement of the new Transbay Terminal. Under current plans, 14 parcels of land with 11 buildings would need to be acquired and demolished for this curve into the Terminal.

Figure 2.2-23: Caltrain Refined Second-to-Main Alternative – Locally Preferred Alternative



The terminal station would have six tracks and three platforms and would include approximately 2,000 feet of additional tracks (called tail tracks) in a cut-and-cover section leading from the east end of the new Terminal. These tracks would curve 90 degrees south along 498-foot to 521-foot

would generally be cast on adjacent towers and not reach the street. However, in the late afternoon, shadows from the tower proposed at the corner of Folsom and Spear Streets could reach the planned Rincon Park and shade a small southern portion of the park.

5.1.3.3 Shading Impacts of the Reduced Scope Alternative

The effects of this alternative would be very similar to those of the Full-Build. The following discussion identifies specific locations in which the impacts differ.

Spring. In the late afternoon, new shadows from the towers along Folsom Street would reach Folsom Street and extend east toward Steuart Street, but would fall short of the intersection between Folsom and Steuart Streets. (This intersection would be in shadow under the Full-Build Alternative.)

Summer. During the late afternoon, shadows would fall to the east. Under the Reduced Scope Alternative, shadows from the Transbay Terminal and the proposed redevelopment would add new shadow on Howard Street between Beale and Main Streets. Shadows from the proposed towers along Folsom Street would generally not extend as far south (i.e., would not cross Folsom Street) as under the Full Build scheme, but greater lengths of Folsom Street would be shaded.

Autumn. The effects of the Reduced Scope Alternative would be identical to those of the Full-Build Alternative.

Winter. The effects of the Reduced Scope Alternative would be identical to those of the Full-Build Alternative.

5.1.3.4 Shading Impacts of the Draft Transbay Redevelopment Area Design for Development Vision (August 2003)

Because the Design for Development Vision would have fewer towers and because those towers would be taller and more slender than those of the Full Build Alternative, shadowing effects would be generally less than those of the Full Build Alternative and more similar to those of the Reduced Scope Alternative. No adverse effects to sites under the control of the Recreation and Parks Department would found. Therefore, these shading effects would not be adverse.

5.2 DISPLACEMENTS AND RELOCATION

5.2.1 No-Project Alternative

No residential or non-residential displacements would occur directly as a result of the No-Project Alternative. Therefore, this section focuses on the displacement effects of the proposed Transbay Terminal, Caltrain Downtown Extension, and Redevelopment Plan.

**Table 5.2-5: Estimated Residential and Non-Residential Acquisitions for
Transbay Terminal, Caltrain Downtown Extension and Redevelopment Program**

RESIDENCES											
Project Component/ Alternatives	No. of Properties Acquired	Total Est. Land Area in Sq. Ft.	Total Est. Building Sq. Ft.	Estimated Number of Residential Units Displaced by Type						Estimated Persons Displaced	
				Total Single Family Units	Mobile Homes	Multi-Family		Total			
						Buildings	Units				
Transbay Terminal & Redevelopment Area											
No Residential Units Affected											
Caltrain Downtown Extension (Cut-and-Cover Option)											
Second-to-Main	4	41,000	117,000	0	0	4	60	60	60	120	
Second-to-Mission	4	41,000	117,000	0	0	4	60	60	60	120	
Caltrain Downtown Extension (Tunneling Option)											
Second-to-Main	2	14,000	50,000	0	0	2	23	23	23	46	
Second-to-Mission	2	14,000	50,000	0	0	2	23	23	23	46	
BUSINESSES											
Project Component/ Alternatives	No. of Properties Acquired	Total Est. Land Area in Sq. Ft.	Total Est. Building Sq. Ft.	Estimated Number of Businesses Displaced by Type							Estimated Employees Displaced
				Retail	Office/Bus. Services	Rest. / Bar	Industrial	Warehouse	Parking	Total	
Transbay Terminal and Redevelopment Area											
	6	36,000	82,000	0	9	0	0	0	1	10	200
Caltrain Downtown Extension (Cut-and-Cover Option)											
Second-to-Main	25	224,000	433,000	6	32	4	2	1	3	48	1,084
Second-to-Mission	27	274,000	543,000	6	42	4	2	1	2	58	1,422
Caltrain Downtown Extension (Tunneling Option)											
Second-to-Main	16	81,000	146,000	5	29	4	0	0	2	40	425
Second-to-Mission	18	131,000	256,000	5	39	4	0	0	2	50	763
Source: Sedway Group, Parsons Transportation Group, 2001											

5.2.5 Business and Residential Displacements

Field surveys and public records searches were performed to determine the potentially affected properties, the number and types of businesses occupying these properties, and the general character of the land uses. Businesses were consolidated into the following categories, as shown in Table 5.2-5: small or specialty retail, office/business services, restaurant/bar, industrial, warehouse, and parking. The estimated number of employees who may be displaced was determined from public business records or estimated by applying per-square-foot factors to the building areas of the affected properties. Estimates of affected employees are in full-time equivalents in all cases.

Because of the varied types of businesses in the SOMA, the high incidence of small specialty firms, and the relatively rapid changes in business activity, it is difficult to estimate accurately the number of businesses and employees that may be affected by acquisitions that would take place three to five years from now. The estimated acquisitions and displacements presented in this section are representative of conditions that may exist when the Transbay Terminal and Caltrain Downtown Extension would be implemented. Information would be updated during final design and during pre-construction surveys.

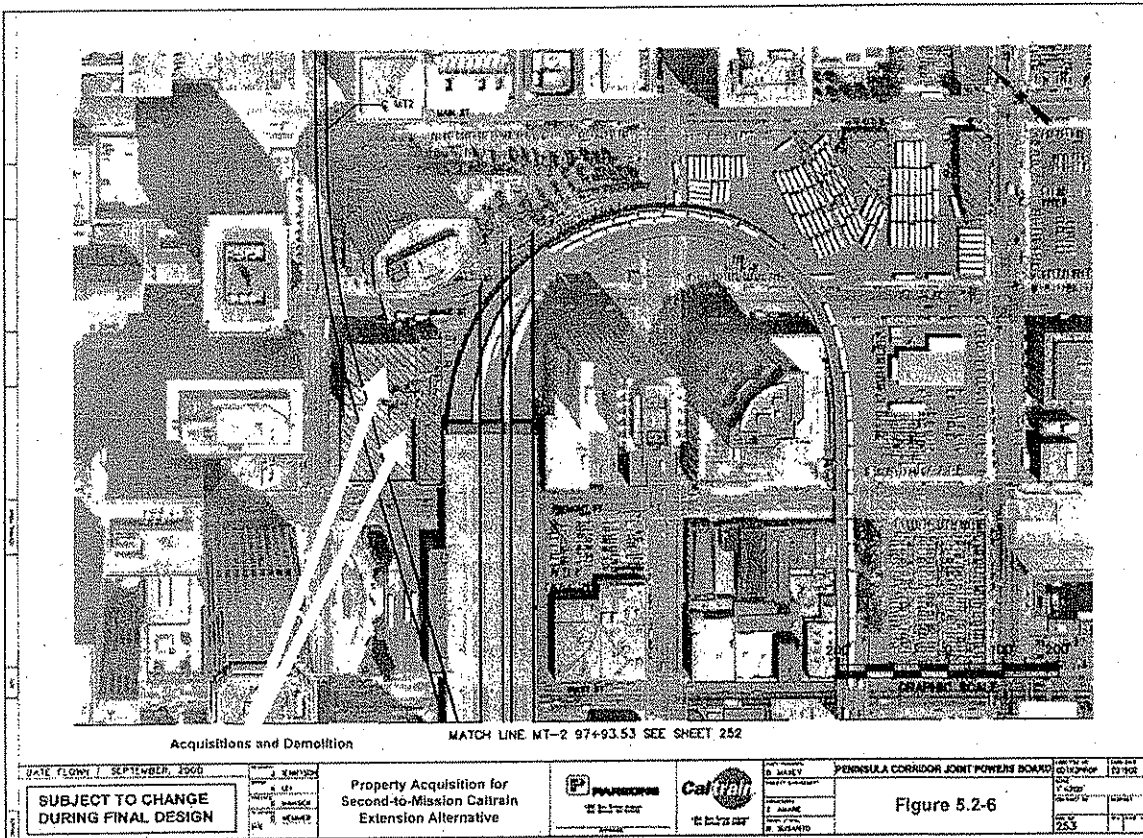
Residential Displacement. Construction of the Transbay Terminal and the Caltrain Downtown Extension could require acquisition of up to 60 residential units, including 14 live/work units. Twelve of these units have operating commercial businesses. Up to 120 persons per alternative would be relocated, assuming an average of two residents per unit.

Business Displacement. The Transbay Terminal and Caltrain Downtown Extension could displace up to 67 businesses, plus 12 businesses currently operating in the live/work units. Up to an estimated 1,600 respective employees could be displaced.

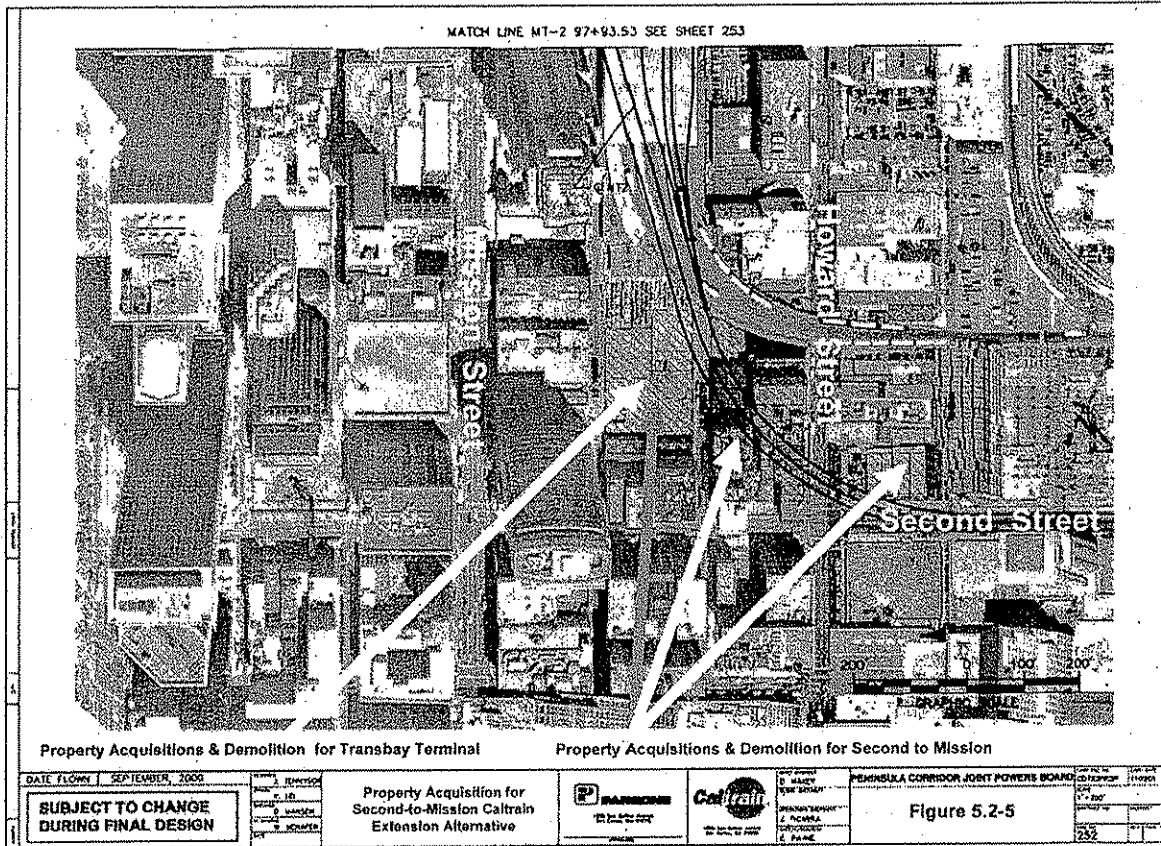
Federal and state laws require consistent and fair treatment of owners of properties to be taken, including just compensation for their properties. Uniform and equitable treatment of temporarily or permanently displaced businesses is also required by these laws. Acquisition costs are discussed in Section 5.6.

