

File No. 160387

Committee Item No. 2

Board Item No. 32

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date May 23, 2016

Board of Supervisors Meeting

Date JUNE 7, 2016

Cmte Board

- | | | |
|-------------------------------------|-------------------------------------|--|
| <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 and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Memorandum of Understanding (MOU) |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 - Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 700 |
| <input type="checkbox"/> | <input type="checkbox"/> | Vacancy Notice |
| <input type="checkbox"/> | <input type="checkbox"/> | Information Sheet |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Andrea Ausbery Date May 20, 2016

Completed by: _____ Date _____

1 [Resolution of Intent - Street Vacation - Portions of Jessie Street and Elim Alley - Oceanwide
2 Project]

3 **Resolution declaring the intention of the Board of Supervisors to order the vacation of**
4 **a portion of Jessie Street and a portion of Elim Alley northwest of Mission and First**
5 **Streets in connection with the Oceanwide Center Project at 50 First Street, subject to**
6 **certain conditions; and setting a hearing date for all persons interested in the proposed**
7 **vacation of said street areas.**

8
9 WHEREAS, The proposed street vacations are necessary to implement construction of
10 the Oceanwide Center (the "Project"), a mixed-use development with two towers featuring
11 over 250 dwelling units, a hotel, and over 1 million square feet of office space rising above
12 integrated basement levels, full renovation and rehabilitation of one historic building and the
13 partial renovation and rehabilitation of another historic building, and creation of a multi-story
14 high "urban room" on the ground level facing First Street that will serve as public open space
15 and provide pedestrian, emergency vehicle, and service vehicle access onto First Street; and

16 WHEREAS, The Project proposes to incorporate portions of Elim Alley and Jessie
17 Street (the "Vacation Area") into the Project site; and

18 WHEREAS, In order to construct the mixed-use building with two towers, portions of
19 Elim Alley and Jessie Street connecting to First Street need to be vacated; and

20 WHEREAS, These vacations are necessary in order to construct the tower fronting
21 First Street at the scale of development contemplated by the Transit Center District Plan.
22 Jessie Street currently bisects the site of the tower, making any project design that maintains
23 Jessie Street in its current configuration infeasible and undesirable; and

1 WHEREAS, The Project will modify Jessie Street along the Project site by rerouting it
2 90 degrees as it enters the site, so that it terminates on Mission Street instead of First Street;
3 and

4 WHEREAS, Incorporating Elim Alley into the Project significantly expands the size of
5 the ground-level "urban room" and increases the public's access to and enjoyment of this
6 privately-owned public open space; and

7 WHEREAS, The location and extent of the Vacation Area is shown in Public Works
8 SUR Map No. 2016-002, dated April 18, 2016; and

9 WHEREAS, A copy of this map is on file with the Clerk of the Board of Supervisors in
10 File No. 160387 and is incorporated herein by reference; and

11 WHEREAS, Jessie Street is oriented east-west between Ecker Place and First Street
12 with a right-of-way width of 27.5 feet; and

13 WHEREAS, The eastern portion of Jessie Street would be vacated, and a portion of
14 the vacated area on Jessie Street, herein referred to as the "Emergency Vehicle Access
15 Easement Area," would be subject to the creation of an emergency vehicle access easement,
16 a public vehicle access easement for large trucks, and the acceptance of the offer from
17 Oceanwide Center, LLC ("Buyer") to provide a declaration of covenants and restrictions for
18 public pedestrian access ("Public Access Declaration") therein; and

19 WHEREAS, In place of the vacated area, Jessie Street will turn 90 degrees toward
20 Mission Street along an approximately 20-foot wide right-of-way on and through the Project
21 site (the "City Easement Area"); and

22 WHEREAS, The City Easement Area will provide a public vehicle and pedestrian
23 access easement from Jessie Street to Mission Street; and

24
25

1 WHEREAS, It also will accommodate overland or surface flow from the City's facilities
2 on, over, or below Jessie Street in excess of the 5-year storm capacity, subject to an overland
3 flow easement; and

4 WHEREAS, Copies of these easements and the Public Access Declaration are on file
5 with the Clerk of the Board of Supervisors in File No. 160387 and are incorporated herein by
6 reference; and

7 WHEREAS, Elim Alley extends 250 feet east-west between Ecker Place and First
8 Street, having a right-of-way width of 12 feet for a distance of approximately 142 feet moving
9 east from Ecker Place, then a width of 6.5 feet for the remaining approximately 108 feet
10 before its terminus at First Street; and

11 WHEREAS, Elim Alley is an "unaccepted" street that the Board of Supervisors has not
12 accepted for City maintenance and liability purposes; and

13 WHEREAS, The eastern portion of Elim Alley will need to be vacated in order to
14 construct the Project's urban room and the tower fronting First Street; and

15 WHEREAS, A portion of Elim Alley proposed for vacation also will be subject to the
16 Public Access Declaration for public pedestrian access; and

17 WHEREAS, A copy of this declaration is on file with the Clerk of the Board of
18 Supervisors in File No. 160387 and is incorporated herein by reference; and

19 WHEREAS, In Public Works Order No. 184851, dated May 2, 2016, the Director of
20 Public Works (the "PW Director") determined: (1) the Vacation Area is unnecessary for the
21 City's present or prospective public street, sidewalk, and service easement purposes as all
22 existing physical public or private utilities located in the Vacation Area will be relocated to the
23 satisfaction of the City as part of the construction of the Project; and (2) with the exception of
24 those public easements noted below, the public interest, convenience, and necessity do not
25 require any easements or other rights be reserved for any public or private utility facilities that

1 are in place in the Vacation Area and that any rights based upon any such public or private
2 utility facilities shall be extinguished automatically upon the effectiveness of the vacation; (3)
3 in accordance with California Streets and Highways Code, Section 892, the Vacation Area is
4 unnecessary for a non-motorized transportation facility because alternative facilities for the
5 benefit of the public shall be provided in the rerouted segment of Jessie Street and (4) it is a
6 policy matter for the Board of Supervisors to quitclaim the City's interest in the Vacation Area
7 to the Buyer; and

8 WHEREAS, A copy of the DPW Order is on file with the Clerk of the Board of
9 Supervisors in File No. 160387 and is incorporated herein by reference; and

10 WHEREAS, In addition, the PW Director determined that the public interest,
11 convenience, and necessity require that the City, as a condition of the vacation of the
12 Vacation Area, obtain a non-exclusive easement for emergency vehicle access and an
13 easement for public vehicle access for large trucks for the benefit of the public over a segment
14 of Jessie Street proposed for vacation, a public vehicle and pedestrian access easement over
15 the rerouted segment of Jessie Street to provide for a connection to Mission Street, and an
16 overland flow easement for this same area; and

17 WHEREAS, Further, the PW Director finds that it is necessary to reserve temporary
18 easements for street and utility purposes in the Vacation Area for the continued use of the
19 public streets until City facilities have been relocated or alternate facilities have been
20 constructed and the City Engineer, after consultation with all affected City departments, issues
21 a notice of completion that the facilities have been constructed according to City permits and
22 the facilities are ready for their intended use; and

23 WHEREAS, In addition, prior to the quitclaim of the City's interest in the Vacation Area,
24 the Buyer shall provide an irrevocable offer for all new public improvements and expressly
25

1 assume in writing the ownership of and responsibility for the abandoned City water and sewer
2 facilities remaining in the Vacation Area; and

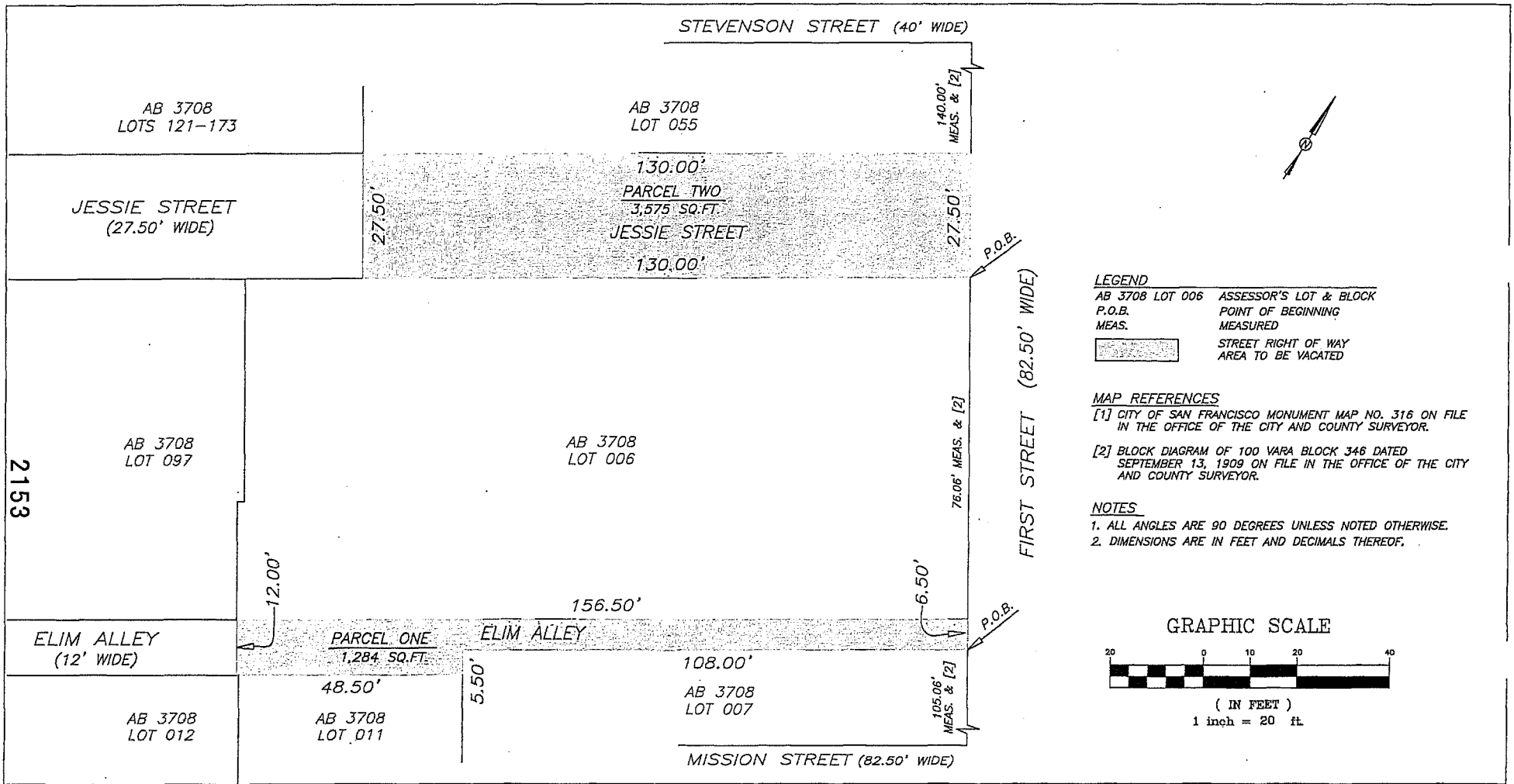
3 WHEREAS, San Francisco Public Works Code, Section 787(a) provides that the street
4 vacation procedures for the City and County of San Francisco (the "City") shall be in
5 accordance with the applicable provisions of the California Streets and Highways Code and
6 such rules and conditions are adopted by the Board of Supervisors; and

7 WHEREAS, This vacation proceeding for the Vacation Area is conducted under the
8 general vacation procedures of the Public Streets, Highways, and Service Easements
9 Vacation Law (California Streets and Highways Code, Sections 8300 et. seq.); now, therefore,
10 be it


11 RESOLVED, Pursuant to California Streets and Highway Code, Sections 8300 et seq.,
12 the Board of Supervisors hereby declares that it intends to order the vacation of the Vacation
13 Area as shown on the Public Works SUR Map No. 2016-002; and, be it

14 FURTHER RESOLVED, That notice is hereby given that on _____, 2016,
15 beginning no earlier than 3:00 p.m., the Board of Supervisors shall conduct a public hearing
16 for all persons interested in the proposed vacations; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board
18 to transmit to Public Works a certified copy of this Resolution, and the Board of Supervisors
19 directs the Director of Public Works and the Clerk of the Board to publish and post this
20 Resolution and to give notice of the street vacation hearing in the manner required by law.



LEGEND

AB 3708 LOT 006 ASSESSOR'S LOT & BLOCK
P.O.B. POINT OF BEGINNING
MEAS. MEASURED
 STREET RIGHT OF WAY AREA TO BE VACATED

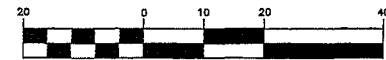
MAP REFERENCES

- [1] CITY OF SAN FRANCISCO MONUMENT MAP NO. 316 ON FILE IN THE OFFICE OF THE CITY AND COUNTY SURVEYOR.
- [2] BLOCK DIAGRAM OF 100 VARA BLOCK 346 DATED SEPTEMBER 13, 1909 ON FILE IN THE OFFICE OF THE CITY AND COUNTY SURVEYOR.

NOTES

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

GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.



APPROVED:

Bruce R. Storrs

BRUCE R. STORRS
CITY & COUNTY SURVEYOR

4/10/16

DATE

CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT OF PUBLIC WORKS

STREET VACATION OF A PORTION OF JESSIE ST. AND A PORTION OF ELIM ALY. GENERALLY BOUNDED BY AB 3708 AND FIRST ST.

FILE:
SUR 2016-002

SHEET 1 OF 1

SCALE: 1:20

CHANGE



Office of the City and County Surveyor
1155 Market Street, 3rd Floor
San Francisco, Ca 94103
(415) 554-5827 ■ www.sfdpw.org



Edwin M. Lee, Mayor
Mohammed Nuru, Director

Bruce R. Storrs, City and County Surveyor

DPW Order No: 184851

Determination to recommend vacating a portion of Jessie Street and a portion of Elim Alley northwest of Mission Street and southwest of First Street in connection with the Oceanwide Center Project, pursuant to California Streets and Highways Code Sections 8300 *et seq.* and Public Works Code Section 787 subject to certain conditions.