5.2.6 Relocation Resources

Acquisition of private properties required for the Caltrain Downtown Extension would represent a loss of up to 742,000 square feet of building space, of which up to 478,000 square feet is estimated to be office space; 127,000 square feet is estimated to be industrial space; 20,000 square feet is estimated to be retail/restaurant space; and 117,000 square feet is residential space.



CHAPTER 5: ENVIRONMENTAL CONSEQUENCES AND MITIGATIONS MEASURES



**Table 5.2-3:
Property Acquisitions & Demolitions
Second-to-Main
Caltrain Extension Alternative**

Block & Lot Number		Address
3736	95	217 Second Street
3736	96	205-215 Second Street
3736	97	201 Second Street
3721	22	191 Second Street
3721	23	181 Second Street
3721	25	171 Second Street
3721	47	90 Natoma Street
3721	95	580-586 Howard Street
3721	108	81-83 Natoma Street
3721	109 through 118	85 Natoma Street
3721	29	77-79 Natoma Street
3721	20	568-576 Howard Street
3721	31	* Natoma Street

Notes:
* indicates no address listed

Source: Sedway Group, Parsons Transportation Group, 2001.

**Table 5.2-4:
Property Acquisitions & Demolitions
Second-to-Mission
Caltrain Extension Alternative**

Block & Lot Number		Address
3736	95	217 Second Street
3736	96	205-215 Second Street
3736	97	201 Second Street
3719	1	301-315 Mission Street (northern portion)
3719	17	101-129 Fremont Street
3721	22	191 Second Street
3721	23	181 Second Street
3721	25	171 Second Street
3721	47	90 Natoma Street
3721	95	580-586 Howard Street
3721	108	81-83 Natoma Street
3721	109 through 118	85 Natoma Street
3721	29	77-79 Natoma Street
3721	20	568-576 Howard Street
3721	31	* Natoma Street

Notes:
* indicates no address listed

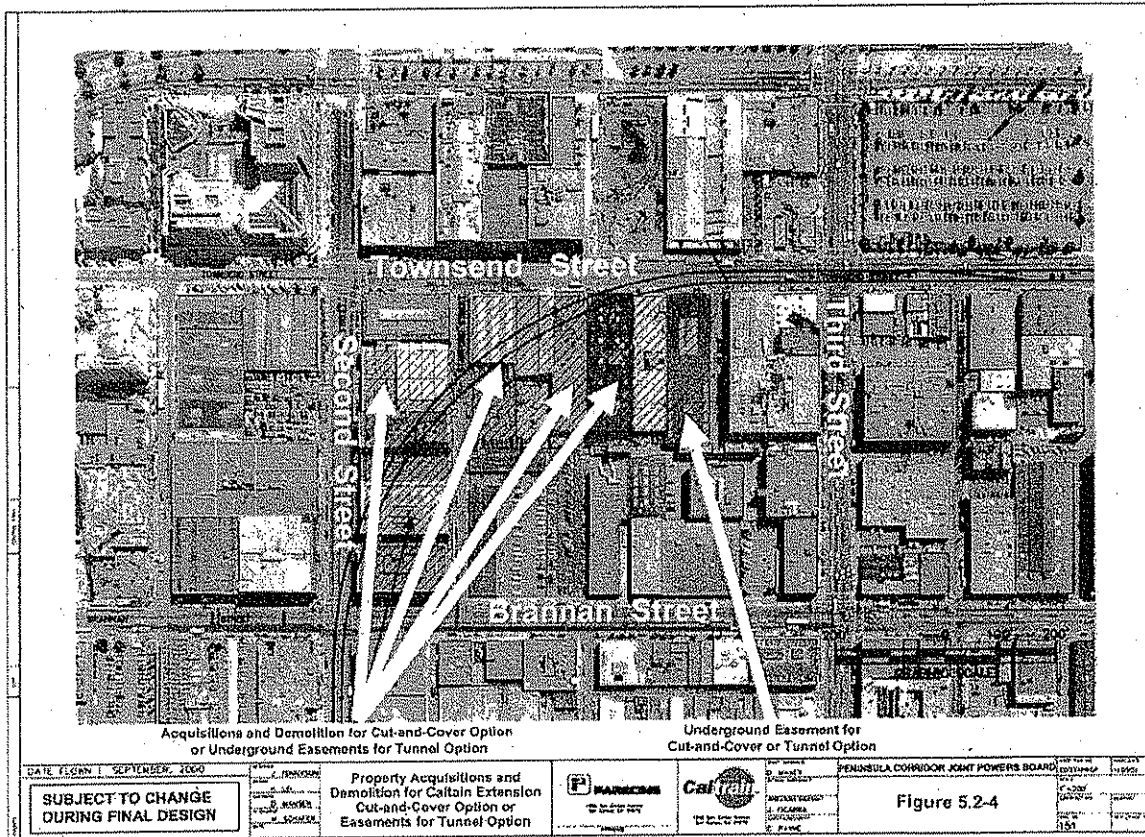
Source: Sedway Group, Parsons Transportation Group, 2004

5.2.4 Transbay Redevelopment Plan

Properties identified for redevelopment as part of the Redevelopment Plan are principally occupied by surface parking. Impacts to parking are discussed in Section 5.19.5.

Table 5.2-2: Properties to be Acquired or Underground Easement Properties
 (Either Second-to-Main or Second-to-Mission Caltrain Extension Alternative)

Block and Lot Number		Address
Acquisitions and Demolition or Underground Easement [1]		
3788	74 through 85	164 Townsend Street
3788	10	148-154 Townsend Street
3788	9A	144-146 Townsend Street
3788	9	136 Townsend Street
3788	8	130 Townsend Street
3788	43	670 Second Street
3788	44	678-80 Second Street
3788	49 to 73	650 Second Street
3788	2	640 Second Street
3788	38	35 Stanford Street
3788	37	301 Brannan Street
Underground Easement for Either Cut-and-Cover or Tunneling Option		
3788	12	166-178 Townsend Street
Temporary Construction Easement (Second-to-Main Alternative – Locally Preferred Alternative)		
3718	025	201 Mission (southern portion of site)
<p><i>Notes:</i> [1] Properties listed would be acquired and demolished under the Cut-and-Cover Option. For the Tunneling Option, underground easement would be required for the listed properties.</p> <p><i>Source: Sedway Group, Parsons, 2004.</i></p>		



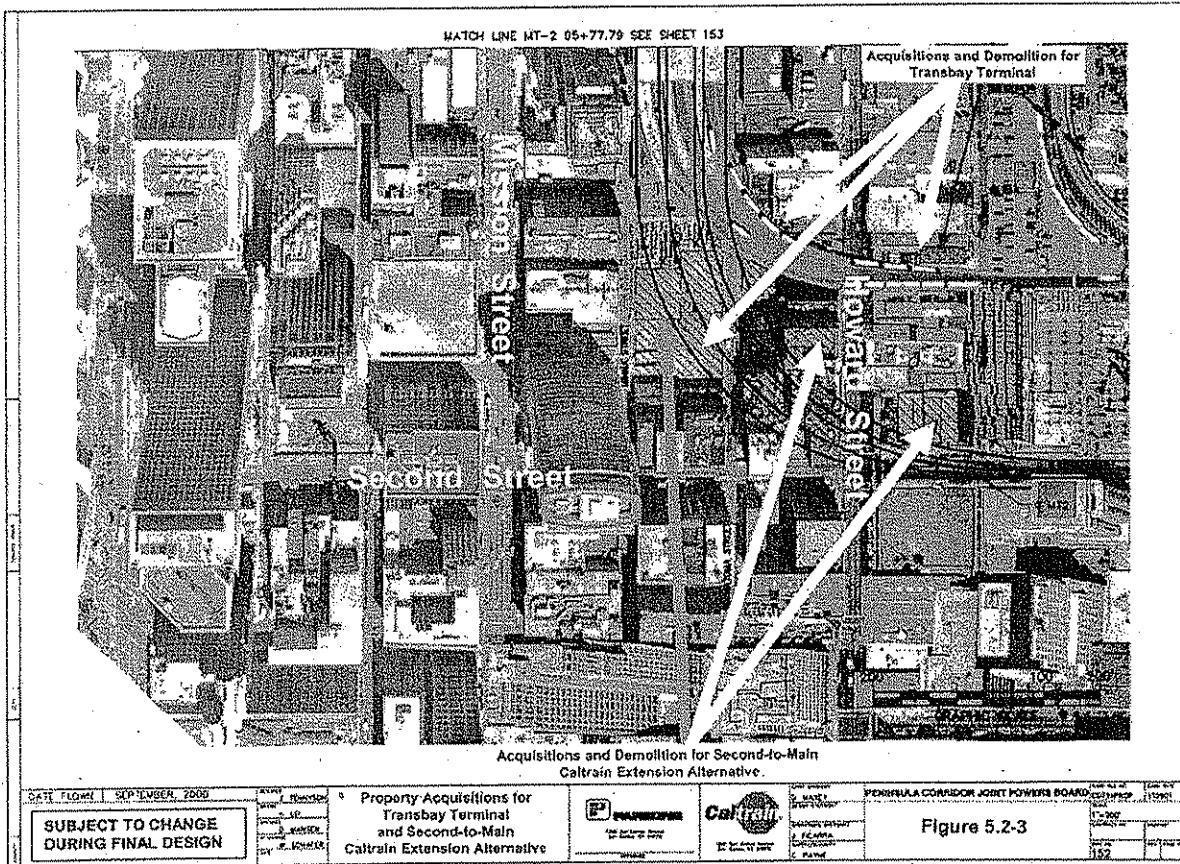
An additional property would be required for the permanent bus ramp. This property – Block 3736, Lot 74 (57 Tehama Street) – was not identified in the Draft EIS/EIR. The additional property is required due to necessary revisions to the permanent bus ramp resulting from: (1) responses to comments from Caltrans on the Draft EIS/EIR regarding the ramp structure shown in the Draft EIS/EIR, and (2) movement of the terminal to the west. This additional property is also shown in the table in italics.