WHEREAS, The City and County of San Francisco owns most public streets and sidewalks as public right-of-way; and

WHEREAS, Jessie Street and Elim Alley, generally bounded by Assessor's Block 3708, Ecker Street, and First Street, the area to be vacated ("the Vacation Area"), is specifically shown on SUR Map 2016-002, dated April 18, 2016; and

WHEREAS, The Oceanwide Center project at 50 1st Street (the "Project") proposes to incorporate portions of Elim Alley and Jessie Street onto the Project site. In order to construct the mixed-use building with two towers, portions of Elim Alley and Jessie Street connecting to First Street need to be vacated. These vacations are necessary in order to construct the tower fronting First Street at the scale of development contemplated by the Transit Center District Plan. Jessie Street currently bisects the site of the tower, making any project design that maintains Jessie Street in its current configuration infeasible and undesirable. Incorporating Elim Alley into the Project significantly expands the size of the ground-level "urban room" and increases the public's access to this privately-owned public open space; and

WHEREAS, Jessie Street is oriented southeast-northwest between Ecker Place and First Street with a right-of-way width of 27.5 feet. The eastern portion of Jessie Street would be vacated, and a portion of the vacated area on Jessie Street, herein referred to as the "Emergency Vehicle Access Easement Area," would be subject to the creation of an emergency vehicle access easement, reservation of public vehicle access for large trucks, and the acceptance of the offer from Oceanwide Center LLC ("Buyer") to provide a declaration of covenants and restrictions for public access ("Public Access Declaration") therein. In place of the vacated area, Jessie Street will turn 90 degrees in a southerly direction across the Project site toward Mission Street along an approximately 20-foot wide right-of-way on and through the Project site (the "City Easement Area"). This right-of-way will provide a public vehicle and pedestrian access easement from Jessie Street to Mission Street. It also will accommodate overland or surface flow from the City's facilities on, over, or below Jessie Street in excess of the 5-year storm capacity, subject to an overland flow easement; and



WHEREAS, Elim Alley extends 250 feet southeast-northwest between Ecker Place and First Street, having a right-of-way width of 12 feet for a distance of approximately 142 feet moving east from Ecker Place, then a width of 6.5 feet for the remaining approximately 108 feet before its terminus at First Street. Elim Alley is an "unaccepted" street. The eastern portion of Elim Alley will need to be vacated in order to construct the Project's urban room and the tower fronting First Street. A portion of Elim Alley proposed for vacation also will be subject to its own declaration of covenants and restrictions for public access; and

WHEREAS, The Project obtained environmental clearance through the Transit Center District Plan Final Environmental Impact Report ("FEIR") prepared in accordance with the California Environmental Quality Act ("CEQA") (Public Resources Code sections 21000 et seq.) certified by the Planning Commission in Planning Commission Motion No. 18628 and affirmed by the Board of Supervisors in Motion No. M12-78, and project-specific clearance through a Community Plan Exemption, including mitigation measures (the "CPE"), prepared in accordance with CEQA and issued by the Planning Department in Planning Case No. 2006.1523E; and

WHEREAS, The Public Utilities Commission, at a duly noticed hearing on April 26, 2016, adopted Resolution No. 16-0079, recommending that the Board approve the street vacations and an overland flow easement on the section of rerouted section of Jessie Street; and

WHEREAS, The Planning Commission has scheduled a public hearing on May 5, 2016, to determine if the proposed vacation is, on balance, in conformity with the General Plan and Planning Code Section 101.1. The Planning Department staff will report directly to the Clerk of the Board of Supervisors on this action; and

WHEREAS, Pursuant to the California Streets and Highway Code, the Department of Public Works, Bureau of Street Use and Mapping (the "Department") has initiated the process to vacate the Vacation Area; and

WHEREAS, The Department sent notice of the proposed street vacation, draft SUR drawing, a copy of the petition letter, and a DPW referral letter to the Department of Technology, San Francisco Municipal Transportation Agency, AT&T, Sprint, San Francisco Fire Department, San Francisco Water Department, Pacific Gas and Electric ("PG&E"), Bureau of Light, Heat and Power, Bureau of Engineering, Department of Parking and Traffic, Utility Engineering Bureau, and the Public Utility Commission ("PUC"). No utility company or agency objected to the proposed vacation, and the Vacation Area is unnecessary for the City's present or prospective public street purposes; and

WHEREAS, The applicant owns all properties that abut the Vacation Area; and

WHEREAS, The public interest, convenience, and necessity require that, except as specifically provided herein, no other easements or other rights should be reserved by City for any public or private utilities or facilities that may be in place in the Vacation Area and that any rights based upon any such public or private utilities or facilities are unnecessary and should be extinguished; and

WHEREAS, As a condition of the vacation of the Vacation Area, the City shall obtain a non-exclusive easement for emergency vehicle access and reservation for public vehicle access for large trucks over a segment of Jessie Street proposed for vacation, a public vehicle and pedestrian access easement over the rerouted segment of Jessie Street to provide for a connection



to Mission Street, and an overland flow easement for this same area. Further, the City shall obtain a temporary easement for street purposes in the Vacation Area for the continued use of the public streets until City facilities have been relocated or alternate facilities have been constructed and the City Engineer, after consultation with all affected City departments, issues a notice of completion that the facilities have been constructed according to City permits and the facilities are ready for their intended use; and

WHEREAS, Pursuant to the Streets and Highways Code Section 892, the Department determines that the Vacation Area is unnecessary for non-motorized transportation as there are multiple streets surrounding that Vacation Area that remain available for such transportation and those members of the public availing themselves of non-motorized transportation will not be inconvenienced by the proposed street vacation; and

WHEREAS, The Director of Public Works for the City and County of San Francisco has determined the following:

1. The vacation is being carried out pursuant to the California Streets and Highways Code Sections 8300 et seq.
2. The vacation is being carried out pursuant to San Francisco Public Works Code Section 787.
3. The Vacation Area to be vacated is shown on the SUR Map No. 2016-002.
4. These vacations are necessary in order to construct the tower fronting First Street at the scale of development contemplated by the Transit Center District Plan.
5. In place of the vacated area, Jessie Street will turn 90 degrees toward Mission Street along an approximately 20-foot wide right-of-way on and through the Project site (the "City Easement Area"). This right-of-way will provide a public vehicle and pedestrian access easement from Jessie Street to Mission Street.
6. In the same area as the City Easement Area, the City shall obtain an overland or surface flow from the City's facilities on, over, or below Jessie Street in excess of the 5-year storm capacity, subject to an overland flow easement.
7. Pursuant to the Streets and Highways Code Section 892, the Vacation Area is not useful as a non-motorized transportation facility for the reasons set forth herein.
8. The public interest, convenience and necessity require that, except as provided in this Order, no other easements or other rights be reserved for any public or private utilities or facilities that are in place in such vacation area and that any rights based upon any such public or private utilities or facilities may be extinguished. The easements and reservations include the following:
 - a) a non-exclusive easement for emergency vehicle access and an reservation for public vehicle access for large trucks over a segment of Jessie Street proposed for vacation; and
 - b) a public vehicle and pedestrian access easement over the rerouted segment of Jessie Street to provide for a connection to Mission Street, and an overland flow easement for this same area; and



9. Further, the PW Director finds that it is necessary to reserve a temporary easement for street purposes in the Vacation Area for the continued use of the public streets until City facilities have been relocated or alternate facilities have been constructed and the City Engineer, after consultation with all affected City departments, issues a notice of completion that the facilities have been constructed according to City permits and the facilities are ready for their intended use.

10. The Director of the Real Estate Division has negotiated a purchase and sale agreement and a quitclaim for the Vacation Area. Approval of the real estate transaction is a policy matter for the Board of Supervisors.

NOW THEREFORE BE IT ORDERED THAT,

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

1. Ordinance to vacate the Vacation Area;
2. Vacation Area SUR Map No. 2016-002

The Director recommends that the Board of Supervisors move forward with the legislation to vacate said Vacation Area subject to obtaining a finding of General Plan consistency from the City Planning Commission.

The Director recommends the Board of Supervisors approve all actions set forth herein with respect to this vacation. The Director further recommends the Board of Supervisors authorize the Mayor, Clerk of the Board, Director of Property, County Surveyor, and Director of Public Works to take any and all actions which they or the City Attorney may deem necessary or advisable in order to effectuate the purpose and intent of this Ordinance.

5/2/2016

5/2/2016

X Bruce R. Storrs

Storrs, Bruce
City and County Surveyor
Signed by: Storrs, Bruce

X Mohammed Nuru

Nuru, Mohammed
Director
Signed by: Nuru, Mohammed



WHEN RECORDED MAIL TO:
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Director of Property

The undersigned hereby declares this instrument to be exempt from Recording Fees (Govt. Code § 27383) and from Documentary Transfer Tax (CA Rev. & Tax. Code § 11922 and SF Bus. and Tax Reg. Code § 1105)

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

APN: _____

DECLARATION OF PUBLIC ACCESS COVENANTS AND RESTRICTIONS
(Former Portions of Jessie Street and Elim Alley, East of 1st Street)

This Declaration of Public Access Covenants and Restrictions (Former Portions of Jessie Street and Elim Alley, East of 1st Street) ("**Declaration**") is made as of _____, 2016, by OCEANWIDE CENTER, LLC, a California limited liability company ("**Declarant**"), in favor of the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**").

RECITALS

A. Declarant owns certain real property in the City and County of San Francisco bordered by First Street, Mission Street, Stevenson Street, and Ecker Place, and further described in the attached Exhibit A (the "**Declarant Property**").

B. Declarant further owns certain real property in the City and County of San Francisco described in the attached Exhibit B and depicted on the plat attached as Exhibit C (the "**Former Street Property**"), which abuts portions of the Declarant Property and was owned by City and used as a public right of way immediately prior to the recordation of this Declaration in the Official Records of San Francisco.

C. Declarant intends to construct a mixed-use development known as Oceanwide Center on the Declarant Property and the Former Street Property, as further described in _____ [Insert Planning Commission approval motion that describes the project] (the "**Declarant Project**").

D. As a condition of vacating the Former Street Property as a public right of way and selling it to Owner, and as partial consideration for such sale, Declarant agreed to enter into this Declaration in its capacity as owner of the Former Street Property to provide the terms and conditions for public pedestrian access on the portions of the Former Street Property described and depicted on the attached Exhibit D (the "**Vacated Property**") and to provide for the other matters described herein. The Vacated Property is comprised of the "**Former Jessie Street Area**" and the "**Former Elim Alley Area**", both as described and depicted on the attached Exhibit D.

AGREEMENT

Now, therefore, in consideration of the City's vacation and conveyance of the Former Street Property, Declarant agrees as follows:

1. Required Improvements.

(a) Improvements; Conceptual Plans. Declarant shall construct and improve the Vacated Property substantially as described in the conceptual plan dated _____ (the "**Conceptual Plan**") a copy of which is attached as Exhibit D. The improvements described in the Conceptual Plan as may be modified pursuant to this subsection (a) are referred to herein as the "**Required Improvements**". Declarant shall have the right to modify and/or update the Conceptual Plan from time to time as it may determine in its sole business judgment, subject to the provisions of this Section and provided further that any such modifications shall be subject to review and approval by the City's Planning Department staff (or the staff of any successor or other City department, agency or office having jurisdiction) (the "**Planning Department**"), acting in its regulatory capacity with respect to permit issuance, if applicable. No additional design review or other approval rights are intended to be granted to the Planning Department pursuant to this Declaration.

If Declarant wishes to apply for any permits for improvements to the Vacated Property that materially differ from the Conceptual Plan and materially and adversely impact the public's ability to access or use the Vacated Property for the Pedestrian Use (as defined in Section 3), Declarant shall provide a copy of such plans to the City's Director of Property (or successor City officer, if applicable) (the "**Director of Property**"). Any proposed material modifications to the Conceptual Plans that materially and adversely impact the public's ability to access or use the Vacated Property for the Pedestrian Use shall be subject to the approval of the Director of Property, which may be withheld in his or her reasonable discretion. Other than the Required Improvements, Declarant shall construct no improvements and make no installations in the Vacated Property that materially and adversely impact the public's ability to access or use the Vacated Property for the Pedestrian Use without the prior approval of the Director of Property (which may be withheld in his or her reasonable discretion).

(b) Completion Deadline. Declarant shall substantially complete the Required Improvements by the earlier date (the "**Initial Completion Deadline**") to occur of the third (3rd) anniversary of the date this Declaration is recorded in the Official Records and (ii) the date the first temporary certificate of occupancy is issued for the Declarant Project. Notwithstanding the foregoing, the Director of Property may extend the Initial Completion Deadline (1) in his or her reasonable discretion with respect to completion delays resulting from delays by the Planning Department or the City's Department of Building Inspection in issuing permits, making required determinations or findings, or taking other action with respect to the Declarant Project if Declarant timely submits all items required for the Planning Department or City's Department of Building Inspection to take such action, or (2) in his or her sole discretion for Force Majeure (as defined in Section 1(e) below) or any other delays. Any such extension to the Initial Completion Deadline pursuant to this Section shall be the "**Extended Deadline**".

(c) Maintenance and Modifications. Declarant shall maintain the Vacated Property in a clean and litter-free condition, and shall maintain Required Improvements in perpetuity in accordance with this Declaration. Notwithstanding the foregoing, Declarant shall have the right to modify, renovate, replace and/or update the Required Improvements (collectively, "**Changes**") subject to the provisions of this subsection and any review and approval of such Changes required by the Planning Department in its regulatory capacity with respect to permit issuance. Before submitting any permit application for Changes that would or could materially and adversely impact the public's ability to access or use the Vacated Property for the Pedestrian Use,

Declarant shall provide a copy of the plans to be submitted with such permit application to the Director of Property. If the Director of Property determines that the proposed Change will materially and adversely impact the public's ability to access or enjoy the Vacated Property, such change shall be subject to the approval of the Director of Property, which approval may be withheld in his or her reasonable discretion.

(d) Remedies for Failure to Construct or Maintain Required Improvements. If the Required Improvements are not completed by the Initial Completion Deadline or, if applicable, the Extended Deadline, then City may exercise all rights and remedies available at law and in equity for such failure. Declarant acknowledges that its failure to construct the Required Improvements in a timely manner as provided herein will cause irreparable harm to the City and that the City will not have an adequate remedy at law for such breach and therefore City shall be entitled to specific performance or injunctive or other equitable relief by reason of such breach.

(e) Force Majeure. As used herein, "**Force Majeure**" means events that cause delays in Declarant's performance of the Required Improvements due to causes beyond Declarant's reasonable control, including, but not restricted to: acts of God or of the public enemy; acts of the government (including any general moratorium in the issuance of permits applicable to the Vacated Property or the Required Improvements, but in the absence of such a moratorium, acts of the government relating to issuance of building permits or other regulatory approvals are not Force Majeure delays); fires; floods; tidal waves; epidemics; quarantine restrictions; freight embargoes; earthquakes; unusually severe weather; delays of contractors or subcontractors due to any of the foregoing causes; the unanticipated presence of Hazardous Materials or other concealed conditions on the Vacated Property that would delay or materially and adversely impair Declarant's ability to construct the Required Improvements; substantial interruption of work because of other construction by third parties in the immediate vicinity of the Vacated Property; archeological finds on the Vacated Property; strikes or other substantial interruption of work because of labor disputes; inability to obtain materials or acceptable (to Declarant in its reasonable discretion) substitute materials (provided that the Declarant has ordered such materials on a timely basis and is not otherwise at fault for such inability to obtain materials); or any Litigation Force Majeure or other administrative appeals, litigation and arbitration relating to the approval or construction of the Required Improvements (provided that Declarant proceeds with due diligence to defend such action or proceeding or take other appropriate measures to resolve any dispute that is the subject of such action or proceeding). Notwithstanding anything to the contrary in this Section, the lack of credit or financing (unless such lack results from some other event of Force Majeure such as failure of a condition to funding which is caused by Force Majeure) shall not be considered to be a matter beyond Declarant's control and therefore no event caused by a lack of such financing in and of itself shall be considered to be an event of Force Majeure for purposes of this Declaration.

If there is any delay resulting from Force Majeure, the Initial Completion Deadline will be extended for the period of the Force Majeure delay if, within the later to occur of ninety (90) days after the beginning of any such Force Majeure delay or six (6) months prior to the Initial Completion Deadline, Declarant has notified City in writing of the cause or causes of such delay and claimed an extension for the reasonably estimated period of such delay.

(f) Litigation Force Majeure. As used herein "**Litigation Force Majeure**" means any action or proceeding before any court, tribunal, or other judicial, adjudicative or legislative decision-making body, including any administrative appeal, brought by the City or a third party, that seeks to (i) enjoin or delay the construction of the Required Improvements or challenge the validity of any action taken by the City in connection with the Required Improvements, including City's approval, execution, and delivery of the Agreement for the Sale of Real Estate between City and Declarant, dated _____, 2016, for the sale of the Former Street Property (the "**Sale Agreement**"), the quitclaim deed transferring ownership of the Former Street

Property from City to Declarant and recorded in the Official Records of San Francisco County concurrently with this Declaration (the "**Quitclaim Deed**"), City's performance of its rights hereunder, or any other action by the City or any of its departments or commissions approving or recommending City's execution and delivery of the Sale Agreement or the Quitclaim Deed, or any findings upon which any of the foregoing are predicated, or (ii) challenge the failure of any regulatory agency to issue, the conditions of, or the validity of any other regulatory approval required in connection with the Sale Agreement, the Quitclaim Deed, or the Required Improvements. Notwithstanding the foregoing, Litigation Force Majeure shall exclude any action or proceeding brought by an affiliate of the Declarant, any of the Declarant's members or their affiliates, any consultant of the Declarant, or any other third party assisted by the Declarant, directly or indirectly, in such action or proceeding. Performance by Declarant shall be deemed delayed or made impossible by virtue of Litigation Force Majeure during the pendency thereof, and until a judgment, order, or other decision resolving such matter in favor Declarant has become final and unappealable.

2. Use of Pedestrian Area. The Vacated Property shall be used solely at all times for (i) the Pedestrian Use, (ii) emergency vehicular access pursuant to the _____ granted by Declarant to City and recorded in the Official Records of San Francisco County concurrently with this Declaration, (iii) public over-sized vehicular access pursuant to the _____ granted by Declarant to City and recorded in the Official Records of San Francisco County concurrently with this Declaration, (iv) the temporary street and utility purposes reserved by City pursuant to the Quitclaim Deed, (v) any subsurface improvements that do not interfere with the Pedestrian Use (the "**Subsurface Improvements**"), and (vi) any Permitted Project Improvements (as defined in Section 4). The Vacated Property shall only be improved with the Required Improvements, any approved Changes, any Subsurface Improvements, and any Permitted Project Improvements, and there shall be no above-ground improvements (affixed or otherwise situated) in any portion of the Vacated Property other than the Permitted Project Improvements.

3. Public Access. Declarant shall make the Vacated Property available at all times for nonvehicular public access and use and for pedestrian ingress and egress between 1st Street and Ecker or Stevenson Streets (as applicable) (the "**Pedestrian Use**"). On City's request, Declarant and its tenants and agents shall work closely with City personnel to establish and follow protocols to avoid disruption of the public use of the Vacated Property for the Pedestrian Use. Notwithstanding the foregoing, Declarant shall be permitted to close the Vacated Property on a temporary basis as required due to Force Majeure or for construction (including construction of the Required Improvements or any approved Changes), restoration, repairs or maintenance, provided that Declarant shall use good faith diligent efforts to minimize the length and extent of such closure.

Declarant may develop and enforce reasonable rules and regulations governing security, use, and conduct of the Vacated Property by the public, provided that such rules (i) do not prohibit public access (except for those individuals who violate the rules and regulations), (ii) are nondiscriminatory, (iii) comply with applicable laws, and (iv) shall be subject to approval by the Director of Property, which approval shall not be unreasonably withheld, conditioned or delayed. A copy of the initial rules and regulations for the Pedestrian Area that have been approved by the Director of Property are in the files of the City's Real Estate Division for this matter. [Note: **Rules and regulations to be in place by the time this is recorded**] Declarant may amend such rules and regulations from time to time; provided, however, that changes that provide for more restrictions shall be subject to approval by the Director of Property, which approval shall not be unreasonably withheld, conditioned or delayed. All rules and regulations for the Pedestrian Area shall be enforced in a nondiscriminatory manner.

4. Air Rights. There shall be no construction of permanent building components, facilities or structures on or in the air rights above the Pedestrian Area; provided however, that Declarant shall have the right to use the airspace in the Former Jessie Street Area that is above the plane of sixty-eight and one-half feet (68.5') feet above the ground surface of the Former Jessie Street Area (as such ground surface may be raised for the Declarant Project), and the airspace in the Former Elim Alley Area that is above a plane of seventy-four feet (74') feet above the ground surface of the Former Elim Alley Area (as such ground surface may be raised for the Declarant Project) for bay window projections related to the Declarant Project (collectively, the "**Permitted Project Improvements**"), subject to obtaining all required permits and approvals. None of the air rights above the Former Elim Alley Area, and none of the air rights between the ground surface and the plane of sixty-eight and one-half feet (68.5') feet above the ground surface in the Former Jessie Street Area, shall be considered as the basis for approval of additional floor area to be used for construction of commercial, office, or residential uses on the Declarant Property or the Vacated Property.
5. Removal of Designated Improvements. In addition to any other remedies available at law or in equity, if Declarant is in default under this Declaration beyond any applicable notice or cure period, City shall have the right to require Declarant to remove any improvements or installations on the Street Property that obstruct nonvehicular public access to the Pedestrian Area, such as entry gates and walls ("**Access Barriers**"), even if the Director of Property previously approved the installation of such Access Barriers under the procedures specified in the Declaration or otherwise, and even if approval was not initially required for such installation. Declarant, at Declarant's sole cost, shall remove the Access Barriers identified in written notice from the City requiring such removal (the "**Removal Notice**") within thirty (30) days after the date of the Removal Notice. Declarant shall have the right to reinstall such Access Barriers following the cure of the event of default which triggered the Removal Notice.
6. Maintenance of Subsurface Improvements and Permitted Project Improvements. Declarant shall have the right to install, modify, renovate, replace and/or update the Subsurface Improvements and the Permitted Project Improvements (collectively, "**Maintenance Work**") subject to the provisions of this Section and any review and approval of such Maintenance Work required by the Planning Department in its regulatory capacity with respect to permit issuance. Before submitting any permit application for Maintenance Work that would or could materially and adversely impact the public's ability to access or use the Vacated Property for the Pedestrian Use, Declarant shall provide a copy of the plans to be submitted with such permit application to the Director of Property. If the Director of Property determines that the proposed Maintenance Work will materially and adversely impact the public's ability to access or enjoy the Vacated Property for the Pedestrian Use, such change shall be subject to the approval of the Director of Property, which approval may be withheld in his or her reasonable discretion.
7. Enforcement. City may, in its sole discretion, rely on this Declaration to enforce any of the covenants or restrictions hereunder. City, but not the general public, shall have all rights and remedies available at law or in equity in order to enforce the easements, covenants and restrictions set forth in this Declaration. All rights and remedies available to City under this Declaration or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other available right or remedy. If there is any breach of the easements, covenants or restrictions hereunder, the City shall be entitled to recover all attorneys' fees and costs in connection with City's enforcement activities and actions.

If Declarant fails to maintain the Vacated Property or the Required Improvements or to remove any Access Barriers in the manner required in this Declaration, and Declarant fails to timely cure such failure pursuant to Section 8 below and no Lender cures such failure pursuant to Section 10, City shall further have the right, at its sole option, to remedy such failure at

Declarant's expense by providing Declarant with three (3) days' prior written notice of City's intention to cure such failure (a "**Self-Help Notice**"). Such action by City shall not be construed as a waiver of such default or any rights or remedies of City, and nothing herein shall imply any duty of City to do any act that Declarant is obligated to perform. Declarant shall reimburse City for all of its costs and expenses, including without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such failure, within thirty (30) days' of receiving City's invoice for such costs and expenses, together with documentation reasonably evidencing such costs and expenses. If Declarant fails to timely reimburse City for such costs and expenses, City shall have the right to record a notice of such unpaid costs and expenses against record title to the Vacated Property. At City's request, Declarant shall provide security in a form and amount satisfactory to City to ensure Declarant's prompt reimbursement of any amounts owed by Declarant to City pursuant to this Section.

8. Notice and Cure Rights. Except as provided in this Section, City shall provide written notice to the Declarant of any actual or alleged violation of the covenants or restrictions set forth in this Declaration prior to enforcement thereof. Such notices shall be given to Declarant at the address last furnished to the City. Declarant shall have (i) a period of two (2) business days after receipt of such notice to cure any violation under Section 3 above ("**Public Access Violations**") and (ii) a period of thirty (30) days after receipt of such notice to cure any other violation, provided that if the violation is not capable of cure within such 30-day period, Declarant shall have such additional time as shall be reasonably required to complete a cure so long as Declarant promptly undertakes action to commence the cure within the 30-day period and thereafter diligently prosecutes the same to completion. The time in which Declarant may cure is herein called the "**Declarant Cure Period,**" and except as provided in Section 10 below, the City shall not exercise any legal or equitable remedies during the Declarant Cure Period (or the Lender Cure Period, as defined in Section 11 below) so long as Declarant (or any applicable Lender, as defined in Section 11 below) is diligently pursuing such cure. Notwithstanding anything to the contrary herein, in no event shall the Declarant Cure Period exceed six (6) months, subject to extension for Force Majeure delays (provided that the cure period for failures to complete the Required Improvements by the Extended Deadline shall not be further extended on account of Force Majeure delays). Further, notwithstanding anything to the contrary herein, if City is entitled to give written notice to Declarant regarding a Public Access Violation on more than two (2) occasions during any calendar year, and City actually gives such notices to Declarant, then thereafter the two (2) business day Declarant Cure Period shall no longer apply until a period of twelve (12) months passes during which no notices of Public Access Violation are given by City, at which time the two (2) business day Declarant Cure Period provided for above shall again apply to Public Access Violations.

Any notices required or permitted to be given under this Declaration shall be in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, or (c) by U.S. Express Mail or commercial overnight courier that guarantees next day delivery and provides a receipt, and such notices shall be addressed as follows, or such other address as either party may from time to time specify in writing to the other party:

Declarant:

Oceanwide Center

City:

Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

Attn: Director of Property

with a copy to:

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Real Estate/Finance Team

9. Binding on Successors; No Merger. This Declaration and the covenants and restrictions set forth herein constitute restrictions and covenants running with the land and shall bind and burden Declarant, in its capacity as owner of the Vacated Property, and any successor owner or occupier of the Vacated Property.

10. Injunctive Relief. Notwithstanding anything to the contrary contained herein, City may seek and obtain injunctive relief in any court of competent jurisdiction to restrain the Declarant from any conduct in breach of this Declaration which causes or threatens to cause immediate and irreparable harm to the extent such equitable relief is otherwise available.

11. Lender Notice and Cure Rights. So long as any deed of trust encumbering any portion of the Former Street Property made in good faith and for value (each, an "**Encumbrance**") shall remain unsatisfied of record, the City shall give to the beneficiary of such Encumbrance (each, a "**Lender**") a copy of each notice the City gives to Declarant from time to time of the occurrence of a violation under this Declaration, provided that such Lender has given to the City a written request for notice. Copies of such notices shall be given to any such requesting Lender at the address such Lender last furnished to the City. Nothing in this Section shall be construed to mean that City must provide a Lender with a copy of any Self-Help Notices.

Each Lender shall have the right, but not the obligation, to do any act or thing required of Declarant hereunder, and to do any act or thing which may be necessary and proper to be done in the performance and observance of the agreements, covenants and conditions hereof; provided, however, that no such action shall constitute an assumption by such Lender of the obligations of Declarant under this Declaration. In the case of any notice of violation given by the City to Declarant, the Lender shall have the same concurrent cure periods as are given Declarant under this Declaration for remedying a default or causing it to be remedied and, except in the event of a Public Access Violation, if prior to the expiration of the applicable cure period specified in Section 8 above, a Lender gives City written notice that it intends to undertake the curing of such default or to cause the same to be cured, and then proceeds with all due diligence to do so, Lender shall have, in each case, an additional period of thirty (30) days (or, except for a default relating to the payment of money, such longer period as reasonably necessary) so long as Lender commences cure within such thirty (30) day period and diligently proceeds to completion) after the later to occur of (i) the expiration of such cure period, or (ii) the date that the City has served such notice of default upon Lender, and the City shall accept such performance by or at the instance of the Lender as if the same had been made by Declarant. The time in which Lender may cure is herein called the "**Lender Cure Period**". Notwithstanding anything to the contrary herein, in no event shall the additional Lender Cure Period exceed six (6) months beyond Declarant's cure period.

12. Priority of Lien. No violation or breach of any provision of this Declaration shall impair, defeat or invalidate the lien of any Encumbrance, but all provisions hereof shall thereafter be binding upon and effective against any owner whose title is derived through foreclosure of any Encumbrance or acceptance of any deed in lieu of foreclosure.

13. No Waiver. No waiver by City of any violation under this Declaration shall be effective or binding unless and to the extent expressly made in writing by City, and no such waiver may

be implied from any failure by City to take action with respect to such violation. No express written waiver of any violation shall constitute a waiver of any subsequent violation in the performance of the same or any other provision of this Declaration.

14. Severability. Should any provision or portion hereof be declared invalid or in conflict with any law, the validity of all remaining provisions shall remain unaffected an in full force and effect.

IN WITNESS WHEREOF, Declarant and City have executed this Declaration as of the date first written above.

DECLARANT:

OCEANWIDE CENTER, LLC,
a California limited liability company

By: _____
Name: _____
Title: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
John Updike
Director of Property

APPROVED AS TO FORM:

DENNIS J. HERRERA,
City Attorney

By: _____
Carol Wong
Deputy City Attorney

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

State of California)
) ss
County of San Francisco)

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

Signature _____ (Seal)

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

State of California)
) ss
County of San Francisco)

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

Legal Description of Declarant Property

EXHIBIT B

Legal Description of Vacated Property

EXHIBIT C

Depiction of Vacated Property and Declarant Property

EXHIBIT D

Conceptual Plan for Required Improvements

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Reuben, Junius & Rose, LLP
One Bush Street, Suite 600
San Francisco, CA 94104
Attn: Tuija Catalano
File no: 8730.01

Space Above This line for Recorder's Use

BLOCK/LOT: 3708/012
SITUS: 526 Mission Street

EASEMENT AGREEMENT
(for Overland Stormwater Flow)

April __, 2016

EASEMENT AGREEMENT

This EASEMENT AGREEMENT ("**Agreement**"), dated for reference purposes as of the _____ day of _____, 2016, is entered into by and between Oceanwide Center LLC, a Delaware limited liability company ("**Owner**") and the City and County of San Francisco, a municipal corporation ("**City**").