5.2.3 Caltrain Downtown Extension

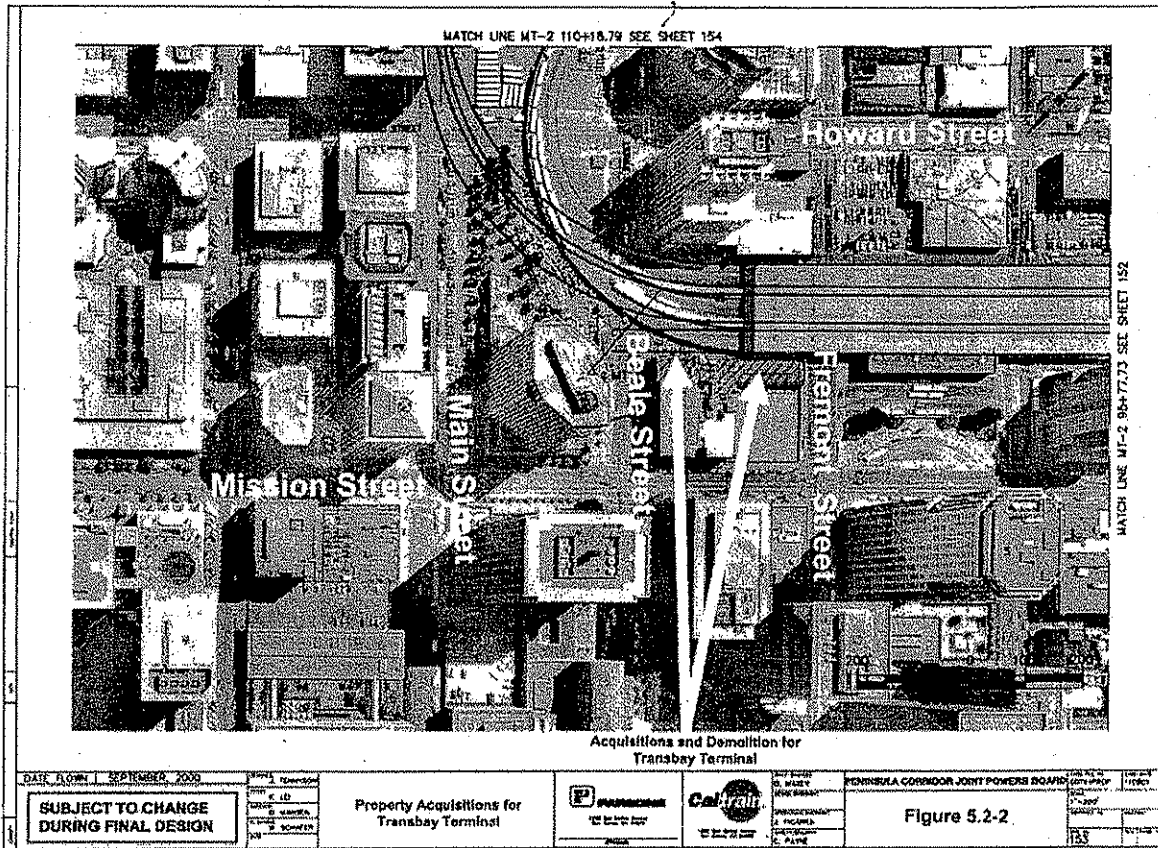
Properties that would need to be acquired or for which an underground easement would be required for either Caltrain Downtown Extension Alternative are shown in Table 5.2-2 and on Figure 5.2-4. Acquisition and demolition of these properties would occur for the Cut-and-Cover Option. Underground easement would be required for these properties for the Caltrain Extension Tunneling Option. *A construction easement will also be required for a portion of the private property (southern portion of Block 3718 – Lot 025) associated with 201 Mission Street, namely the parking area and access road to the loading docks for this structure. Temporary access will be provided from Main Street to the loading area for this structure during the construction period for the Caltrain Extension tail tracks.*

Properties that would need to be acquired and demolished for each of the Caltrain Downtown Extension Alternatives are shown in Tables 5.2-3 and 5.2-4. Properties shown as red on Figure 5.2-3 would be acquired for the Second-to-Main Alternative. Properties shown in red on Figures 5.2-5 and 5.2-6 would be required for the Second-to-Mission Alternative.

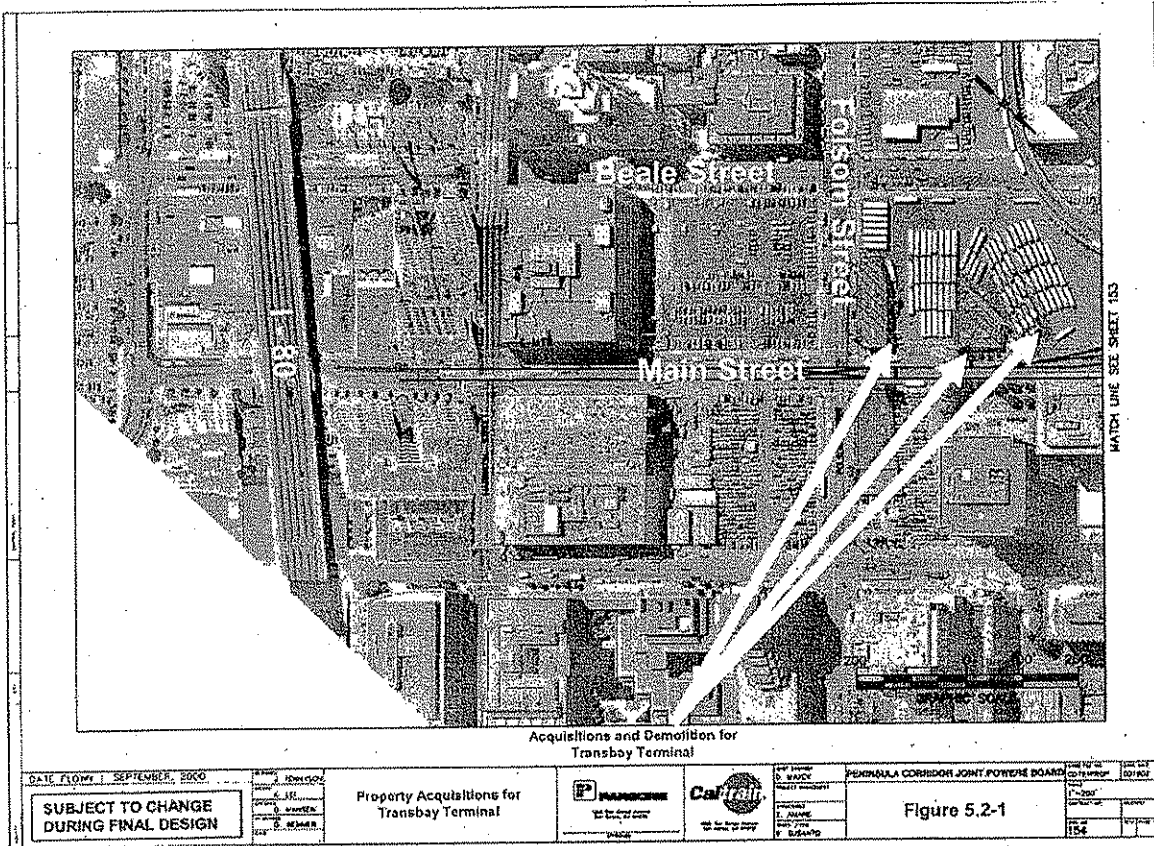
CHAPTER 5: ENVIRONMENTAL CONSEQUENCES AND MITIGATIONS MEASURES



CHAPTER 5: ENVIRONMENTAL CONSEQUENCES AND MITIGATIONS MEASURES



CHAPTER 5: ENVIRONMENTAL CONSEQUENCES AND MITIGATIONS MEASURES



5.2.2 Transbay Terminal

Properties to be acquired for construction of the Transbay Terminal are shown in Table 5.2-1. These properties are shown as blue on Figures 5.2-1, 5.2-2 and 5.2-3. *Movement of the Transbay Terminal footprint to the west would require the acquisition of four additional properties for the terminal. These properties were formerly identified in the Draft EIS/EIR as necessary acquisitions under both Caltrain Extension Alternatives, so the properties were anticipated to be acquired for the Project in any event. The properties are now required for the terminal rather than the Caltrain Extension and are shown in the table in italics.*

Table 5.2-1: Property Acquisitions for the Transbay Terminal Alternatives		
Block & Lot Number	Address	
Full Acquisitions		
3721	45A	70 Natoma Street [a]
3721	46	78-80 Natoma Street [a]
3721	53	81 Minna Street [a]
3721	54	65 Minna Street [a]
3736	74	57 Tehama [b]
3739	2	Vacant lot on Main Street
3739	6	272 Main Street
3739	4 & 7	200 Folsom
3736	88	60 Tehama
Partial Acquisitions		
3721	16	546 Howard Few feet from northeast corner of building
3719	17	101-129 Fremont Street (Southern portion of this parcel near the Transbay Terminal)
<p><i>Notes:</i> [a] Assumed for acquisition as part of the Caltrain Extension in the Draft EIS/EIR. Now assumed for acquisition as part of the Transbay Terminal in this Final EIS/EIR due to proposed movement of the terminal to the west. [b] Additional property required for acquisition due to the necessary revisions between the Draft and Final EIS/EIR regarding the permanent bus ramp to the terminal.</p>		
Source: Sedway Group, Parsons, 2004.		

Based on current market conditions for commercial and residential space, most businesses and residents should be able to be relocated within the study area. The study area is part of the broader South of Market Area (SOMA), which has witnessed a dramatic transformation over the past seven years with older buildings rehabilitated and new buildings constructed on previously vacant or underutilized parcels. This area was the epicenter of the "dot com" boom in 1999 and 2000, during which multimedia, technology, and Internet companies, fueled by venture capital, exhibited a healthy appetite for real estate. Correspondingly, vacancy rates plummeted, rents and sales prices spiked, and new development and redevelopment was widespread throughout SOMA.

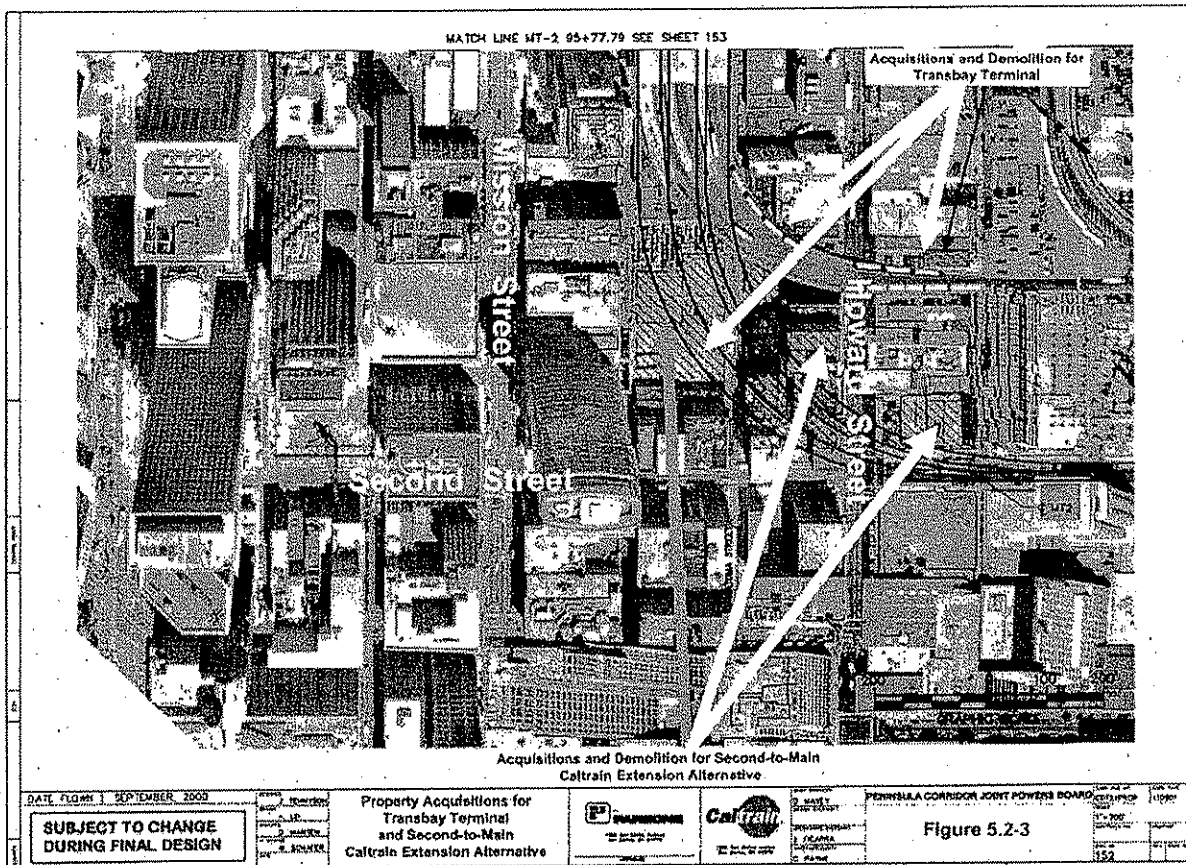
However, by the end of 2000, stock market reductions hit the technology and Internet sector and space was increasingly placed on the market for sublease. In 2001, the overall economy has substantially slowed, affecting demand for space. As a result, vacancy rates have increased. The properties located at Second and Howard streets are within the South of Market Financial District office submarket, which posted a 12 percent vacancy on an inventory of 20.8 million square feet as of the end of September 2001. The properties located at Second and Townsend streets are in the SOMA South office submarket, which has been more severely affected by the downturn. As of September 2001, this market had a vacancy rate of 26 percent on a total inventory of 5.5 million square feet.