RECITALS

A. Owner is the owner of certain real property located at 526 Mission Street between First Street and Ecker Place, on Assessor's Block 3708, Lot 012, in the City of San Francisco, County of San Francisco, State of California, and more fully described in Exhibit "A" to this Agreement ("**Property**").

B. The Property is part of a larger site that is proposed by Owner for the construction of a mixed-use development with two towers featuring over 250 residential dwelling units, a hotel and approximately one (1) million square feet of office use rising above integrated basement levels, and including full renovation and rehabilitation of one historic building and partial renovation of another building, and the creation of a multi-story high "urban room" on the ground level facing First Street that will serve as public open space ("**Project**").

C. The Project incorporates portions of Elim Alley and Jessie Street, which portions would need to be vacated in order for the construction of the Project to proceed so that the tower fronting First Street could be constructed in accordance with the scale of development contemplated by the Transit Center District Plan ("**Street Vacation**"). The Street Vacation requires an approval by the City's Board of Supervisors.

D. Jessie Street is currently an east-west oriented street between Ecker Place and First Street with a right-of-way width of 27.5 feet. A portion of Jessie Street west of First Street is proposed to be vacated for a length of approximately 130 feet ("**Vacated Jessie Street**"), and in place of Vacated Jessie Street the Project would relocate Jessie Street via a public right-of-way through the Property, rerouting it 90 degrees as it enters the Property, so that it will terminate on Mission Street instead of First Street ("**Pedestrian and Vehicular Path Area**"). The Pedestrian and Vehicular Path Area will be located on that portion of the Property described in attached Exhibit ____ and shown on attached Exhibit ____ ("**Easement Area**") and will be subject to pedestrian and vehicular access for the benefit of the public with an unobstructed vertical clearance of _____ feet. The Easement Area includes only the area on and above the completed surface of the street improvements for the use of the easement created by this Agreement.

E. Due to the vacation of Vacated Jessie Street, overland or surface flow from Jessie Street upstream of Vacated Jessie Street ("**Jessie Street Remainder**") and City sewer system facilities on, over or below the Jessie Street Remainder in excess of the 5-year storm capacity ("**Overland Flow**") would be directed onto the Easement Area and therefrom be returned to the public right-of way and/or City sewer system facilities located on, over or below Mission Street.

F. In connection with the Street Vacation, and in order to allow the storm water Overland Flow onto and through the Easement Area following the Street Vacation, Owner will cause the Easement Area to be improved with street improvements for pedestrian and vehicular use and Overland Flow, and the Owner has offered to grant a non-exclusive easement for the benefit of the City.

NOW, THEREFORE, in consideration of the covenants and agreements of the parties herein contained, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner and City hereby agree as follows:

1. Grant of Easement. Owner hereby grants the City a nonexclusive, permanent easement in gross over and across the Easement Area, for the purposes of allowing Overland Flow from the Jessie Street Remainder and City sewer system facilities on, over or below the Jessie Street Remainder in excess of the 5-year storm capacity onto and through the Easement Area to the public right-of way and/or City sewer system facilities located within Mission Street ("**Overland Flow Easement**"). The Overland Flow Easement is a non-exclusive easement, and the Easement Area will be used by Owner, and by Owner's employees, agents, tenants, guests and invitees, as well as by the public, for pedestrian and vehicular ingress and egress from Jessie Street to Mission Street via the Pedestrian and Vehicular Path Area.

2. Effective Date. The Overland Flow Easement granted hereby shall be effective upon the completion of the construction of the initial street improvements for the Pedestrian and Vehicular Path Area, which shall be deemed to have occurred at the time when City's Department of Building Inspection and/or Department of Public Works, as the case may be, has completed a final inspection of the said improvements.

3. Approval of Plans for Initial and Future Construction. For so long as this Agreement continues in effect, no new permanent structures or other improvements shall be constructed on the Easement Area to the extent that they would interfere with the operation and/or use of the Overland Flow Easement. Upon Owner's submittal of the building and/or sidewalk improvement permit application(s) for the initial construction of the street improvements for the Pedestrian and Vehicular Path Area including the Easement Area ("**Easement Improvements**"), City shall have the right to review and approve the plans and drawings for the said permit application(s) for the purpose of ensuring that the Overland Flow Easement can be used as described in this Agreement. All proposed plans and drawings for the initial and any subsequent Easement Improvements shall identify the location of the Overland Flow Easement. All Easement Improvements shall be constructed in accordance with the plans and drawings approved by City. This prohibition against construction shall not apply to paving and striping and other street improvements that are necessary or appropriate for pedestrian and vehicle access and use purposes, or other improvements that do not interfere with the use of the Overland Flow Easement, provided that any initial construction or subsequent modification of paving, curbs, gutters, curb cuts, storm drains, street grade, and any other improvements that could affect stormwater flow shall only be constructed in accordance with plans approved by City.

4. Temporary Construction Easement. Owner hereby grants to City a temporary easement over and through the Easement Area and/or Vacated Jessie Street ("**Temporary Easement Area**") as necessary for the Overland Flow from the Jessie Street Remainder and the

City sewer system facilities located on, over or below the Jessie Street Remainder in excess of the 5-year storm capacity (“**Temporary Easement**”) for the period from the effective date of Owner’s acquisition of Vacated Jessie Street until the Easement Improvements are completed. The Temporary Easement shall terminate automatically without any further action upon the issuance of a certificate or other notice of completion of the Easement Improvements by the City’s Department of Building Inspection or Department of Public Works. During the term of the Temporary Easement, Owner shall be responsible for managing and directing Overland Flow across Owner’s property to the public right of way, to City’s satisfaction.

5. Relocation. Subject to the provisions contained in **Section 10** (Modification or Revocation) below, Owner shall have the right to relocate or reconfigure the easement(s) described herein provided such reconfiguration or relocation is designed, engineered and constructed in a manner that addresses Overland Flow to City’s satisfaction.

6. Maintenance and Repair. The Owner, or subsequent owners of the parcel(s) wherein the Easement Area is located, shall at all times maintain the Easement Area subject to the easement(s) described herein in a first-class, safe, clean condition, free and clear of debris, rubbish and trash and in good operating order and repair.

7. Inspections by the City. At reasonable times and in a reasonable manner, the City, its agents, employees and contractors, shall have the right of ingress and egress to, over and through the Easement Area and the right to inspect the Easement Area in order to ensure that the Easement Area is being properly maintained for the purpose of this Agreement and the easement rights granted hereby. In the event the Owner or its successors and assigns have failed to correct any defects in the Easement Area that prevent or substantially interfere with the City’s use of the Easement Area pursuant to this Agreement within the time specified in a written notice from the City, the City shall have the right to enter the Easement Area to perform remedial work, in which event Owner shall pay City the cost of such work, including compensation for staff time at City’s standard rate, within thirty (30) days after receipt of City’s invoice..

8. Subsequent Building Permits. As part of the submission for any building permit applications to the City Department of Building Inspection on or after the effective date of this Agreement, each Owner shall submit a copy of this Agreement if and to the extent any work under the said building permit application(s) would involve the Easement Area and/or would impact the SFPUC’s ability to use the Easement Area. For the sake of clarity, the aforementioned restriction applies only with respect to the Easement Area, and shall not apply to any area or volume above or beyond the Easement Area, including any area or improvements below or above the Easement Area.

9. Duration. The restrictions contained in and the easements granted by this Agreement shall be perpetual, unless modified, revoked or terminated pursuant to **Section 10** (Modification or Revocation) below.

10. Modification or Revocation. This Agreement will be recorded at the closing for City’s conveyance of the areas subject to the Street Vacation to Owner. This Agreement may not be modified, revoked or terminated except in a writing duly executed by the Owner(s) of the parcels wherein the Easement Area is located, and by City, after obtaining any necessary

approvals from City departments, commissions, Board of Supervisors and Mayor, and such modification, revocation or termination, executed by the Owner(s) and the City, is recorded in the Official Records of the City.

11. Run with the Land. Each and all of the foregoing covenants, conditions and restrictions (i) shall run with the land; (ii) shall be binding upon, and shall inure to the benefit of, Owner and any person having or acquiring any interest in any portion of the parcel wherein the Easement Area is located, and all of their respective successive owners and assigns; (iii) shall be binding upon, and shall inure to the benefit of, the Property and each Parcel thereof, and every portion thereof and interest therein; and (iv) shall benefit and bind the City and its successors in interest.

Owner hereby declares that all the Property is to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, reservations, rights, easements, conditions and covenants, all of which are imposed as equitable servitudes upon the Property.

12. Indemnity. Owner, and each successor owner of the parcel wherein the Easement Area is located, with respect to matters arising during or prior to the period that it remains an owner of the parcels wherein the Easement Area or Temporary Easement Area (as the case may be) is located, on behalf of itself and its successors and assigns (“**Indemnitors**”), shall indemnify, defend and hold harmless (“**Indemnify**”) the City including, but not limited to, all of its boards, commissions, departments, agencies and other subdivisions, and all of the heirs, legal representatives, successors and assigns (individually and collectively, the “**Indemnified Parties**”), and each of them, from and against any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses, including, without limitation, direct and vicarious liability of every kind (collectively, “**Claims**”), incurred in connection with or arising in whole or in part from: (a) any accident, injury to or death of a person, or loss of or damage to property, howsoever or by whomsoever caused, occurring in or about the Easement Area or Temporary Easement Area from the use contemplated hereunder; (b) any default by such Indemnitors in the observation or performance of any of the terms, covenants or conditions of this Agreement to be observed or performed on such Indemnitors’ part; (c) the use or occupancy or manner of use or occupancy of the Easement Area or Temporary Easement Area by such Indemnitors or any person or entity claiming through or under such Indemnitors; (d) the condition of the Easement Area or Temporary Easement Area; (e) any construction or other work undertaken by such Indemnitors permitted or contemplated by this Agreement; (f) any acts, omissions or negligence of such Indemnitors in, on or about the Easement Area or Temporary Easement Area by or on behalf of such Indemnitors; (g) any injuries or damages to real or personal property, goodwill, and persons in, upon or in any way allegedly connected with the use contemplated hereunder from any cause or Claims arising at any time; and/or (h) any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by Indemnitors in, under, on or about the Easement Area or Temporary Easement Area; all regardless of the active or passive negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that such Indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement and further except only such Claims as are caused exclusively by the willful misconduct or gross negligence of the Indemnified Parties. The

foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and the City's costs of investigating any Claim. Owner on behalf of the Indemnitors specifically acknowledges and agrees that the Indemnitors have an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this Indemnity even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such Claim is tendered to such Indemnitors by the City and continues at all times thereafter. As used herein, "hazardous material" means any substance, waste or material which, because of its quantity, concentration of physical or chemical characteristics is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety or to the environment.

13. Authority. The person executing this Agreement on behalf of Owner does hereby covenant and warrant that Owner is a duly formed and existing Delaware limited liability company, that Owner has full right and authority to enter into this Agreement, and that the person signing on behalf of Owner is authorized to do so.

14. Exhibits; Recitals. The exhibits attached to and reference in this Agreement, and the recital set forth above are incorporated into and made a part of this Agreement.

15. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which together shall constitute one instrument.

Wherefore, the parties have executed this Agreement as of the date(s) set forth in the attached Notary Acknowledgments.

OCEANWIDE CENTER LLC, a Delaware limited liability company

By _____

Its _____

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By _____

John Updike, Director of Real Estate

APPROVED AS TO FORM
Dennis J. Herrera, City Attorney

By _____

[]
Deputy City Attorney

NOTARY ACKNOWLEDGMENT

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

STATE OF _____)SS
COUNTY OF _____)

On _____

before me, _____, a Notary Public, personally appeared

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(THIS AREA FOR OFFICIAL NOTARIAL SEAL)

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY AND EASEMENT AREA

[This description should include the Assessor's Lot & Block as well as metes and bounds descriptions for the parcel(s) subject to the DOR/Easement Agreement and the location of the Restriction/Easement Area]

EXHIBIT "B"

MAP SHOWING EASEMENT AREA

[This map should depict the Property, any lot adjustments/changes, and the location of the Restricted or Easement Area. It should clearly label the parcels subject to the DOR.]

Recording requested by and
when recorded mail to:

City and County of San Francisco
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Director of Property

The undersigned hereby declares this instrument to be
exempt from Recording Fees (Govt. Code § 27383) and
from Documentary Transfer Tax (CA Rev. & Tax.
Code § 11922 and SF Bus. and Tax Reg. Code § 1105)

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

APN _____, Block _____

EMERGENCY VEHICULAR ACCESS EASEMENT AGREEMENT

This EMERGENCY VEHICULAR ACCESS EASEMENT AGREEMENT (this "**Agreement**"), by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), and OCEANWIDE CENTER, LLC, a California limited liability company ("**Owner**"), is executed as of _____ (the "**Execution Date**").

RECITALS

A. Owner owns the real property located in San Francisco, California, and fully described on the attached Exhibit A (the "**Burdened Property**"), which was owned by City and used as a public right of way immediately prior to the recordation of this Agreement in the Official Records of San Francisco.

B. As a condition of vacating the Burdened Property as a public right of way and transferring fee ownership of the Burdened Property to Owner, City reserved an exclusive temporary street easement in the Burdened Property pursuant to the Quitclaim Deed recorded in the Official Records of San Francisco County at Document No. _____ on _____, 2016 (the "**Temporary Street Easement**"), and further requires an non-exclusive, irrevocable emergency vehicular ingress, egress and access easement over the portion of the Burdened Property described and depicted on the attached Exhibit B (the "**Easement Area**") on the termination of the Temporary Street Easement (the "**Effective Date**").

C. Owner agrees to grant such an emergency access easement to City on the terms and conditions specified in this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Grant of Easement. Pursuant to the terms and conditions specified in this Agreement, and commencing on the Effective Date, Owner grants to City a non-exclusive, irrevocable easement in gross on, over and across the Easement Area for emergency vehicular access over

the Easement Area as necessary for emergency vehicle access purposes ("**Emergency Access Easement**"). The vertical limits of the Easement Area shall extend from ground level (finished surface) to a height of sixty-eight (68) feet above ground level (finished surface).

Without limiting the foregoing, this Agreement does not prohibit Owner, its successors, assigns, grantees, and licensees from using the Easement Area after the Effective Date in any manner that does not interfere with the Emergency Access Easement, including, but not limited to, installing, maintaining, repairing, replacing or removing improvements in the Easement Area as long if interim measures are made available for emergency access over the Easement Area or the Burdened Property to the satisfaction of the City's Fire Department. City acknowledges that Owner may install, maintain, repair, replace or remove structures and appurtenances on the Burdened Property in the airspace above the Easement Area after the Effective Date in any manner that does not interfere with the Emergency Access Easement.

2. As-Is Condition. Owner makes no representations or warranties under this Agreement with respect to the current physical condition of the Easement Area and shall have no responsibility to City under this Agreement with respect thereto, except as otherwise specifically set forth in this Agreement. City's use of the Emergency Access Easement pursuant to this Agreement shall be with the Easement Area in its "as is" physical condition, except as otherwise specifically provided in this Agreement. City waives any and all claims against Owner arising from, out of or in connection with the suitability of the physical conditions of the Easement Area for the Emergency Access Easement as long as Owner performs its maintenance obligations with respect to the Easement Area expressly as specified in this Agreement and Owner does not take any action that would impair City's use of the Emergency Access Easement. Nothing herein shall be construed in any way to alter, amend, or otherwise relieve Owner of its responsibilities with regard to the physical condition of the Easement Area (including without limitation, responsibilities with regard to environmental investigation and remediation and construction of public improvements) set forth in any other document, instrument or agreement between City and Owner.

3. Maintenance and Repair. Commencing on the Effective Date, except as otherwise expressly permitted under Section 1 above, Owner shall maintain the Easement Area, and any surface improvements from time to time constructed on the Easement Area, at all times in a level, good and safe condition that avoids interference with City's use of the Emergency Access Easement and supports City's load requirements for emergency vehicles. Owner shall perform such repair and maintenance at its sole expense and to the City's reasonable satisfaction. City shall have no obligation under this Agreement to maintain or repair the Easement Area or to maintain, repair, replace or remove any improvements or materials in the Easement Area.

4. No General Liability; Insurance. City shall not be liable pursuant to this Agreement for any injury or damage to any person on or about the Burdened Property or any injury or damage to the Burdened Property, to any property of any tenant or occupant, or to any property of any other person, entity or association on or about the Burdened Property, except to the extent such injury or damage is caused solely by City's willful misconduct or gross negligence. City shall have no obligation to carry liability insurance with respect to its use of the Emergency Access Easement.

5. Default; Enforcement. Owner's failure to perform any of its covenants or obligations under this Agreement and to cure such non-performance within thirty (30) days of written notice by City of such failure shall constitute a default under this Agreement; provided that if more than thirty (30) days are reasonably required to cure such failure, no event of default shall occur if Owner commences such cure within such thirty (30) day period and diligently prosecutes such cure to completion. Upon such default, City shall be entitled to all remedies and means to cure or correct such default, both legal and equitable, allowed by operation of law except termination

of the easement herein granted. In the event of any breach of this Agreement, the City shall be entitled to recover all attorneys' fees and costs reasonably incurred in connection with City's enforcement activities and actions.

City shall have all rights and remedies at law and in equity in order to enforce the Emergency Access Easement and the terms of this Agreement. All rights and remedies available to City under this Agreement or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other available right or remedy.

6. Run with the Land; Exclusive Benefit of Parties. The rights and obligations set forth herein shall burden the Burdened Property, run with the land, and bind and inure to the benefit of the successors and assigns of the parties hereto. This Agreement is for the exclusive benefit of City and Owner and their respective successors and assigns and not for the benefit of, nor give rise to any claim or cause of action by, any other party. This Agreement shall not be deemed a dedication of any portion of the Easement Area to or for the benefit of the general public.

7. Abandonment of Easement. City may, at its sole option, abandon the Emergency Access Easement by recording a quitclaim deed. Except as otherwise provided in this Agreement, upon recording such quitclaim deed, the Emergency Access Easement and all rights, duties and liabilities hereunder shall be terminated and of no further force or effect. No temporary non-use of the Easement Area or other conduct, except for recordation of the quitclaim deed as provided in this Section, shall be deemed City's abandonment of the Easement.

8. Notices. All notices, demand, consents or approvals given hereunder shall be in writing and shall be personally delivered, or sent by a nationally-recognized overnight courier service that provides next business day delivery services, provided that next business day service is requested, or by United States first-class mail, postage prepaid, to the following addresses (or any other address that a party designates by written notice delivered to the other party pursuant to the provisions of this Section):

If to City: Director of Department of Public Works
Department of Public Works
City and County of San Francisco
Room 348, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102

with copies to: City Attorney, City of San Francisco
Room 234, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
Attention: John Malamut, Esq.

and to: Director of Property
Real Estate Department
25 Van Ness Avenue, Suite 400
San Francisco, California 94108

If to Owner: _____

9. MacBride Principles – Northern Ireland. City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Owner acknowledges that it has read and understands the above statement of the City concerning doing business in Northern Ireland.

10. Tropical Hardwood and Virgin Redwood Ban. City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product, except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code.

11. General Provisions. (a) This Agreement may be amended or modified only by a writing signed by City and Owner and recorded in the Official Records of the City and County of San Francisco. (b) No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. (c) This Agreement contains the entire agreement between the parties with respect to the Emergency Access Easement and all prior negotiations, discussions, understandings and agreements are merged herein. (d) This Agreement shall be governed by California law and City's Charter. (e) If either party commences an action against the other or a dispute arises under this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes of this Agreement, the reasonable fees of attorneys of the Office of the City Attorney of the City and County of San Francisco shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office. (f) This Agreement does not create a partnership or joint venture between City and Owner as to any activity conducted by Owner on, in or relating to the Easement Area. (g) Time is of the essence of this Agreement and each party's performance of its obligations hereunder. (h) All representations, warranties, waivers, releases, indemnities and surrender obligations given or made in this Agreement shall survive the termination of this Agreement or the extinguishment of the Easement. (i) If any provision of this Agreement is deemed invalid by a judgment or court order, such invalid provision shall not affect any other provision of this Agreement, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as partially invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purpose of this Agreement. (j) All section and subsection titles are included only for convenience of reference and shall be disregarded in the construction and interpretation of the Agreement. (k) Owner represents and warrants to City that the execution and delivery of this Agreement by Owner and the person signing on behalf of Owner below has been duly authorized and Owner is a limited liability company duly formed, validly existing and in good standing under the laws of the State of California. (l) City represents and warrants to Owner that the execution and delivery of this Agreement by City and the person signing on behalf of City below has been duly authorized.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Execution Date.

OWNER: OCEANWIDE CENTER,
a California limited liability company

By: _____

Name: _____

Its: _____

Date: _____

CITY: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
John Updike, Director of Property

Date: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Carol Wong
Deputy City Attorney

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

State of California)
) ss
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

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

State of California)
) ss
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Emergency Vehicular Access Easement Agreement dated _____, from the Oceanwide Center, LLC, a California limited liability company, to the City and County of San Francisco, a municipal corporation ("Grantee"), is hereby accepted by order of its Board of Supervisors' Resolution No. 18110, adopted on August 5, 1957, and approved by the Mayor on August 10, 1957, and Grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
JOHN UPDIKE
Director of Property

Exhibit A

Legal Description of Burdened Property

Exhibit B

Legal Description and Depiction of Easement Area

Recording requested by and
when recorded mail to:

City and County of San Francisco
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Director of Property

The undersigned hereby declares this instrument to be
exempt from Recording Fees (Govt. Code § 27383) and
from Documentary Transfer Tax (CA Rev. & Tax.
Code § 11922 and SF Bus. and Tax Reg. Code § 1105)

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

APN _____, Block _____

COMMERCIAL VEHICLE ACCESS EASEMENT AGREEMENT

This COMMERCIAL VEHICLE ACCESS EASEMENT AGREEMENT (this "Agreement"), by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), and OCEANWIDE CENTER, LLC, a California limited liability company ("Owner"), is executed as of _____ (the "Execution Date").

RECITALS

A. Owner owns the real property located in San Francisco, California, and fully described on the attached Exhibit A (the "**Burdened Property**"), which Owner plans to improve with a mixed-use development with two towers featuring over 250 residential dwelling units, a hotel and approximately one (1) million square feet of office use rising above integrated basement levels, and including full renovation and rehabilitation of one historic building and partial renovation of another building, and the creation of a multi-story high "urban room" on the ground level facing First Street that will serve as public open space ("**Project**").

C. The Project incorporates a vacated portion of Jessie Street between First Street and Ecker Place, which was vacated pursuant to Board of Supervisors Ordinance No. _____, effective _____, 2016 ("**Street Vacation Ordinance**"), and sold by City to Owner pursuant to that certain Quitclaim Deed with Reserved Easement recorded concurrently with this Agreement as Instrument No. _____ in the Official Records of San Francisco County.

D. Prior to the effective date of Street Vacation Ordinance, Jessie Street was an east-west oriented public street that connected Anthony Street and First Street. In order to provide for the continued flow of pedestrian and vehicular access from the terminus of Jessie Street to Mission Street, Owner granted to City, in perpetuity for the public, continuous and perpetual pedestrian and vehicular access the portion of the Burdened Property described and depicted on the attached Exhibit B (the "**Replacement Road**").

E. Certain commercial vehicles serving the Burdened Property and other private properties in the general vicinity ("**Commercial Vehicles**") will not be able to use the Replacement Road due to its height restrictions and the turning radius required to connect from Jessie Street to the Replacement Road.

F. To allow for Commercial Vehicles to serve the Project and surrounding private properties, Owner has agreed to improve the twenty foot (20') wide portion of the Burdened Property described and depicted on the attached Exhibit B (the "**Easement Area**") with the equivalent of a private road and to grant to City, for the benefit of the public, a non-exclusive, permanent easement in gross on, over and across the Easement Area for vehicular ingress, egress and access by Commercial Vehicles between Jessie Street and First Street upon the completion of access improvements ("**Access Improvements**") over the Easement Area (the "**Effective Date**") and on the terms and conditions specified in this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Grant of Easement. Pursuant to the terms and conditions specified in this Agreement, and commencing on the Effective Date, Owner grants to City, for the benefit of the public, a non-exclusive, permanent easement in gross ("**Easement**") on, over and across the Easement Area for ingress, egress and access of Commercial Vehicles between Jessie Street and First Street ("**Vehicle Use**").

Without limiting the foregoing, this Agreement does not prohibit Owner, its successors, assigns, grantees, and licensees from using the Easement Area after the Effective Date in any manner that complies with applicable laws and does not interfere with the Easement, including, but not limited to, installing, maintaining, repairing, or replacing the Access Improvements as long as interim measures are made available for the Easement over the Easement Area or other property to the satisfaction of the City, to the extent such interim measures are deemed necessary or reasonable by the City and the appropriate City permits are obtained for such activity. City acknowledges that Owner may install, maintain, repair, replace or remove structures and appurtenances on the Burdened Property in the airspace above the Easement Area after the Effective Date in any manner that does not interfere with the Easement.

Notwithstanding the provisions of foregoing paragraph, neither Owner nor any subsequent fee owner of the Burdened Property, nor their successors and assigns as to all or any portion of such fee, nor any party claiming an interest in the Burdened Property through any such party, shall construct or permit any structures on the Easement Area that would interfere with or obstruct the use of the Easement Area for the Vehicle Use without the City's prior written approval, which City may withhold in its sole discretion.

2. As-Is Condition. The use of the Easement shall be with the Easement Area in its "as is" physical condition, except as otherwise specifically provided in this Agreement. City waives any and all claims against Owner arising from, out of or in connection with the suitability of the physical condition of the Easement Area for the uses specified in Section 1 above as long as Owner performs its obligations with respect to the Easement Area expressly as specified in this Agreement and Owner does not take any action that would impair use of the Easement by City and the public for the Vehicle Use. Nothing herein shall be construed in any way to alter, amend, or otherwise relieve Owner of its responsibilities with regard to the physical condition of the Easement Area (including without limitation, responsibilities with regard to environmental investigation and remediation and construction of public improvements) set forth in any other document, instrument or agreement between City and Owner.

3. Construction, Maintenance and Repair. Prior to _____, Owner shall construct the Access Improvements at Owner's sole expense, to City standards, and in compliance with all laws and to the satisfaction of City. Owner shall obtain the prior written

approval of SFPW and City's Municipal Transportation Agency ("SFMTA") to Owner's initial and final drawings and specifications for the Access Improvements, as well as SFPW's and SFMTA's inspection and final approval of the installed Access Improvements, to ensure they will properly and safely accommodate the Vehicle Use. Prior to commencing such construction, Owner shall obtain the appropriate permit from SFPW for City's review of the design of the Access Improvements.

Commencing on the Effective Date, except as otherwise expressly permitted under Section 1 above, Owner shall maintain the Easement Area, and any surface improvements from time to time constructed on the Easement Area, at all times in a level, good and safe condition that avoids interference with use of the Easement for the Vehicle Use by City and the public and supports appropriate load requirements for Commercial Vehicles. Owner shall perform such repair and maintenance at its sole expense and to the City's reasonable satisfaction. City shall have no obligation under this Agreement to maintain or repair the Easement Area or to maintain, repair, replace or remove any improvements or materials in the Easement Area.

4. Operation of Vehicular Access. In addition to the Vehicle Use, after the Effective Date, the Easement Area will be used for general public pedestrian access pursuant to that certain Declaration of Public Access Covenants and Restrictions made by Owner in favor of City and recorded in the Official Records of San Francisco as Instrument No. _____ on the date this Agreement is recorded therein (the "**Declaration**"), and will be used for emergency vehicle access pursuant to that certain Emergency Vehicular Access Easement Agreement made by Owner in favor of City and recorded in the Official Records of San Francisco as Instrument No. _____ on the date this Agreement is recorded therein (the "**Emergency Vehicle Easement**").

To safely accommodate the pedestrian access provided under the Declaration, Owner shall ensure that the mitigation measures required by City for Commercial Vehicle use of the Easement Area and attached as Exhibit C, are followed at all times that Commercial Vehicles enter the Easement Area. **[Planning to confirm if the mitigation measures in Commission Motion are subject to revision with Planning approval]** Owner shall not allow Commercial Vehicles to enter the Easement Area at any time that vehicles access the Easement Area pursuant to the Emergency Vehicle Easement. **[SFFD to confirm]**

4. No General Liability; Insurance. City shall not be liable pursuant to this Agreement for any injury or damage to any person on or about the Burdened Property or any injury or damage to the Burdened Property, to any property of any tenant or occupant, or to any property of any other person, entity or association on or about the Burdened Property, except to the extent such injury or damage is caused solely by City's willful misconduct or gross negligence. City shall have no obligation to carry liability insurance with respect to its use of the Easement.

5. Default; Enforcement. Owner's failure to perform any of its covenants or obligations under this Agreement and to cure such non-performance within thirty (30) days of written notice by City of such failure shall constitute a default under this Agreement; provided that if more than thirty (30) days are reasonably required to cure such failure, no event of default shall occur if Owner commences such cure within such thirty (30) day period and diligently prosecutes such cure to completion. Upon such default, City shall be entitled to all remedies and means to cure or correct such default, both legal and equitable, allowed by operation of law except termination of the easement herein granted. In the event of any breach of this Agreement, the City shall be entitled to recover all attorneys' fees and costs reasonably incurred in connection with City's enforcement activities and actions.

City shall have all rights and remedies at law and in equity in order to enforce the Easement and the terms of this Agreement. All rights and remedies available to City under this

Agreement or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other available right or remedy.

6. Run with the Land; Exclusive Benefit of Parties. The rights and obligations set forth herein shall burden the Burdened Property, run with the land, and bind and inure to the benefit of the successors and assigns of the parties hereto. This Agreement is for the exclusive benefit of City and Owner and their respective successors and assigns and not for the benefit of, nor give rise to any claim or cause of action by, any other party. This Agreement shall not be deemed a dedication of any portion of the Easement Area to or for the benefit of the general public.