As demand for office space has deteriorated, so has demand for industrial and retail space. The residential market, while not as severely affected, has also experienced increasing vacancy rates, lowered rents, and, with respect to "for-sale" projects, lower sales prices and longer marketing periods. A recovery is expected, but may not commence until at least the end of 2002. An improvement in the market to the point of the extremely strong conditions experienced in 1999 and 2000 is not expected for a number of years. Therefore, displaced businesses and residents interested in relocating within SOMA would likely find an ample supply of comparable office, industrial, retail, or residential space.

The federal Uniform Relocation Act (Public Law 91-646) and the California Relocation Act (Chapter 16, Section 7260 et seq. of the Government Code) and related laws and regulations contain specific requirements that govern both land acquisition and relocation. All real property to be acquired *will* be appraised to determine its fair market value before an offer is made to each property owner. Minimum relocation payments are detailed in the laws, and include moving and search payments for businesses. For purposes of the relocation acts, parking lots are considered businesses.

The City and County of San Francisco and the *Transbay Joint Powers Authority* will provide information, assistance and payments to all displaced businesses in accordance with these laws and regulations.

CHAPTER 5: ENVIRONMENTAL CONSEQUENCES AND MITIGATIONS MEASURES



**Table 5.2-3:
Property Acquisitions & Demolitions
Second-to-Main
Caltrain Extension Alternative**

Block & Lot Number	Address
3736 95	217 Second Street
3736 96	205-215 Second Street
3736 97	201 Second Street
3721 22	191 Second Street
3721 23	181 Second Street
3721 25	171 Second Street
3721 47	90 Natoma Street
3721 95	580-586 Howard Street
3721 108	81-83 Natoma Street
3721 109 through 118	85 Natoma Street
3721 29	77-79 Natoma Street
3721 20	568-576 Howard Street
3721 31	* Natoma Street

Notes:

* indicates no address listed

Source: Sedway Group, Parsons Transportation Group, 2001.

**Table 5.2-4:
Property Acquisitions & Demolitions
Second-to-Mission
Caltrain Extension Alternative**

Block & Lot Number	Address
3736 95	217 Second Street
3736 96	205-215 Second Street
3736 97	201 Second Street
3719 1	301-315 Mission Street (northern portion)
3719 17	101-129 Fremont Street
3721 22	191 Second Street
3721 23	181 Second Street
3721 25	171 Second Street
3721 47	90 Natoma Street
3721 95	580-586 Howard Street
3721 108	81-83 Natoma Street
3721 109 through 118	85 Natoma Street
3721 29	77-79 Natoma Street
3721 20	568-576 Howard Street
3721 31	* Natoma Street

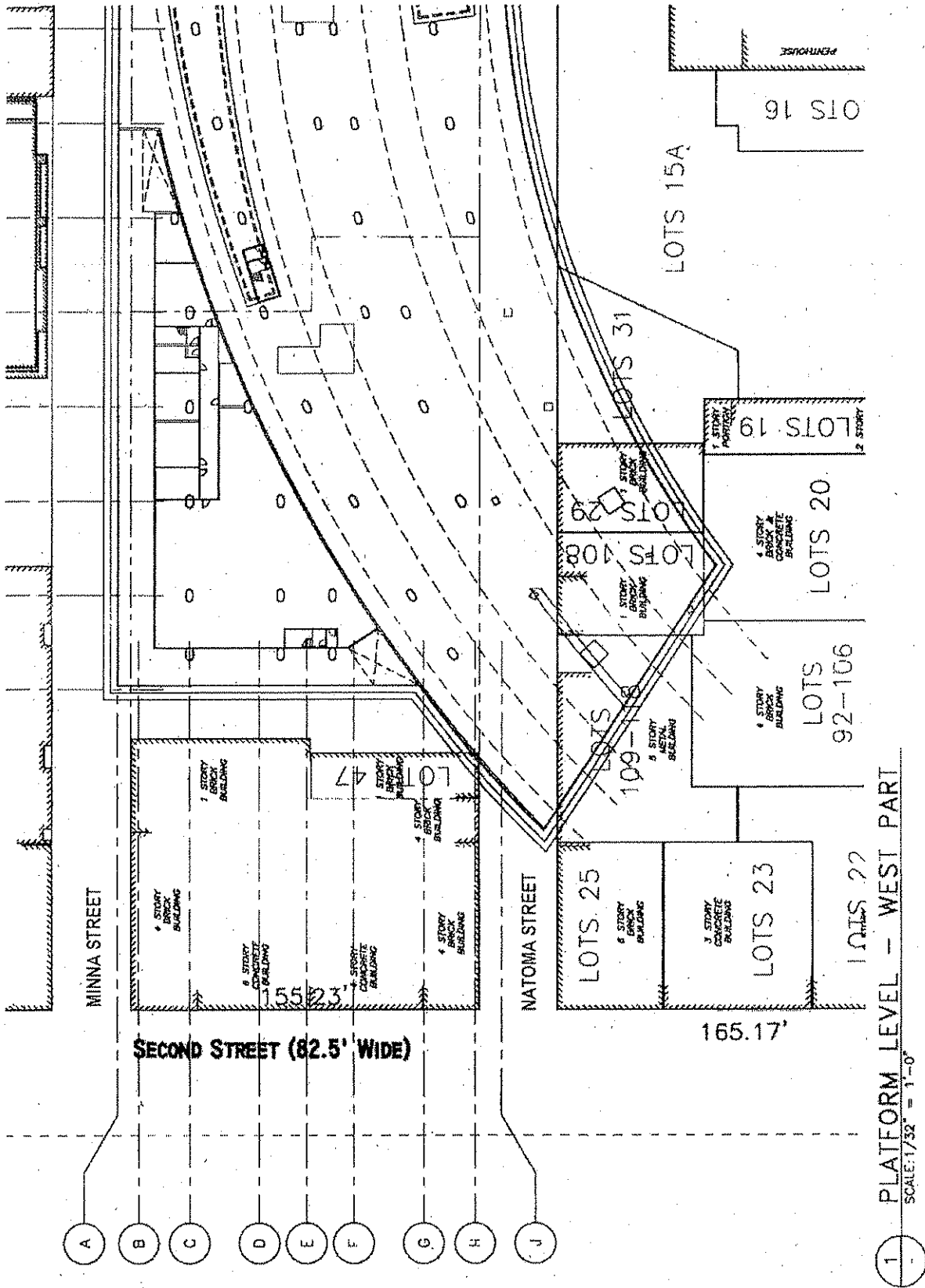
Notes:

* indicates no address listed

Source: Sedway Group, Parsons Transportation Group, 2004

5.2.4 Transbay Redevelopment Plan

Properties identified for redevelopment as part of the Redevelopment Plan are principally occupied by surface parking. Impacts to parking are discussed in Section 5.19.5.



Transbay Transit Center
 Phase 1 - Below-grade Train Box
 50% Design Development Phase

1.6oct09

Deborah L. Miller

From: Patrick M. McNerney [pmcnerney@martinbuilding.com]
Sent: Thursday, September 23, 2010 11:08 AM
To: Deborah L. Miller
Subject: RE: 85 natoma (1 of 3)
Attachments: image002.jpg; image003.jpg

Thank you.

Patrick McNerney
President

MARTIN BUILDING COMPANY
14 Mint Plaza, Fifth Floor
San Francisco, CA 94103
t: 415.348.4600 f: 415.348.8058
www.martinbuilding.com



From: Deborah L. Miller [mailto:miller@smwlaw.com]
Sent: Thursday, September 23, 2010 11:04 AM
To: Patrick M. McNerney
Subject: RE: 85 natoma (1 of 3)

Patrick –

Attached are pdf files of the summary appraisal statements, and word files of the purchase-sale agreements for the requested properties.

Deborah

Deborah L. (Keeth) Miller
Shute, Mihaly & Weinberger LLP
396 Hayes St.
San Francisco, CA 94102
Tel: (415) 552-7272
Fax: (415) 552-5816
miller@smwlaw.com

** Please note I have changed my name to Deborah L. Miller. **

Please consider the environment before printing this e-mail or attachments.

From: Patrick M. McNerney [mailto:pmcnerney@martinbuilding.com]
Sent: Thursday, September 23, 2010 10:04 AM
To: Deborah L. Miller
Subject: 85 natoma

Hello Deborah,

I received the purchase offers for 4 units at 85 Natoma (units C1, 1, 2, and 4) and the parking at 580 Howard. Do you have digital files of the summary appraisal and purchase agreement you can send me for each parcel, please?

Thank you.

Patrick McNerney
President

Martin Building Company
14 Mint Plaza, Fifth Floor
San Francisco, CA 94103
t: 415.348.4600 f: 415.348.8058
www.martinbuilding.com



Deborah L. Miller

From: Knowles, Jeffrey [jgk@coblentzlaw.com]
Sent: Friday, October 01, 2010 8:12 AM
To: Deborah L. Miller
Cc: Patrick M. McNerney
Subject: RE: 85 Natoma

Deborah:

Thank you for this information. As I said in my voicemail responding to your September 24 message (and have told you in telephone conversations in the past), the existence or non-existence of a demolition contract for 85 Natoma is of less interest to my clients than whatever schedule the TJPA or its vendors may have for work that would entail demolition of 85 Natoma. While I understand there may be "no schedule for demolition of 85 Natoma" in the sense that there is no contract in place to do so, that is not (and has not been) what I have been inquiring about. Surely there is a construction schedule or timeline -- tentative, contemplated, preliminary or otherwise -- that designates or presupposes a particular time (or range of times) for the taking of all property in Phase I, including 85 Natoma. It is inconceivable that construction/demolition could be so imminent and/or underway without a longer range schedule, regardless of how tentative it may be. Please consider this a Public Records Act and Sunshine Ordinance request for all documents relating to such a timeline or scheduling.

In the interim, we are working on a response to the TJPA's offer and will be in touch.

Regards,

Jeff Knowles

Jeffrey G. Knowles
Coblentz Patch Duffy & Bass LLP
Direct: (415) 772-5795
Main: (415) 391-4800
Facsimile: (415) 989-1663
www.coblentzlaw.com

From: Deborah L. Miller [mailto:miller@smwlaw.com]
Sent: Friday, October 01, 2010 5:59 AM
To: Knowles, Jeffrey
Subject: 85 Natoma

Jeff --

Responding to your telephone messages to me on September 29 and 30 --

You asked about schedule for demolition of 85 Natoma. As I explained in my September 24 message to you, the TJPA has not yet acquired possession of all of the units in 85 Natoma and 85 Natoma is not in the TJPA's current demolition contract. If the TJPA acquires possession of all of the units, the TJPA would need to amend the existing contract or enter a new contract for demolition before it could demolish the structure. Thus, there is no schedule for demolition of 85 Natoma.

Also as I mentioned re the schedule for construction, the TJPA's Buttress, Shoring, and Excavation contract is currently out to bid. The deadline for responses to bids has been extended to November 9. The TJPA expects to begin work under that contract in early 2011. That is, however, subject to change.

The TJPA would like to proceed expeditiously with acquisition of the units in 85 Natoma and the parking easement held by the owner of 580 Howard based on the TJPA's August 2, 2010 offers to purchase.