7. Abandonment of Easement. City may, at its sole option, abandon the Easement by recording a quitclaim deed. Except as otherwise provided in this Agreement, upon recording such quitclaim deed, the Easement and all rights, duties and liabilities hereunder shall be terminated and of no further force or effect. No temporary non-use of the Easement Area or other conduct, except for recordation of the quitclaim deed as provided in this Section, shall be deemed City's abandonment of the Easement.

8. Notices. All notices, demand, consents or approvals given hereunder shall be in writing and shall be personally delivered, or sent by a nationally-recognized overnight courier service that provides next business day delivery services, provided that next business day service is requested, or by United States first-class mail, postage prepaid, to the following addresses (or any other address that a party designates by written notice delivered to the other party pursuant to the provisions of this Section):

If to City: Director of Department of Public Works
Department of Public Works
City and County of San Francisco
Room 348, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102

with copies to: City Attorney, City of San Francisco
Room 234, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
Attention: John Malamut, Esq.

and to: Director of Property
Real Estate Department
25 Van Ness Avenue, Suite 400
San Francisco, California 94108

If to Owner: _____

9. MacBride Principles – Northern Ireland. City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Owner acknowledges that it has read and understands the above statement of the City concerning doing business in Northern Ireland.

10. Tropical Hardwood and Virgin Redwood Ban. City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product, except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code.

11. General Provisions. (a) This Agreement may be amended or modified only by a writing signed by City and Owner and recorded in the Official Records of the City and County of San Francisco, (b) No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. (c) This Agreement contains the entire agreement between the parties with respect to the Easement and all prior negotiations, discussions, understandings and agreements are merged herein. (d) This Agreement shall be governed by California law and City's Charter. (e) If either party commences an action against the other or a dispute arises under this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes of this Agreement, the reasonable fees of attorneys of the Office of the City Attorney of the City and County of San Francisco shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office. (f) This Agreement does not create a partnership or joint venture between City and Owner as to any activity conducted by Owner on, in or relating to the Easement Area. (g) Time is of the essence of this Agreement and each party's performance of its obligations hereunder. (h) All representations, warranties, waivers, releases, indemnities and surrender obligations given or made in this Agreement shall survive the termination of this Agreement or the extinguishment of the Easement. (i) If any provision of this Agreement is deemed invalid by a judgment or court order, such invalid provision shall not affect any other provision of this Agreement, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as partially invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purpose of this Agreement. (j) All section and subsection titles are included only for convenience of reference and shall be disregarded in the construction and interpretation of the Agreement. (k) Owner represents and warrants to City that the execution and delivery of this Agreement by Owner and the person signing on behalf of Owner below has been duly authorized and Owner is a limited liability company duly formed, validly existing and in good standing under the laws of the State of California. (l) City represents and warrants to Owner that the execution and delivery of this Agreement by City and the person signing on behalf of City below has been duly authorized.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Execution Date.

OWNER: OCEANWIDE CENTER,
a California limited liability company

By: _____

Name: _____

Its: _____

Date: _____

CITY: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
John Updike, Director of Property

Date: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Carol Wong
Deputy City Attorney

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

State of California)
) ss
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

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

State of California)
) ss
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Commercial Vehicle Access Easement Agreement dated _____, from the Oceanwide Center, LLC, a Delaware limited liability company, to the City and County of San Francisco, a municipal corporation ("Grantee"), is hereby accepted by order of its Board of Supervisors' Resolution No. _____, adopted on _____, 2016, and approved by the Mayor on _____, 2016, and Grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
JOHN UPDIKE
Director of Property

Exhibit A

Legal Description of Burdened Property

Exhibit B

Legal Description and Depiction of Easement Area

Exhibit C

Mitigation Measures

Recording requested by and
when recorded mail to:

City and County of San Francisco
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Director of Property

The undersigned hereby declares this instrument to be
exempt from Recording Fees (Govt. Code § 27383) and
from Documentary Transfer Tax (CA Rev. & Tax.
Code § 11922 and SF Bus. and Tax Reg. Code § 1105).

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

APN 3708-006

PEDESTRIAN AND VEHICULAR PUBLIC ACCESS AND
CITY UTILITY EASEMENT AGREEMENT

This PEDESTRIAN AND VEHICULAR PUBLIC ACCESS EASEMENT AND CITY
UTILITY EASEMENT AGREEMENT (this "**Agreement**"), by and between the CITY AND
COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), and OCEANWIDE
CENTER, LLC, a Delaware limited liability company ("**Owner**"), is executed as of
_____ (the "**Execution Date**").

RECITALS

A. Owner owns the real property located in San Francisco, California, and fully
described on the attached Exhibit A (the "**Burdened Property**").

B. The Burdened Property is part of a larger site that is proposed by Owner for the
construction of a mixed-use development with two towers featuring over 250 residential
dwelling units, a hotel and approximately one (1) million square feet of office use rising above
integrated basement levels, and including full renovation and rehabilitation of one historic
building and partial renovation of another building, and the creation of a multi-story high "urban
room" on the ground level facing First Street that will serve as public open space ("**Project**").

C. The Project incorporates vacated portions of Elim Alley and Jessie Street between
First Street and Ecker Place, which were vacated pursuant to Board of Supervisors Ordinance
No. _____, effective _____, 2016 ("**Street Vacation Ordinance**"), and sold by City to
Owner pursuant to that certain Quitclaim Deed with Reserved Easement recorded concurrently
with this Agreement as Instrument No. _____ in the Official Records of San
Francisco County.

D. Prior to the effective date of Street Vacation Ordinance, Jessie Street was an east-
west oriented public street that connected Anthony Street and First Street. In order to provide for
the continued flow of pedestrian and vehicular access from the terminus of Jessie Street to
Mission Street, Owner agrees to provide continuous and perpetual pedestrian and vehicular
access over the 17-foot wide, 187.62 foot long portion, and 13.5 foot height portion of the
Burdened Property described and depicted on the attached Exhibit B (the "**Easement Area**").
[PW to confirm dimensions and legal description]

E. In connection with the Street Vacation, and in order to provide for public pedestrian and vehicular access and for public utilities, the Owner has offered to provide a non-exclusive, public pedestrian and vehicular ingress, egress and access easement and a public utility easement over the Easement Area upon the completion of a pedestrian and vehicular access roadway ("**Road Improvements**") over the Easement Area (the "**Effective Date**").

F. Owner agrees to grant such non-exclusive easement for the benefit of the City on the terms and conditions specified in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants and agreements of the parties herein contained, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner and City hereby agree as follows:

1. Grant of Easement. Pursuant to the terms and conditions specified in this Agreement, and commencing on the Effective Date, Owner grants in perpetuity to City for the benefit of the public a non-exclusive, permanent easement in gross on, over and across the Easement Area for public pedestrian and vehicular ingress, egress and access between Jessie Street and Mission Street (the "**Access Easement**") and a non-exclusive, permanent public utility easement in gross to City on, over and across the Easement Area for any public utilities installed in the Easement area (the "**Utility Easement**"). [JM and PW to confirm] Owner acknowledges that the Access Easement will require that Owner obtain street permits from City's Public Works ("**SFPW**") with respect to certain activities in the Easement Area.

Without limiting the foregoing, this Agreement does not prohibit Owner, its successors, assigns, grantees, and licensees from using the Easement Area after the Effective Date in any manner that complies with applicable laws and does not interfere with the Access Easement or the Utility Easement, including, but not limited to, installing, maintaining, repairing, or replacing the Road Improvements as long as interim measures are made available for the Access Easement and the Utility Easement over the Easement Area or other property to the satisfaction of the City, to the extent such interim measures are deemed necessary or reasonable by the City and the appropriate City permits are obtained for such activity. City acknowledges that Owner may install, maintain, repair, replace or remove structures and appurtenances on the Burdened Property in the airspace above the Easement Area after the Effective Date in any manner that does not interfere with the Access Easement.

Notwithstanding the provisions of foregoing paragraph, neither Owner nor any subsequent fee owner of the Burdened Property, nor their successors and assigns as to all or any portion of such fee, nor any party claiming an interest in the Burdened Property through any such party, shall construct or permit any structures on the Easement Area that would interfere with or obstruct the use of the Easement Area for the Access Easement or the Utility Easement without the City's prior written approval, which City may withhold in its sole discretion.

2. As-Is Condition. The use of the Access Easement and the Utility Easement shall be with the Easement Area in its "as is" physical condition, except as otherwise specifically provided in this Agreement. City waives any and all claims against Owner arising from, out of or in connection with the suitability of the physical condition of the Easement Area for the uses specified in Section 1 above as long as Owner performs its obligations with respect to the Easement Area expressly as specified in this Agreement and Owner does not take any action that would impair use of the Access Easement by City and the public or use of the Utility Easement by City. Nothing herein shall be construed in any way to alter, amend, or otherwise relieve Owner of its responsibilities with regard to the physical condition of the Easement Area (including without limitation, responsibilities with regard to environmental investigation and

remediation and construction of public improvements) set forth in any other document, instrument or agreement between City and Owner.

3. Construction, Maintenance and Repair. Prior to _____, Owner shall construct the Road Improvements at Owner's sole expense, to City standards, and in compliance with all laws and to the satisfaction of City. Owner shall obtain the prior written approval of SFPW and City's Municipal Transportation Agency ("SFMTA") to Owner's initial and final drawings and specifications for the Road Improvements, as well as SFPW's and SFMTA's inspection and final approval of the installed Road Improvements, to ensure they will properly and safely accommodate the Access Use and the Utility Use. Prior to commencing such construction, Owner shall obtain the appropriate permit from SFPW for City's review of the design of the Road Improvements.

Commencing on the Effective Date, except as otherwise expressly permitted under Section 1 above, Owner shall maintain the Road Improvements and the Easement Area (including, but not limited to any curbs, parking strips, parkways, automobile runways, and vegetation) at all times in a good and safe condition that properly and safely accommodates, and avoids interference with, use of the Easement Area by City and the public for the Access Use and use of the Easement Area by City for the Utility Use. Owner shall perform such repair and maintenance at its sole expense and to the City's reasonable satisfaction. Except as otherwise specified in Section _____ below, City shall have no obligation under this Agreement to maintain or repair the Easement Area or to maintain, repair, replace or remove the Road Improvements or any improvements or materials in the Easement Area.

4. No General Liability; Insurance. City shall not be liable pursuant to this Agreement for any injury or damage to any person on or about the Burdened Property or any injury or damage to the Burdened Property, to any property of any tenant or occupant, or to any property of any other person, entity or association on or about the Burdened Property, except to the extent such injury or damage is caused solely by City's willful misconduct or gross negligence. City shall have no obligation to carry liability insurance with respect to its use of the Access Easement.

5. Default; Enforcement. Owner's failure to perform any of its covenants or obligations under this Agreement and to cure such non-performance within thirty (30) days of written notice by City of such failure shall constitute a default under this Agreement; provided that if more than thirty (30) days are reasonably required to cure such failure, no event of default shall occur if Owner commences such cure within such thirty (30) day period and diligently prosecutes such cure to completion. Upon such default, City shall be entitled to all remedies and means to cure or correct such default, both legal and equitable, allowed by operation of law except termination of the easement herein granted. In the event of any breach of this Agreement, the City shall be entitled to recover all attorneys' fees and costs reasonably incurred in connection with City's enforcement activities and actions.

City shall have all rights and remedies at law and in equity in order to enforce the Access Easement, the Utility Easement, and the terms of this Agreement. All rights and remedies available to City under this Agreement or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other available right or remedy.

6. No Liability; Indemnity. City, by acceptance of the Access Easement and the Utility Easement, shall not in any event whatsoever be liable for any injury or damage to any person happening on or about the Easement Area or the Burdened Property, for any injury or damage to the Burdened Property, or to any property of any tenant or occupant, or to any property of any other person, entity or association on or about the Burdened Property, except only such injury or damage as is caused exclusively by the willful misconduct or gross negligence of the City.

Owner, and each successor and assign to Owner holding an interest in the Burdened Property (collectively called "**Indemnitors**"), shall defend, hold harmless and indemnify the City, including but not limited to all of its boards, commissions, departments, agencies and other subdivisions, and their respective officers, directors, commissioners, employees and agents (collectively, "**Indemnified Parties**"), of and all liabilities, penalties, costs, damages, expenses, causes of action, claims or judgments (including without limitation attorney's fees) (collectively, "**Indemnified Claims**"), resulting from: (i) injury or the death of any person (including without limitation any Indemnified Party) or physical damage to property, real or personal, of any kind wherever located and by whomever owned (including, without limitation, property owned by an Indemnified Party), occurring in the Easement Area; (ii) any default by an Indemnitor in the observation or performance of any of the terms, covenants or conditions of this Agreement to be observed or performed on such Indemnitor's part; (iii) any use of the Easement Area or actions on the Easement Area by or on behalf of any Indemnitor; and (iv) the use, generation, processing, production, packaging, treatment, storage, emission, discharge or disposal of Hazardous Materials (as that term is defined below) by any party other than City or its employees, contractors or agents on or about the Easement Area; however, Indemnitor shall have no obligation to indemnify, defend or hold harmless any Indemnified Party to the extent any Indemnified Claims arise out of or result from the gross negligence or willful misconduct of any Indemnified Party. Grantor, on behalf of the Indemnitors, specifically acknowledges and agrees that the Indemnitors have an immediate and independent obligation to defend the Indemnified Parties from any claim which actually or potentially falls within this indemnity even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such Indemnified Claim is tendered to any applicable Indemnitor. Indemnitors' obligations under this Section shall survive termination of the Easements as to any indemnification obligation arising out of an event or conditions occurring prior to such termination. For purposes of this Section, the term "**Hazardous Materials**" shall mean any substance, material or waste that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment, including, but not limited to petroleum, petroleum-based products, natural gas, or any substance, material, or waste that is or shall be listed, regulated or defined by federal, state or local statute, regulation, rule, ordinance or other governmental requirement to be hazardous, acutely hazardous, extremely hazardous, toxic, radioactive, biohazardous, infectious, or otherwise dangerous.

7. Litigation Expenses. If either party hereto brings an action or proceeding (including any cross-complaint, counterclaim, or third-party claim) against the other party by reason of a default, or otherwise arising out of this Agreement, the prevailing party in such action or proceeding shall be entitled to its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "**Prevailing party**" within the meaning of this Section shall include without limitation, a party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action.

Attorneys' fees under this Section shall include attorneys' fees on any appeal, and, in addition, a party entitled to attorneys' fees shall be entitled to all other reasonable costs and expenses incurred in connection with such action. For purposes of this Agreement, reasonable fees of attorneys of the City's Office of City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of hours of professional experience in the subject matter area of the law for which City's counsel's services were rendered who practice in the City and County of San Francisco, State of California, in law firms with approximately the same number of attorneys as employed by the Office of City Attorney.

8. Run with the Land; Exclusive Benefit of Parties. The rights and obligations set forth

herein shall burden the Burdened Property, run with the land, and bind and inure to the benefit of the successors and assigns of the parties hereto. This Agreement is for the exclusive benefit of City and Owner and their respective successors and assigns and not for the benefit of, nor give rise to any claim or cause of action by, any other party. This Agreement shall not be deemed a dedication of any portion of the Easement Area to or for the benefit of the general public.