I understand that you represent the owners of 85 Natoma #1, 2, 4, 9, C1 and the owner of the parking easement. We have not yet received a response from your clients to the TJPA's offer. We would be glad to consider any information that you or your clients believe is relevant to the value of the units, or consider any comments to the proposed terms of purchase.

The TJPA is in escrow for the purchase of 2 other units in the building, and in discussions regarding 2 more units. I am hopeful that we can likewise reach agreement with your clients in the near term.

Best,
Deborah

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Fax: (415) 552-5816
miller@smwlaw.com

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SHUTE, MIHALY
& WEINBERGER LLP

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T: 415 552-7272 F: 415 552-5816
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DEBORAH L. (KEETH) MILLER
Attorney
miller@smwlaw.com

September 11, 2010

Via email and US Mail

Jeffrey G. Knowles
Coblentz, Patch, Duffy & Bass LLP
One Ferry Building, Suite 200
San Francisco, CA 94111-4213
Email: jgk@coblentzlaw.com

Re: Public Records Act Request; 85 Natoma

Dear Mr. Knowles:

We understand that you represent the owners of 85 Natoma #1, 2, 4, 9, C1 and the owner of the parking easement in and across the 85 Natoma garage (collectively, the "Properties"). We are writing in response to your October 1, 2010 email requesting, under the Public Records Act and the San Francisco Sunshine Ordinance, Transbay Joint Powers Authority ("TJPA") documents relating to a timeline or schedule for the taking and/or demolition of the Properties.

As you know, the TJPA had initially planned to acquire the Properties in Phase 2. Due to the TJPA's refinement of plans for construction of Phase 1, the TJPA plans to acquire the Properties in Phase 1, which is currently underway. In particular, the Properties will facilitate construction of the train box below the Transit Center and the Downtown Rail Extension Project ("DTX") train tunnel, which will run below the condominium building as it expands on the curve into the new Transit Center. The building will have to be demolished to allow for construction of the Transbay Program rail components.

As we've previously explained, there is no timeline or schedule for the taking and/or demolition of the Properties. The City Board of Supervisors and the TJPA Board of Directors exercise sole discretion relating to acquisition of property; neither agency has approved any acquisition of the Properties. Moreover, acquisition and demolition would require numerous decisions and actions relating to issues such as funding, contracting, and other matters. Some of these decisions are within the exclusive control of government agencies other than the TJPA and which the TJPA cannot predict.

Jeffrey G. Knowles
September 11, 2010
Page 2

Nonetheless, we have provided you and your clients information about the TJPA's schedule and plans for demolition, construction, and funding to the extent it is available.

As we have previously explained, the TJPA's current schedule for Buttress, Shoring, and Excavation (BS&E) work in the vicinity of the Properties—which would be facilitated by acquisition of the Properties—is planned for Spring 2011. We have kept you apprised of the status of the contract that would have to be approved by the TJPA Board before the BS&E work may begin. In response to your request, we are enclosing a schedule of planned BS&E activity in the area near the Properties; this schedule is subject to change.

Also as we have previously explained, the City's and the TJPA's joint offers to purchase the Properties are contingent on an allocation of funds from the TJPA's funding partner, the San Mateo County Transportation Authority (SMCTA). On October 7, 2010, SMCTA approved the terms of the requested allocation. The TJPA Board will consider approval of the terms at its October 14, 2010 regular Board meeting. If the TJPA Board approves the allocation terms, we expect funds to be available for acquisition of the Properties shortly thereafter.

The TJPA would like to acquire the Properties before Spring 2011, when the TJPA plans to begin BS&E work in the area near the Properties. On August 2, 2010, the City and County of San Francisco and the TJPA made joint offers to purchase the Properties. Although more than 2 months has passed since TJPA made its offers, we have not received any response from your clients. We would be glad to consider any information that you or your clients believe is relevant to the value of the units, or consider any comments to the proposed terms of purchase.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Deborah L. (Keeth) Miller

Enclosure

cc: Maria Ayerdi-Kaplan

SHUTE, MIHALY
WEINBERGER LLP

Deborah L. Miller

From: Patrick M. McNerney [pmcnerney@martinbuilding.com]
Sent: Tuesday, October 12, 2010 5:52 AM
To: Deborah L. Miller; Knowles, Jeffrey
Subject: RE: 85 Natoma
Attachments: image001.jpg

Deborah,

I have two additional questions, please.

- Can we get a copy of the site plan that clearly defines the areas referred to as Zone 1 and Zone 2 of Natoma Street?
- May I contact the person who prepared this schedule? I would like to understand the detail surrounding the shoring work (both for 85 Natoma and 580 Howard).

Thank you.

Patrick McNerney
President

MARTIN BUILDING COMPANY
14 Mint Plaza, Fifth Floor
San Francisco, CA 94103
T: 415.348.1600 F: 415.348.8058
www.martinbuilding.com



From: Deborah L. Miller [mailto:miller@smwlaw.com]
Sent: Monday, October 11, 2010 10:13 PM
To: Knowles, Jeffrey
Cc: Patrick M. McNerney
Subject: RE: 85 Natoma

Jeff –

In follow up to our phone call on Friday, please see the attached correspondence, including the schedule of planned buttress, shoring, and excavation activities near 85 Natoma.

Deborah

Deborah L. (Keeth) Miller
Shute, Mihaly & Weinberger LLP
396 Hayes St.
San Francisco, CA 94102
Tel: (415) 552-7272
Fax: (415) 552-5816
miller@smwlaw.com

**** Please note I have changed my name to Deborah L. Miller. ****

Please consider the environment before printing this e-mail or attachments.

From: Deborah L. Miller
Sent: Friday, October 08, 2010 1:33 PM
To: 'Knowles, Jeffrey'
Cc: Patrick M. McNerney
Subject: RE: 85 Natoma

Jeff -

I left you a phone message yesterday and today, letting you know I am available to talk at your convenience. In the meantime, TJPA is preparing its response to your Public Records Act request.

Deborah

Deborah L. (Keeth) Miller
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**** Please note I have changed my name to Deborah L. Miller. ****

Please consider the environment before printing this e-mail or attachments.

From: Knowles, Jeffrey [mailto:jgk@coblenzlaw.com]
Sent: Wednesday, October 06, 2010 9:12 PM
To: Deborah L. Miller
Cc: Patrick M. McNerney
Subject: RE: 85 Natoma

Perhaps you could give me a ring. I'm in tomorrow.

From: Deborah L. Miller [mailto:miller@smwlaw.com]
Sent: Wednesday, October 06, 2010 2:34 PM
To: Knowles, Jeffrey
Cc: Patrick M. McNerney
Subject: RE: 85 Natoma

Jeff -

We received your October 1 request for documents under the Public Records Act and Sunshine Ordinance. The TJPA will respond to the request consistent with the time frames prescribed by those provisions.

We stand ready to review the property owners' responses to the TJPA's August 2 offers to purchase.

Deborah

Deborah L. (Keeth) Miller
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396 Hayes St.
San Francisco, CA 94102
Tel: (415) 552-7272
Fax: (415) 552-5816
miller@smwlaw.com

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From: Knowles, Jeffrey [mailto:jgk@coblentzlaw.com]
Sent: Friday, October 01, 2010 8:12 AM
To: Deborah L. Miller
Cc: Patrick M. McNerney
Subject: RE: 85 Natoma

Deborah:

Thank you for this information. As I said in my voicemail responding to your September 24 message (and have told you in telephone conversations in the past), the existence or non-existence of a demolition contract for 85 Natoma is of less interest to my clients than whatever schedule the TJPA or its vendors may have for work that would entail demolition of 85 Natoma. While I understand there may be "no schedule for demolition of 85 Natoma" in the sense that there is no contract in place to do so, that is not (and has not been) what I have been inquiring about. Surely there is a construction schedule or timeline -- tentative, contemplated, preliminary or otherwise -- that designates or presupposes a particular time (or range of times) for the taking of all property in Phase I, including 85 Natoma. It is inconceivable that construction/demolition could be so imminent and/or underway without a longer range schedule, regardless of how tentative it may be. Please consider this a Public Records Act and Sunshine Ordinance request for all documents relating to such a timeline or scheduling.

In the interim, we are working on a response to the TJPA's offer and will be in touch.

Regards,

Jeff Knowles

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Facsimile: (415) 989-1663
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From: Deborah L. Miller [mailto:miller@smwlaw.com]
Sent: Friday, October 01, 2010 5:59 AM

To: Knowles, Jeffrey
Subject: 85 Natoma

Jeff --

Responding to your telephone messages to me on September 29 and 30 --

You asked about schedule for demolition of 85 Natoma. As I explained in my September 24 message to you, the TJPA has not yet acquired possession of all of the units in 85 Natoma and 85 Natoma is not in the TJPA's current demolition contract. If the TJPA acquires possession of all of the units, the TJPA would need to amend the existing contract or enter a new contract for demolition before it could demolish the structure. Thus, there is no schedule for demolition of 85 Natoma.

Also as I mentioned re the schedule for construction, the TJPA's Buttress, Shoring, and Excavation contract is currently out to bid. The deadline for responses to bids has been extended to November 9. The TJPA expects to begin work under that contract in early 2011. That is, however, subject to change.

The TJPA would like to proceed expeditiously with acquisition of the units in 85 Natoma and the parking easement held by the owner of 580 Howard based on the TJPA's August 2, 2010 offers to purchase.

I understand that you represent the owners of 85 Natoma #1, 2, 4, 9, C1 and the owner of the parking easement. We have not yet received a response from your clients to the TJPA's offer. We would be glad to consider any information that you or your clients believe is relevant to the value of the units, or consider any comments to the proposed terms of purchase.

The TJPA is in escrow for the purchase of 2 other units in the building, and in discussions regarding 2 more units. I am hopeful that we can likewise reach agreement with your clients in the near term.

Best,
Deborah

Deborah L. (Keeth) Miller
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San Francisco, CA 94102
Tel: (415) 552-7272
Fax: (415) 552-5816
miller@smwlaw.com

** Please note that I have changed my name to Deborah L. Miller. **

Please consider the environment before printing this e-mail or attachments.

Deborah L. Miller

From: Deborah L. Miller
Sent: Monday, October 18, 2010 2:31 PM
To: 'Knowles, Jeffrey'
Cc: 'Patrick M. McNerney'
Subject: RE: 85 Natoma
Attachments: Letter to Knowles 10-18-10.pdf; TG03 SL-004.pdf; TG03 SL-001.pdf

Please see attached letter with 2 enclosures.

Deborah

Deborah L. (Keeth) Miller
Shute, Mihaly & Weinberger LLP
396 Hayes St.
San Francisco, CA 94102
Tel: (415) 552-7272
Fax: (415) 552-5816
miller@smwlaw.com

** Please note I have changed my name to Deborah L. Miller. **

Please consider the environment before printing this e-mail or attachments.

From: Deborah L. Miller
Sent: Friday, October 15, 2010 12:11 PM
To: 'Knowles, Jeffrey'
Cc: Patrick M. McNerney
Subject: RE: 85 Natoma

Yes, except that Patrick made a follow up request on October 12, which we are preparing to respond to.

Deborah L. (Keeth) Miller
Shute, Mihaly & Weinberger LLP
396 Hayes St.
San Francisco, CA 94102
Tel: (415) 552-7272
Fax: (415) 552-5816
miller@smwlaw.com

** Please note I have changed my name to Deborah L. Miller. **

Please consider the environment before printing this e-mail or attachments.

From: Knowles, Jeffrey [mailto:jgk@coblentzlaw.com]
Sent: Friday, October 15, 2010 11:51 AM
To: Deborah L. Miller
Cc: Patrick M. McNerney
Subject: RE: 85 Natoma

Deborah:

Does this letter constitute the TJPA's response to our Public Records Act and Sunshine Ordinance request?

Jeffrey G. Knowles
Coblentz Patch Duffy & Bass LLP
Direct: (415) 772-5795
Main: (415) 391-4800
Facsimile: (415) 989-1663
www.coblentzlaw.com

From: Deborah L. Miller [mailto:miller@smwlaw.com]
Sent: Monday, October 11, 2010 10:13 PM
To: Knowles, Jeffrey
Cc: Patrick M. McNerney
Subject: RE: 85 Natoma

Jeff -

In follow up to our phone call on Friday, please see the attached correspondence, including the schedule of planned buttress, shoring, and excavation activities near 85 Natoma.

Deborah

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Subject: RE: 85 Natoma

Jeff -

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Deborah

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Subject: RE: 85 Natoma

Jeff -

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We stand ready to review the property owners' responses to the TJPA's August 2 offers to purchase.

Deborah

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To: Knowles, Jeffrey

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DEBORAH L. (KEETH) MILLER
Attorney
miller@smwlaw.com

October 18, 2010

Via email and US Mail

Jeffrey G. Knowles
Coblentz, Patch, Duffy & Bass LLP
One Ferry Building, Suite 200
San Francisco, CA 94111-4213
Email: jgk@coblentzlaw.com

Re: Public Records Act Request; 85 Natoma

Dear Mr. Knowles:

On October 11, 2010, the Transbay Joint Powers Authority (TJPA) provided its response to your client Patrick McNerney's October 1, 2010 request under the Public Records Act and the San Francisco Sunshine Ordinance for documents relating to a timeline or schedule for acquisition and/or demolition of 85 Natoma Street #1, 2, 4, 9, C1 and the parking easement in and across the 85 Natoma garage (collectively, the "Properties").

On October 12, 2010, Mr. McNerney requested a site plan showing the areas referred to by the TJPA as "Zone 1" and "Zone 2" in relation to 85 Natoma Street. Enclosed are pages SL-001 and SL-004 from the TJPA's Buttress/Shoring/Excavation (TG-03) bid manual. Please note that these documents are subject to change.

Mr. McNerney also indicated he has questions regarding the TJPA's proposed shoring work for the Transbay Transit Center. Numerous members of the TJPA team prepare the TJPA's plans and schedule for the proposed work. In order to be most efficient, the TJPA requests that Mr. McNerney submit his questions in writing to the TJPA.

We have not yet received any response from your client to the TJPA's August 2, 2010

Jeffrey G. Knowles
October 18, 2010
Page 2

offers to purchase the Properties. Please contact us at your earliest convenience to discuss.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Deborah L. (Keeth) Miller

Enclosure

cc: Maria Ayerdi-Kaplan

SHUTE, MIHALY
& WEINBERGER LLP



151 HARRISON STREET, SUITE 200
SAN FRANCISCO, CA 94102
PHONE: (415) 774-7272
FAX: (415) 774-7273

PROJECT: TRANSBAY TRANSIT CENTER
DATE: 08/11/10
DRAWN BY: [Name]
CHECKED BY: [Name]

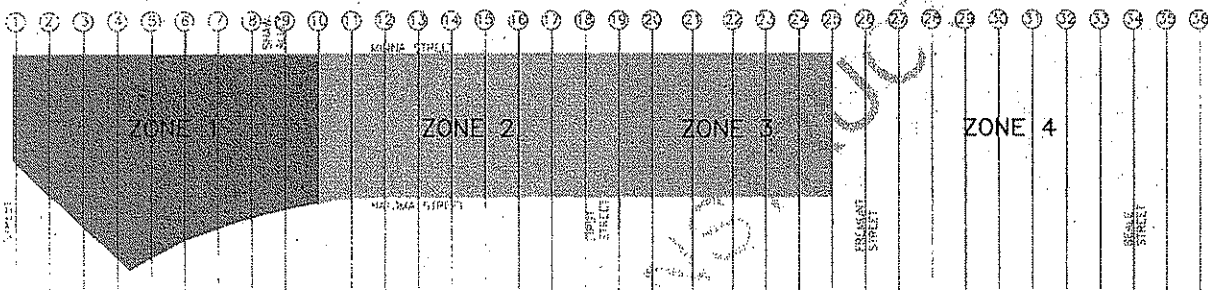
TRANSBAY TRANSIT CENTER
SAN FRANCISCO, CA

Revision Block			
No.	Description	Date	By

SITE LOGISTICS
CONSTRUCTION ZONES

DATE: 08/11/10

SL-004



1 TG03: BSE CONSTRUCTION ZONES
SCALE: N/A

NOT FOR CONSTRUCTION

IMPORTANT NOTE:
This document is not intended to be used for any other purpose than the one stated herein. It is the responsibility of the user to ensure that the information contained herein is accurate and up-to-date. The user should consult the project manager for any questions or concerns.



DATE: 01/15/10
 DRAWN BY: [Name]
 CHECKED BY: [Name]

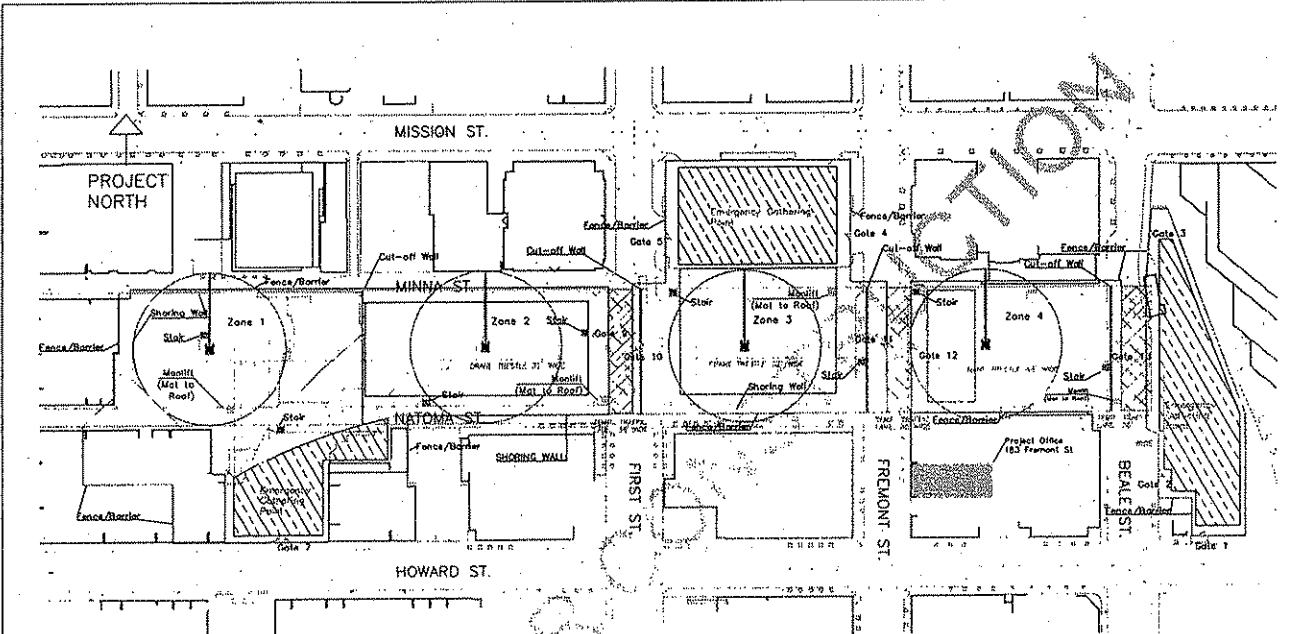
TRANSBAY TRANSIT CENTER
 SAN FRANCISCO, CA

Revision Block			
No.	Date	Description	By

Scale: 1" = 100'
 Job No: 2010
 Site Logistics
 BSE Phase

NOT FOR CONSTRUCTION
 IMPORTANT NOTE:
 THIS DRAWING IS THE PROPERTY OF HENRIK CONSTRUCTION SERVICES, INC. AND IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF HENRIK CONSTRUCTION SERVICES, INC.

SL-001



GENERAL NOTES

1. No jobsite parking available.
2. No loading or unloading of materials on city streets at any time. Violators will be cited and fined.
3. All deliveries must be coordinated with Webcor/Obayashi.
4. Storage of materials in Staging Areas must be coordinated with Webcor/Obayashi.
5. All visitors must check in at the Webcor/Obayashi project office.

VOLUME I

**TRANSBAY TERMINAL /
CALTRAIN DOWNTOWN EXTENSION /
REDEVELOPMENT PROJECT**

in the City and County of San Francisco

**FINAL ENVIRONMENTAL IMPACT STATEMENT/
ENVIRONMENTAL IMPACT REPORT AND
SECTION 4(f) EVALUATION**

Pursuant to

National Environmental Policy Act of 1969, §102 (42 U.S.C. §4332); Federal Transit Laws (49 U.S.C. §5301(e), §5323(b) and §5324(b)); Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. §303); National Historic Preservation Act of 1966, §106 (16 U.S.C. §470f); 40 CFR Parts 1500-1508; 23 CFR Part 771; Executive Order 12898 (Environmental Justice); and California Environmental Quality Act, PRC 21000 *et seq.*; and the State of California CEQA Guidelines, California Administrative Code, 15000 *et seq.*

by the

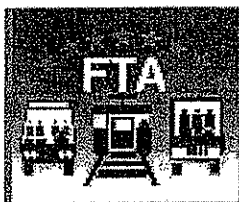
**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION**

and the

**CITY AND COUNTY OF SAN FRANCISCO,
PENINSULA CORRIDOR JOINT POWERS BOARD, AND
SAN FRANCISCO REDEVELOPMENT AGENCY**

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 NOV 24 AM 10:27
BY _____

March 2004



VOLUME II

**TRANSBAY TERMINAL /
CALTRAIN DOWNTOWN EXTENSION /
REDEVELOPMENT PROJECT**

in the City and County of San Francisco

**FINAL ENVIRONMENTAL IMPACT STATEMENT/
ENVIRONMENTAL IMPACT REPORT AND
SECTION 4(f) EVALUATION**

**RESPONSES TO PUBLIC COMMENTS ON THE
DRAFT ENVIRONMENTAL IMPACT STATEMENT/
DRAFT ENVIRONMENTAL IMPACT REPORT AND
DRAFT SECTION 4(f) EVALUATION**

by the

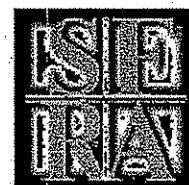
**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION**

and the

**CITY AND COUNTY OF SAN FRANCISCO,
PENINSULA CORRIDOR JOINT POWERS BOARD, AND
SAN FRANCISCO REDEVELOPMENT AGENCY**

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 NOV 24 AM 10:29
BY *[Signature]*

March 2004



VOLUME III

**TRANSBAY TERMINAL /
CALTRAIN DOWNTOWN EXTENSION /
REDEVELOPMENT PROJECT**

in the City and County of San Francisco

**FINAL ENVIRONMENTAL IMPACT STATEMENT/
ENVIRONMENTAL IMPACT REPORT AND
SECTION 4(f) EVALUATION**

**WRITTEN PUBLIC COMMENTS AND
PUBLIC HEARING TRANSCRIPTS ON THE**

**DRAFT ENVIRONMENTAL IMPACT STATEMENT/
DRAFT ENVIRONMENTAL IMPACT REPORT AND
DRAFT SECTION 4(f) EVALUATION**

by the

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION**

and the

**CITY AND COUNTY OF SAN FRANCISCO,
PENINSULA CORRIDOR JOINT POWERS BOARD, AND
SAN FRANCISCO REDEVELOPMENT AGENCY**

March 2004





U.S. Department
of Transportation
Federal Transit
Administration

RECEIVED FEB 21 2005

REGION IX
Arizona, California,
Hawaii, Nevada, Guam

201 Mission Street
Suite 2210
San Francisco, CA 94105-1839
415-744-3133
415-744-2726 (fax)

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 NOV 24 AM 10:28
BY *PC*

FEB 8 2005

Mr. Michael J. Scanlon
Executive Director
Peninsula Corridor Joint Powers Board
1250 San Carlos Ave
San Carlos, CA 94070

Re: Record of Decision; Transbay Terminal / Caltrain
Downtown Extension / Redevelopment Project

Dear Mr. Scanlon:

This is to advise you that the Federal Transit Administration has issued a Record of Decision (ROD) for the Transbay Terminal / Caltrain Downtown Extension / Redevelopment Project. The comment period for the Final Supplemental Environmental Impact Statement closed May 4, 2004. The Federal Transit Administration's (FTA) Record of Decision (ROD) is enclosed.