9. Abandonment of Easement. City may, at its sole option, abandon all or any portion of the Access Easement or the Utility Easement by recording a quitclaim deed. Except as otherwise provided in this Agreement, upon recordation of such quitclaim deed, the applicable portion of the Access Easement or the Utility Easement, and all corresponding rights, duties and liabilities hereunder, shall be terminated and shall be of no further force or effect. No temporary non-use of the Easement Area or other conduct, except for recordation of the quitclaim deed as provided in this Section, shall be deemed City's abandonment of the Access Easement or the Utility Easement.

10. Notices. All notices, demand, consents or approvals given hereunder shall be in writing and shall be personally delivered, or sent by a nationally-recognized overnight courier service that provides next business day delivery services, provided that next business day service is requested, or by United States first-class mail, postage prepaid, to the following addresses (or any other address that a party designates by written notice delivered to the other party pursuant to the provisions of this Section):

If to City: Director of Department of Public Works
Department of Public Works
City and County of San Francisco
Room 348, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102

with copies to: City Attorney, City of San Francisco
Room 234, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
Attention: John Malamut, Esq.

and to: Director of Property
Real Estate Department
25 Van Ness Avenue, Suite 400
San Francisco, California 94108

If to Owner: Oceanwide Center LLC
88 First Street
San Francisco, CA 94104
Attn: [xx]

with a copy to: Reuben, Junius & Rose LLP
One Bush Street, Suite 600
San Francisco, CA 94102
Attn: Tuija Catalano

11. MacBride Principles – Northern Ireland. City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. City also urges San Francisco companies to do business with corporations that abide by the

MacBride Principles. Owner acknowledges that it has read and understands the above statement of the City concerning doing business in Northern Ireland.

12. Tropical Hardwood and Virgin Redwood Ban. City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product, except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code.

13. General Provisions. (a) This Agreement may be amended or modified only by a writing signed by City and Owner and recorded in the Official Records of the City and County of San Francisco. (b) No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. (c) This Agreement contains the entire agreement between the parties with respect to the Emergency Access Easement and all prior negotiations, discussions, understandings and agreements are merged herein. (d) This Agreement shall be governed by California law and City's Charter. (e) If either party commences an action against the other or a dispute arises under this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes of this Agreement, the reasonable fees of attorneys of the Office of the City Attorney of the City and County of San Francisco shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office. (f) This Agreement does not create a partnership or joint venture between City and Owner as to any activity conducted by Owner on, in or relating to the Easement Area. (g) Time is of the essence of this Agreement and each party's performance of its obligations hereunder. (h) All representations, warranties, waivers, releases, indemnities and surrender obligations given or made in this Agreement shall survive the termination of this Agreement or the extinguishment of the Easement. (i) If any provision of this Agreement is deemed invalid by a judgment or court order, such invalid provision shall not affect any other provision of this Agreement, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as partially invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purpose of this Agreement. (j) All section and subsection titles are included only for convenience of reference and shall be disregarded in the construction and interpretation of the Agreement. (k) Owner represents and warrants to City that the execution and delivery of this Agreement by Owner and the person signing on behalf of Owner below has been duly authorized and Owner is a limited liability company duly formed, validly existing and in good standing under the laws of the State of California. (l) City represents and warrants to Owner that the execution and delivery of this Agreement by City and the person signing on behalf of City below has been duly authorized.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Execution Date.

OWNER: OCEANWIDE CENTER,
a Delaware limited liability company

By: _____
Name: _____
Its: _____
Date: _____

CITY: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
John Updike, Director of Property
Date: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Carol Wong
Deputy City Attorney

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

State of California)
) ss
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

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

State of California)
) ss
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Pedestrian and Vehicular Access Easement Agreement dated _____, from the Oceanwide Center, LLC, a Delaware limited liability company, to the City and County of San Francisco, a municipal corporation ("Grantee"), is hereby accepted by order of its Board of Supervisors' Resolution No. _____, adopted on _____, 2016, and approved by the Mayor on _____, 2016, and Grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
JOHN UPDIKE
Director of Property

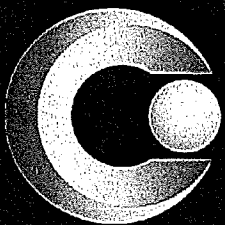
Exhibit A

Legal Description of Burdened Property

Exhibit B

Legal Description and Depiction of Easement Area

160387
160382



OCEANWIDE CENTER

Foster + Partners

Heller Manus Architects

One-Time Impact Fees*

Citywide

\$67.8 million

Transit Center District

\$49.8 million

Total

\$117.6 million

Transit Center Community Facilities District (Mello-Roos)*

30-year Sum of CFD Payments

\$647 million

Annual Average

\$21.6 million

General Fund Revenue to San Francisco*

Annual

\$20.9 million

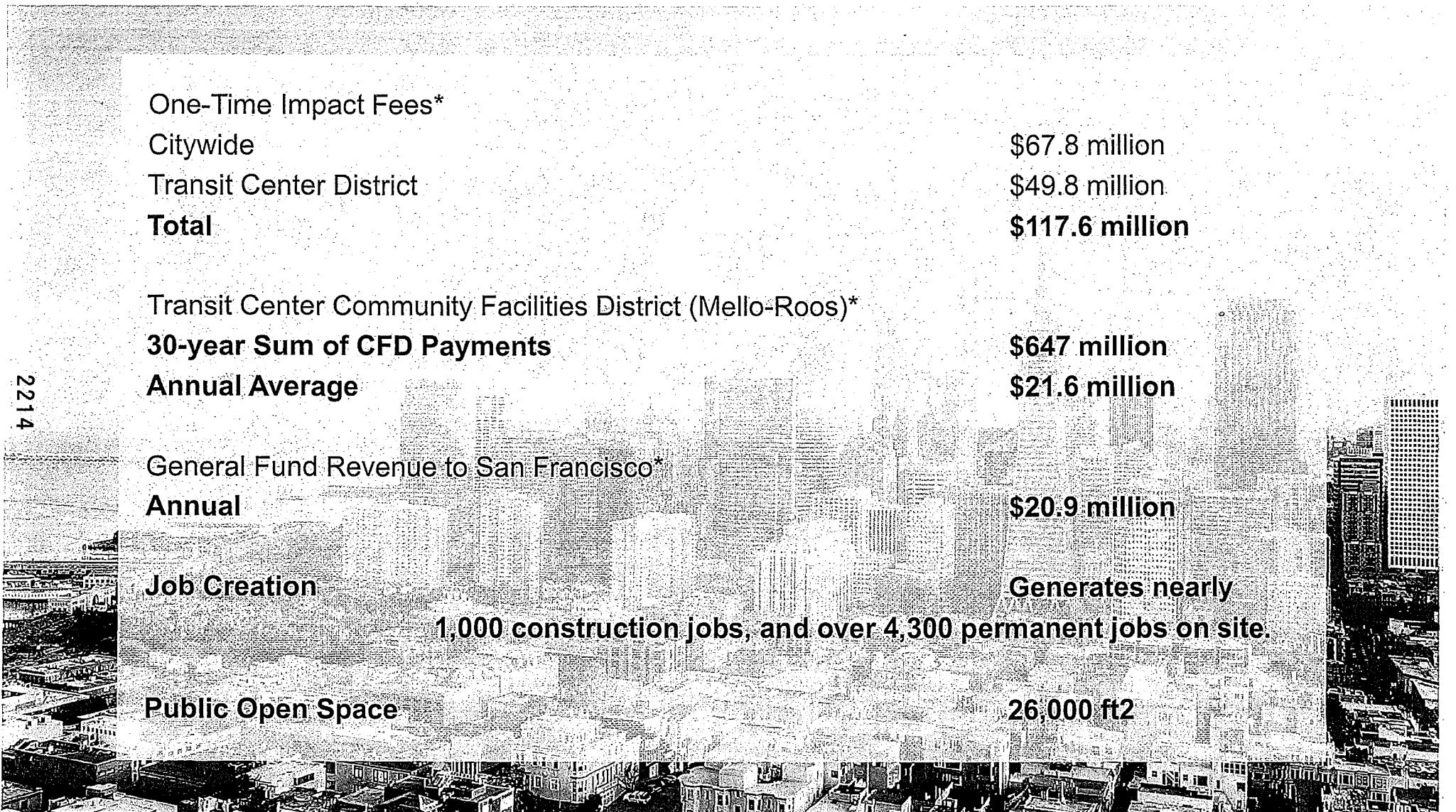
Job Creation

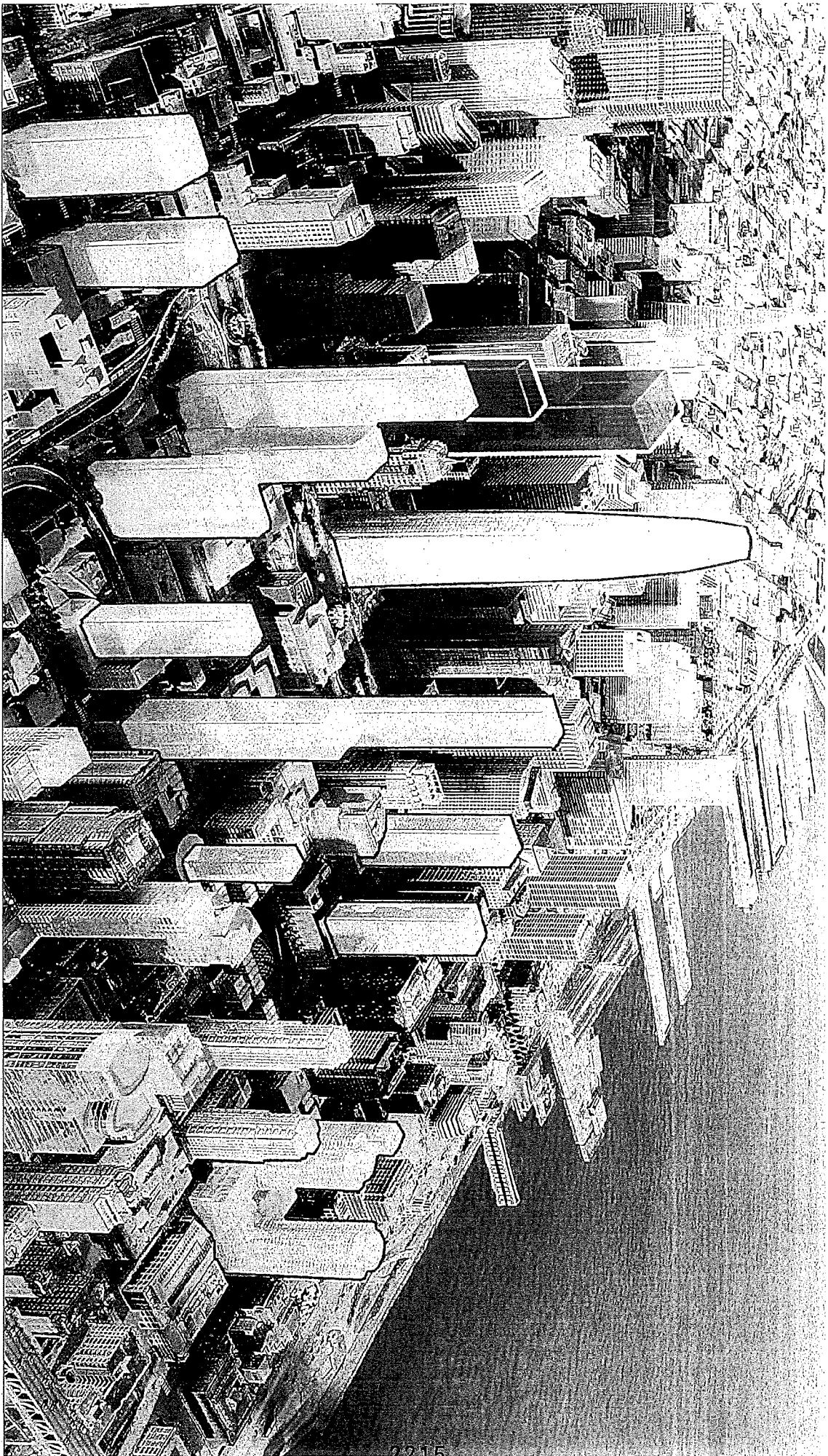
Generates nearly

1,000 construction jobs, and over 4,300 permanent jobs on site.