Please make the ROD and supporting documentation available to affected government agencies and the public. Availability of the ROD should be published in local newspapers and should be provided directly to affected government agencies, including the State Inter-governmental Review contact established under Executive Order 12372.

Please note that if a grant is made for this project, the terms and conditions of the grant contract will require the grantee undertake the mitigation measures identified in the ROD.

Thank for your cooperation in meeting the NEPA requirements. If you have questions about our review, please call Mr. Jerome Wiggins at (415) 744-2819.

Sincerely,

Leslie T. Rogers
Leslie T. Rogers
Regional Administrator

RECORD OF DECISION

Transbay Terminal / Caltrain Downtown Extension / Redevelopment Project San Francisco, California

DECISION

The U.S. Department of Transportation, Federal Transit Administration (FTA), has determined that the requirements of the National Environmental Policy Act of 1969 (NEPA) have been satisfied for the Transbay Terminal / Caltrain Downtown Extension / Redevelopment Project (Project) in San Francisco, California. The Project to which this Record of Decision (ROD) applies consists of the design, construction, and future operation of a multimodal transportation terminal, underground rail access tunnel to the terminal, and redevelopment of the surrounding area.

The Project consists of three main components: a multimodal transportation terminal designed to serve local and regional buses as well as commuter rail and proposed high speed rail, an approximately 1.3 mile underground passenger rail extension from the existing Fourth and Townsend Caltrain Station to the new terminal, and transit oriented redevelopment of the area surrounding the terminal. The Project also includes support components such as a temporary bus terminal facility to be used during construction, a new, permanent off-site bus storage/ layover facility, reconstructed bus ramps leading to the west end of the new Transbay Terminal, and a redesigned Caltrain storage yard.

The Project was adopted as the Locally Preferred Alternative by the Transbay Joint Powers Authority (TJPA) and was evaluated as the Refined West Loop Terminal / Second-to-Main Tunnel Alignment / Tunneling Option / Full Build Redevelopment in the Project's Final Environmental Impact Statement/Report (Final EIS/EIR) issued in March 2004. That Final EIS/EIR provides the complete description of the Project, which is the subject of this ROD. EPA published the Notice of Availability for the Final EIS/EIR on April 2, 2004, in the Federal Register. The local lead agencies for the Project are the City and County of San Francisco, and the Peninsula Corridor Joint Powers Board. The TJPA is the Project's sponsoring agency for all project components other than the Redevelopment Plan and will be responsible for building, operating, and maintaining the Project components related to the Transbay Terminal.

AGREEMENTS

FTA and TJPA have executed a Project Development Agreement (PDA) to set forth their intentions for compliance with FTA's Record of Decision and program requirements that will govern the Transbay Terminal / Caltrain Downtown Extension / Redevelopment Project. FTA and TJPA acknowledge that this agreement may be modified from time to time to accommodate statutory or regulatory changes, changes to the Project, or changes to TJPA's project management or financing plans, as necessary or appropriate. The executed PDA is attached (Appendix D).

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. ~~06~~ -011

WHEREAS, In April 2004, the Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project Final Environmental Impact Statement/ Environmental Impact Report ("Final EIS/EIR") (SCH #95063004) was certified by the City and County of San Francisco, the Peninsula Corridor Joint Powers Board, and the San Francisco Redevelopment Agency; and

WHEREAS, In April 2004 the Board of Directors of the Transbay Joint Powers Authority ("TJPA") approved the Locally Preferred Alternative ("LPA") of the Transbay Transit Center Program ("TTCP"); and

WHEREAS, The TJPA Board desires to refine the design and phasing of the Transbay Terminal/Caltrain Downtown Extension component of the LPA (the "Refined Project"); and

WHEREAS, In December 2005, Staff presented the Recommended Program Implementation Strategy of the Refined Project to the TJPA Board; on March 16 and May 25, 2006, Staff again provided the TJPA Board with the Recommended Program Implementation Strategy, and the Final Massing Study for the Transit Center Building that further documented the Refined Project; and

WHEREAS, Pursuant to Section 15164 of the California Environmental Quality Act ("CEQA," Pub. Res. Code §§ 21000 *et seq.*) and the CEQA Guidelines, the TJPA has prepared an Addendum to the Final EIS/EIR, which contains an analysis of the environmental impacts that may result from the proposed refinement of the LPA; and

WHEREAS, The Refined Project would not trigger the need for subsequent environmental review pursuant to Section 21166 of the Public Resources Code and Section 15162 of the CEQA Guidelines; and

WHEREAS, The Refined Project would not require major revisions of the Final EIS/EIR due to new or substantially increased significant environmental effects; and

WHEREAS, No substantial changes have occurred with respect to the circumstances under which the revisions to the Refined Project would be undertaken that would require major revisions of the Final EIS/EIR due to new or substantially increased significant environmental effects; and

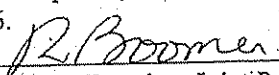
WHEREAS, There has been no discovery of new information of substantial importance that would trigger or require major revisions of the Final EIS/EIR due to new or substantially increased significant environmental effects; and

WHEREAS, The TJPA Board has considered the Final EIS/EIR along with the Addendum to the Final EIS/EIR; now, therefore, be it

RESOLVED, That the TJPA Board:

1. Certifies that the Addendum to the Final EIS/EIR has been completed in compliance with CEQA and reflects the independent judgment of the TJPA; and
2. Adopts the Addendum to the Final EIS/EIR.

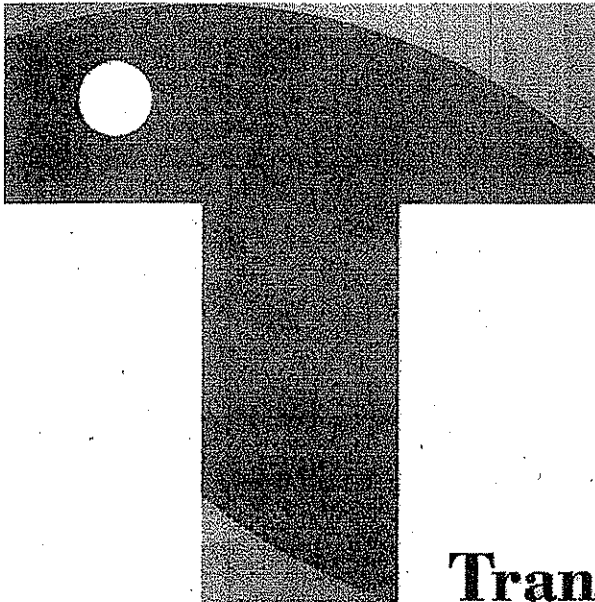
I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of June 2, 2006.


Secretary, Transbay Joint Powers Authority

Addendum for the Transbay Terminal/Downtown Extension/Redevelopment Project

Final Environmental Impact Statement/Report

May 25, 2006



Transbay Transit Center

URS

In association with
Hatch Mott McDonald & EPC Consultants
Consultants to the Transbay Joint Powers Authority



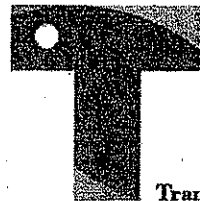
U.S. Department
of Transportation
**Federal Railroad
Administration**

Transbay Program

Final EIS Reevaluation

Updating the Transbay Program 2004 Final EIS for Adoption by
the Federal Railroad Administration

May 2010



Transbay Transit Center

**FEDERAL RAILROAD ADMINISTRATION
RECORD OF DECISION
FOR THE
TRANSBAY TRANSIT CENTER TRAINBOX**

DECISION

The United States Department of Transportation, Federal Railroad Administration (FRA) has determined that the requirements of the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 et seq., have been satisfied for the train box at the Transbay Transit Center ("TTC" or "Transit Center") in San Francisco, California.

This decision has been made in accordance with the provisions of NEPA, which requires Federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions, reasonable alternatives to those actions, and integrating public participation into the process. This document sets forth the Record of Decision of FRA for the granting of Federal funds for the train box at the TTC. In making this decision, FRA considered the entire record, including the information, analysis, and public comments contained in the portions of the Final Environmental Impact Statement/Environmental Impact Report¹ ("2004 EIS") for the Transbay Terminal/Caltrain Downtown/Extension Redevelopment Project ("Transbay Program") that cover Phase 1 of the Transbay Program, which was completed by the Federal Transit Administration ("FTA"). In addition, FRA prepared and has relied upon the May 28, 2010 Transbay Program Final EIS Reevaluation ("Environmental Reevaluation") of the Phase 1 portions of the 2004 EIS. Through the analysis contained in both the 2004 EIS and the Environmental Reevaluation, FRA has taken the requisite "hard look" at potential environmental impacts and has identified and independently evaluated the potential environmental effects associated with the project's alternatives.

This ROD has been drafted in accordance with NEPA, the Council on Environmental Quality (CEQ) Regulations implementing NEPA (most specifically 40 C.F.R. § 1505.2), and FRA's Procedures for Considering Environmental Impacts, 64 Fed. Reg. 28545 (May 26, 1999).

INTRODUCTION

FRA's proposed action is to provide up to \$400 million of funding under the American Recovery and Reinvestment Act of 2009 ("Recovery Act") to the Transbay Joint Powers Authority ("TJPA") to fund construction of a train box to accommodate future high-speed train ("HST") service at the TTC, which is an element of Phase 1 of the Transbay Program.

FTA and TJPA prepared the 2004 EIS as a joint environmental impact statement/environmental impact report to satisfy both the requirements of NEPA and the California Environmental

¹An Environmental Impact Report (EIR) is an environmental document required under the California Environmental Quality Act (CEQA).

Caltrain Downtown Extension and Transbay Ridership Analysis

final report

prepared for


Transbay Joint Powers Authority

prepared by

Cambridge Systematics, Inc.



TRANSBAY JOINT POWERS AUTHORITY

A thick, horizontal bar with a stippled texture, matching the TJPA logo, spans across the page.

Final Relocation Impact Study

September 2007



TRANSBAY JOINT POWERS AUTHORITY

Final Relocation Impact Study II

January 2010



TRANSBAY JOINT POWERS AUTHORITY

Relocation Assistance Brochure

Rights and Benefits Under the TJPA's Relocation Assistance Program for Businesses and Nonprofit Organizations

This brochure summarizes the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. Section 4601 et seq., and its implementing regulations, 49 Code of Federal Regulations (CFR) Part 24, and the California Relocation Act, Govt. Code Section 7260 et seq., and its implementing regulations, 25 Cal. Code Regs. Section 6000 et seq.

Much of the content of this brochure was provided by The United States Department of Transportation, Federal Highway Administration, Office of Real Estate Services, Publication Number FHWA-HEP-05-031.



TRANSBAY JOINT POWERS AUTHORITY

Residential Relocation Assistance Brochure

Rights and Benefits under the TJPA's Relocation
Assistance Program for Residential Occupants

This brochure summarizes the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. Section 4601 et seq., and its implementing regulations, 49 Code of Federal Regulations (CFR) Part 24, and the California Relocation Act, Govt. Code Section 7260 et seq., and its implementing regulations, 25 Cal. Code Regs. Section 6000 et seq.

JOINT POWERS AGREEMENT

creating the

TRANSBAY JOINT POWERS AUTHORITY

The City and County of San Francisco, a municipal corporation and charter city and county duly organized and existing under its Charter and the Constitution of the State of California (the "City") and the Alameda-Contra Costa Transit District, a transit district duly organized and created in accordance with the Public Utilities Code of the State of California (commencing with Section 24501) (the "District") and the Peninsula Corridor Joint Powers Board-Caltrain, a joint exercise of powers agency comprised of the City and County of San Francisco, San Mateo County Transit District, and Santa Clara Valley Transportation Authority, duly created and organized in accordance with the Government Code of the State of California (commencing with Section 6500) (the "JPB") all of which entities shall be referred to herein collectively as the "Members," hereby enter into this Joint Powers Agreement (this "Agreement") creating the Transbay Joint Powers Authority (the "Authority"). All Members are public entities organized and operating under the laws of the State of California and each is a public agency as defined in Section 6500 of the Government Code of the State of California.

Recitals

- A. The State of California Department of Transportation currently operates and manages a bus transportation terminal in the City commonly known as the Transbay Terminal (the "Old Transbay Terminal") located on the site described in Exhibit A (the "Site").
- B. The Members recognize that the Old Transbay Terminal is underutilized and blighted, and can be developed to provide for regional, seamless, intermodal transit connections.
- C. Pursuant to Chapter 5, Division 7, Title 1 of the Government Code of the State of California the Members may jointly exercise any power common to them.
- D. The Members desire to jointly participate in the construction, development and operation of a new regional transit hub and related structures and ramps which will provide expanded bus and rail service and direct access to transit located in a new terminal building on the Site and/or property adjacent to the Site including bus storage/staging facilities in the vicinity of the Site, together with all necessary and essential ramps for access to and from the San Francisco-Oakland Bay Bridge from the new terminal building and to and from the bus storage/staging facilities, as well as a temporary bus facility with access to and from the San Francisco-Oakland Bay Bridge, all of which is more efficient and convenient for buses, trains, and the passengers using those systems.
- E. The Members intend to develop and construct a new transportation terminal on the Site, direct access ramps, links to regional transportation systems which includes the downtown extension of Caltrain from 4th and Townsend Streets to the new transportation terminal, a temporary terminal for use during construction of the new terminal, bus storage, and other facilities needed to develop the Site and/or property adjacent to the Site to its highest and best use.
- F. The Members intend to operate and manage the new transit terminal and related facilities (including but not limited to necessary bus storage/staging facilities and connecting ramps)

SF
R45
#1
11/2/99
(9901)

City and County of San Francisco Voter Information Pamphlet and Sample Ballot

**Consolidated Municipal Election
November 2, 1999**

Check the back cover
of this
pamphlet for your
polling place address.

Prepared by the Department of Elections
City and County of San Francisco

9901

Sales Tax for Transportation



PROPOSITION K

Shall the City implement a 30-year New Transportation Expenditure Plan directing transportation sales tax funds to improved maintenance of local streets, transportation for the elderly and disabled, the Central Subway, a citywide network of fast and reliable buses, the Caltrain Extension to a new Transbay Terminal, improvements to pedestrian and bicycle safety and other projects and continue the existing half-cent sales tax during implementation of the New Transportation Expenditure Plan and future Plan updates?

YES ←
NO ←

Digest

by the Ballot Simplification Committee

THE WAY IT IS NOW: The City charges a one-half cent sales tax to help pay for the transportation projects described in a spending plan approved by the voters in 1989. This tax will expire on April 1, 2010.

The San Francisco Transportation Authority directs use of the sales tax money. It can spend up to \$160 million (\$160,000,000) per year for the approved transportation projects, and can issue up to \$742 million (\$742,000,000) in bonds.

THE PROPOSAL: Proposition K is an ordinance that would continue the one-half cent sales tax, and replace the current transportation spending plan with a new, 30-year plan. Under the new plan, the money would be used for:

- Maintenance of local streets;
- Transportation for the elderly and disabled;
- Construction of a Central Subway;
- Upgrades to the bus system, including new buses, stations and dedicated lanes;
- A Caltrain extension to a new Transbay Terminal;
- Projects to improve pedestrian and bicycle safety;
- Support for regional transportation systems (BART, Caltrain, and ferries); and
- Replacing the roadway to Golden Gate Bridge (Doyle Drive).

The Transportation Authority could modify the plan if voters approved. The sales tax would continue as long as the new or modified plan is in effect.

The Transportation Authority would continue to direct use of the sales tax. It could spend up to \$485.175 million (\$485,175,000) per year and issue up to \$1.88 billion (\$1,880,000,000) in bonds, to be repaid from the one-half cent sales tax.

A two-thirds majority vote is required to approve this measure.

A "YES" VOTE MEANS: If you vote "Yes," you want to continue the one-half cent sales tax to pay for transportation projects described in a new 30-year spending plan, or future plans, and increase the amount of money the Transportation Authority may spend and borrow to pay for these projects.

A "NO" VOTE MEANS: If you vote "No," you do not want to make these changes.

Controller's Statement on "K"

City Controller Edward Harrington has issued the following statement on the fiscal impact of Proposition K:

Should the proposed ordinance be approved by the voters, the City would continue to collect an existing one-half cent sales tax dedicated to transportation projects. Revenue from this tax would also be used to match federal, state and regional transportation funding.

The current authorization for this tax expires March 31, 2010. The proposed ordinance would replace the current authorization with a new a 30-year authorization effective April 1, 2004 through March 31, 2034. The additional sales tax revenue which would be generated is approximately \$2.5 billion over the 30 year period.

How "K" Got on the Ballot

On July 29, 2003 the Board of Supervisors voted 11 to 0 to place Proposition K on the ballot.

The Supervisors voted as follows:

Yes: Supervisors Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick, Newsom, Peskin, and Sandoval.

THIS MEASURE REQUIRES 66 2/3% AFFIRMATIVE VOTES TO PASS.

ARGUMENTS FOR AND AGAINST THIS MEASURE IMMEDIATELY FOLLOW THIS PAGE. THE FULL TEXT BEGINS ON PAGE 151.
SOME OF THE WORDS USED IN THE BALLOT DIGEST ARE EXPLAINED ON PAGE 28.

38-CP143-364291-NE



143

Regional Measure 2

2

REGIONAL MEASURE 2

Shall voters authorize a Regional Traffic Relief Plan that does the following:

YES ←
NO ←

1. Directs revenues generated through the collection of bridge tolls to provide the following projects:
 - a. Expand and extend BART.
 - b. New transbay commuter rail crossing south of the San Francisco-Oakland Bay Bridge.
 - c. Comprehensive Regional Express bus network.
 - d. New expanded ferry service.
 - e. Better connections between BART, buses, ferries, and rail.

2. Approves a one dollar (\$1) toll increase effective July 1, 2004, on all toll bridges in the bay area, except the Golden Gate Bridge?

ARGUMENTS FOR AND AGAINST THIS MEASURE IMMEDIATELY FOLLOW THIS PAGE

THIS MEASURE REQUIRES 50%+1 AFFIRMATIVE VOTES TO PASS.

ARGUMENTS FOR AND AGAINST THIS MEASURE IMMEDIATELY FOLLOW THIS PAGE.

C A L I F O R N I A
GENERAL ELECTION

TUESDAY, NOVEMBER 4, 2008

The statutory deadline for placing legislative and initiative measures on the ballot was June 26. However, a new state law that passed after the deadline requires that Proposition 1 be removed from the ballot and be replaced by Proposition 1A. Therefore, although you are receiving information about both measures in the two state voter guides, only Proposition 1A will appear on your November 4, 2008, General Election ballot.

★ OFFICIAL VOTER INFORMATION GUIDE ★

Certificate of Correctness

I, Debra Bowen, Secretary of State of the State of California, do hereby certify that the measure included herein will be submitted to the electors of the State of California at the General Election to be held throughout the State on November 4, 2008, and that this guide has been correctly prepared in accordance with the law.

Witness my hand and the Great Seal of the State in Sacramento, California, on this 18th day of September, 2008.

Debra Bowen



Debra Bowen
Secretary of State

★ **SUPPLEMENTAL** ★

This guide contains information regarding one additional measure that has qualified for the November ballot.

Senate Bill No. 1856

CHAPTER 697

An act to add Chapter 20 (commencing with Section 2704) to Division 3 of the Streets and Highways Code, relating to financing a high-speed passenger train system by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds.

[Approved by Governor September 19, 2002. Filed
with Secretary of State September 19, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1856, Costa. Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century.

Existing law creates the High-Speed Rail Authority with the responsibility of directing the development and implementation of intercity high-speed rail service.

This bill would enact the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, which, subject to voter approval, would provide for the issuance of \$9.95 billion of general obligation bonds, \$9 billion of which would be used in conjunction with available federal funds for the purpose of funding the planning and construction of a high-speed train system in this state pursuant to the business plan of the authority. Nine hundred fifty million dollars of the bond proceeds would be available for capital projects on other passenger rail lines to provide connectivity to the high-speed train system and for capacity enhancements and safety improvements to those lines. Bonds for the high-speed train system would not be issued earlier than January 1, 2006.

The bill would provide for the submission of the bond act to the voters at the general election on November 2, 2004.

The people of the State of California do enact as follows:

SECTION 1. (a) In light of the events of September 11, 2001, it is very clear that a high-speed passenger train network as described in the High-Speed Rail Authority's Business Plan is essential for the transportation needs of the growing population and economic activity of this state.

(b) The initial high-speed train network linking San Francisco and the Bay Area to Los Angeles will serve as the backbone of what will become

Senate Bill No. 916

CHAPTER 715

An act to amend Section 14531 of the Government Code, to amend Sections 182.5, 188.3, 188.4, 188.10, 30101, 30101.8, 30113, 30600, 30601, 30604, 30606, 30750, 30751, 30760, 30761, 30791, 30884, 30885, 30887, 30889.3, 30891, 30894, 30910, 30912, 30913, 30915, 30916, 30918, 30919, 30920, 30950, 30950.1, 30950.2, 30950.3, 30950.4, 30953, 30958, 30960, 30961, 31000, 31010, and 31071 of, to amend and renumber Section 188.10 of, to add Sections 188.53, 30881, 30910.5, 30914.5, and 30922 to, and to repeal Sections 30603, 30605, 30608.2, 30752, 30753, 30754, 30755, 30756, 30757, 30762, 30762.5, 30763, 30764, 30764.5, 30765, 30766, 30767, 30791.7, 30792, 30792.2, 30793, 30794, 30795, 30886, 30888, 30889, 30896, and 30956 of, to repeal Article 5 (commencing with Section 30200) and Article 7 (commencing with Section 30350) of Chapter 1 of Division 17 of, to repeal and add Sections 30102.5, 30890, 30911, 30914, 30917, 30921, and 30951 of, the Streets and Highways Code, and to amend Section 5205.5 of the Vehicle Code, and to amend Section 5 of Chapter 898 of the Statutes of 1997 relating to transportation, and making an appropriation therefor.

[Approved by Governor October 8, 2003. Filed with
Secretary of State October 9, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 916, Perata. Toll bridge revenues: Treasure Island Development Authority.

Existing law generally makes the California Transportation Commission responsible for establishing the rates charged vehicles for crossing the state-owned toll bridges. Under existing law, the Metropolitan Transportation Commission (MTC) is authorized to adopt a toll schedule in lieu of the one adopted by the California Transportation Commission for the state-owned toll bridges in the San Francisco Bay Area. Existing law makes the MTC and the Bay Area Toll Authority (BATA), which is defined as the same body as the MTC, responsible for the programming, administration, and allocation of the revenue from the base toll charge collected from these bridges. Under existing law, a portion of this revenue is continuously appropriated to the Controller who is required to disburse these funds to the MTC to expend for purposes that reduce vehicular congestion on the bridges.