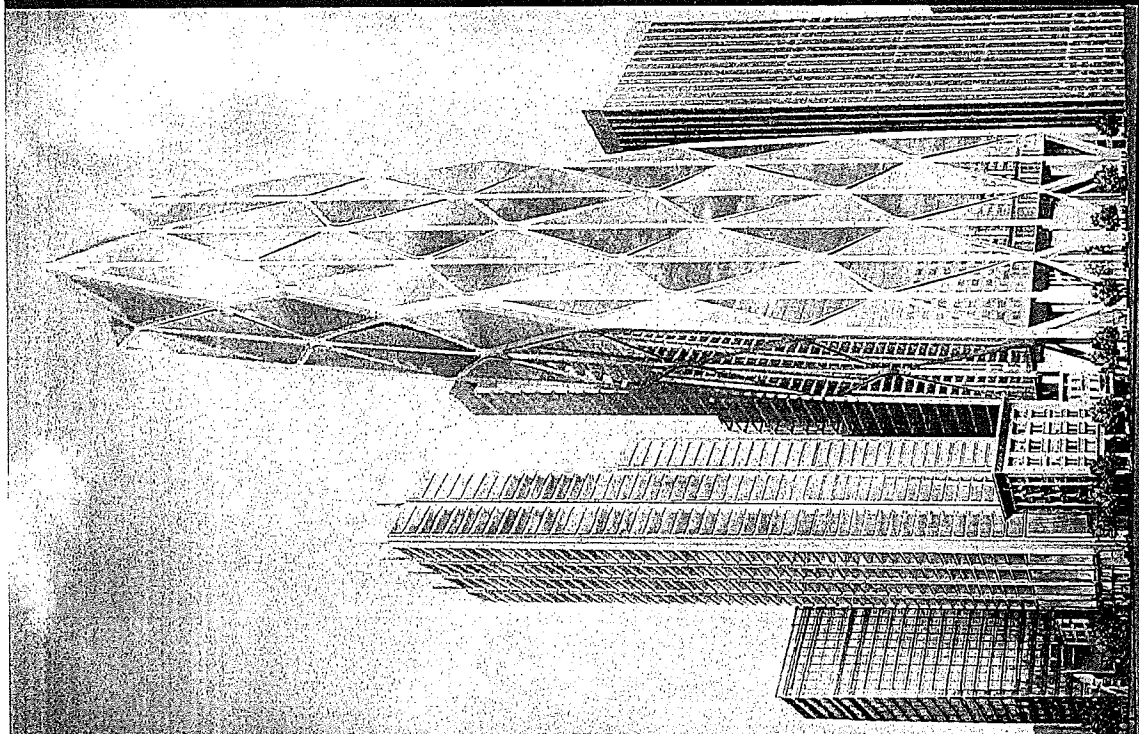
Public Open Space

26,000 ft²

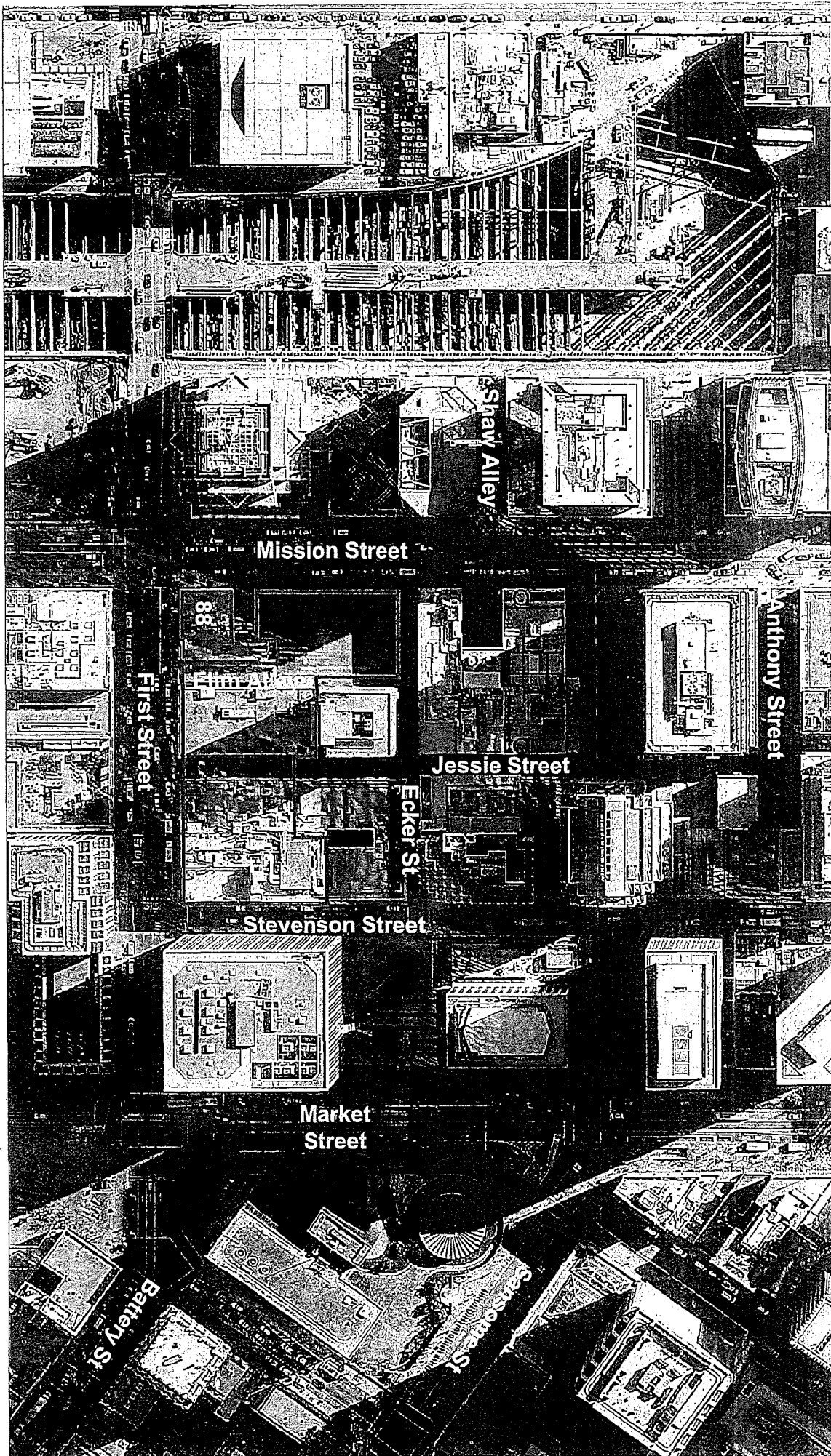


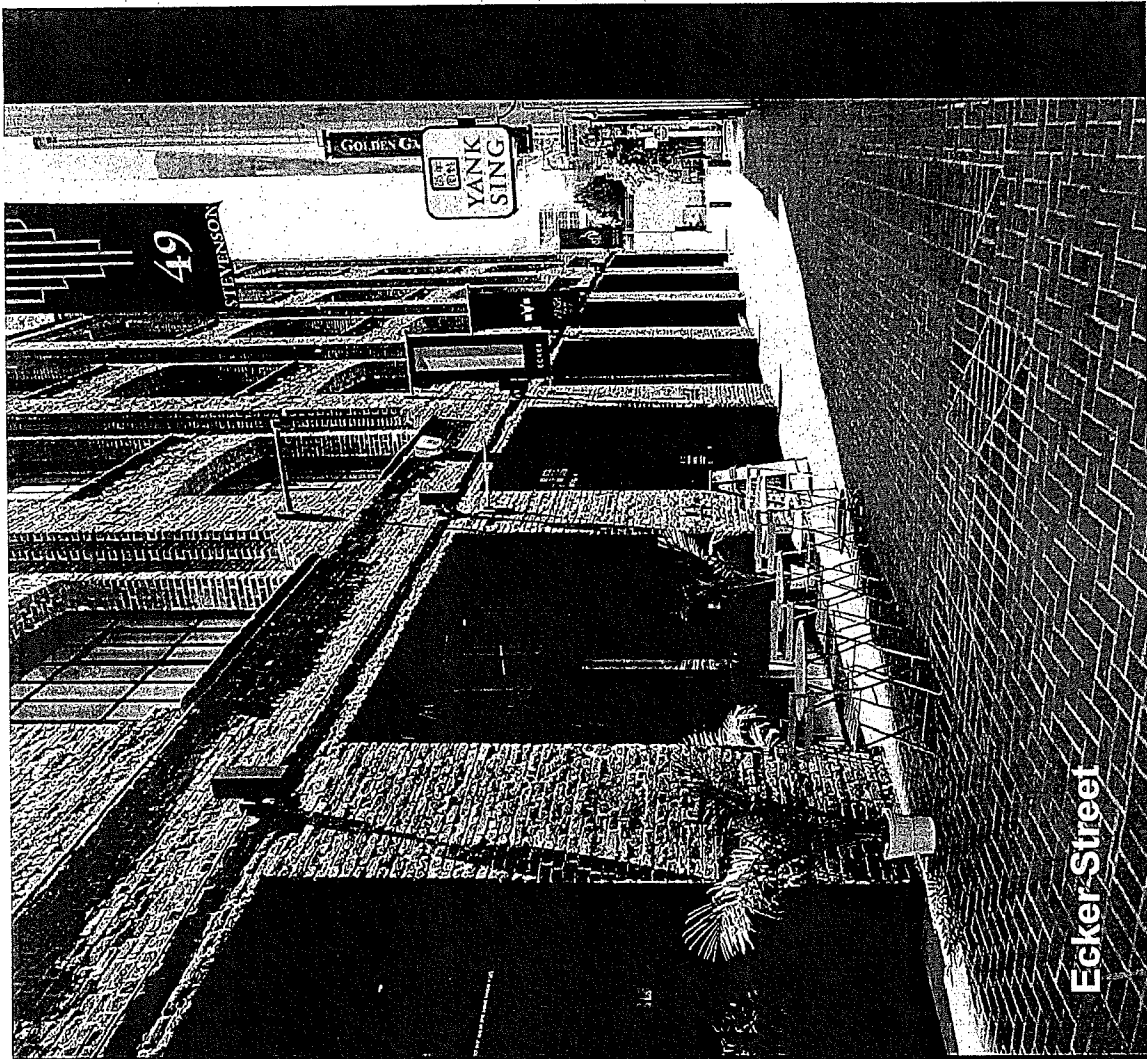


50 FIRST

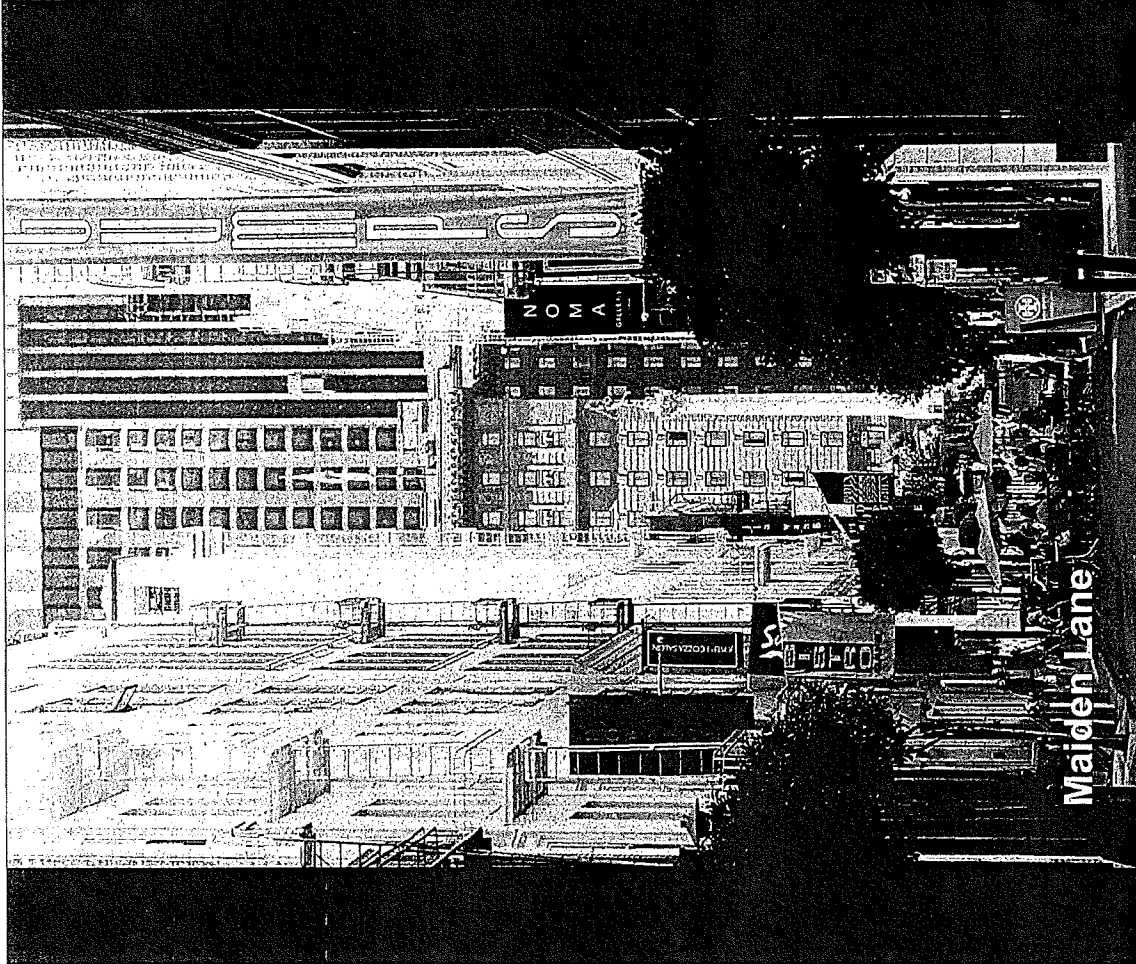


**526
MISSION**

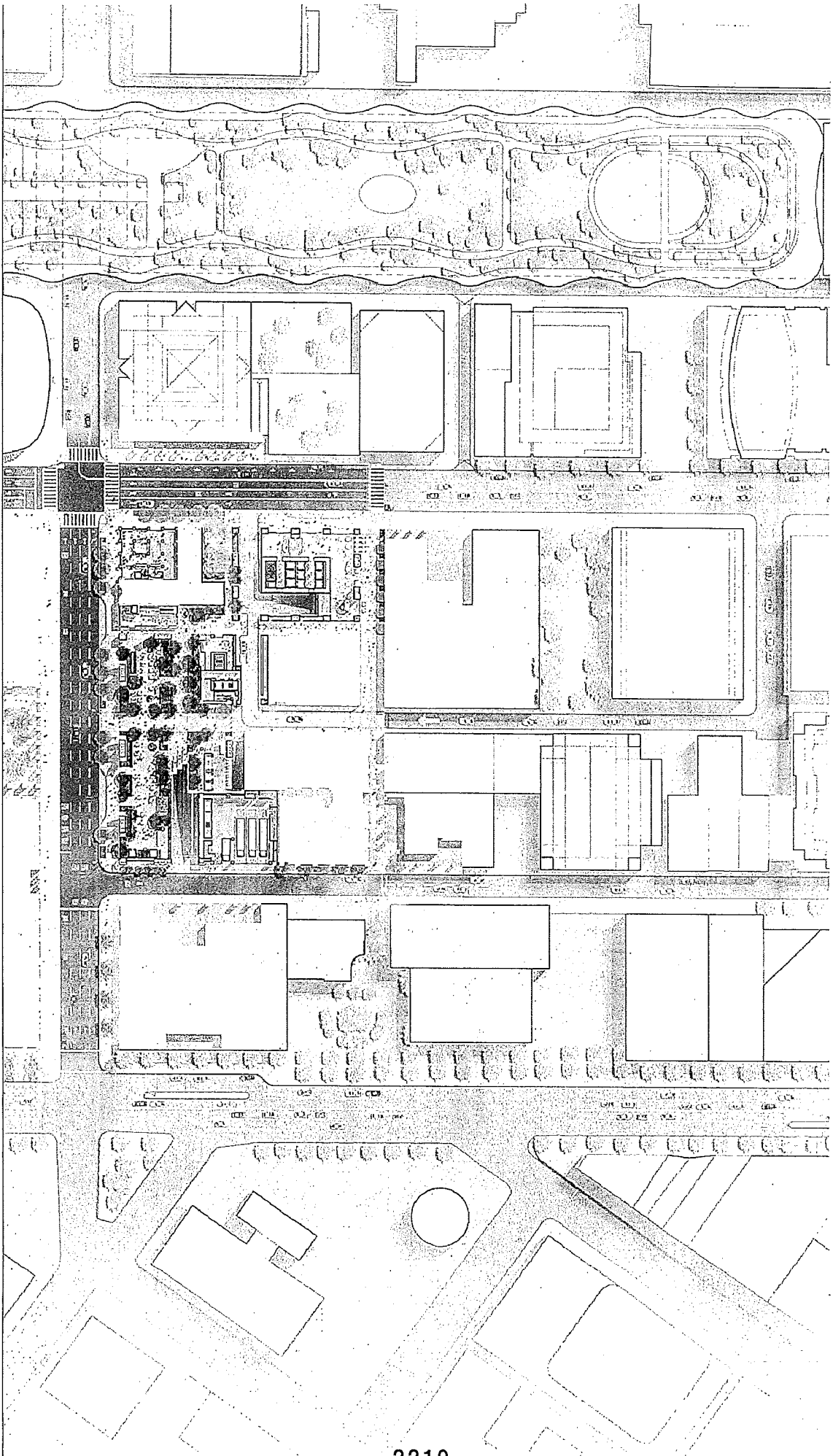


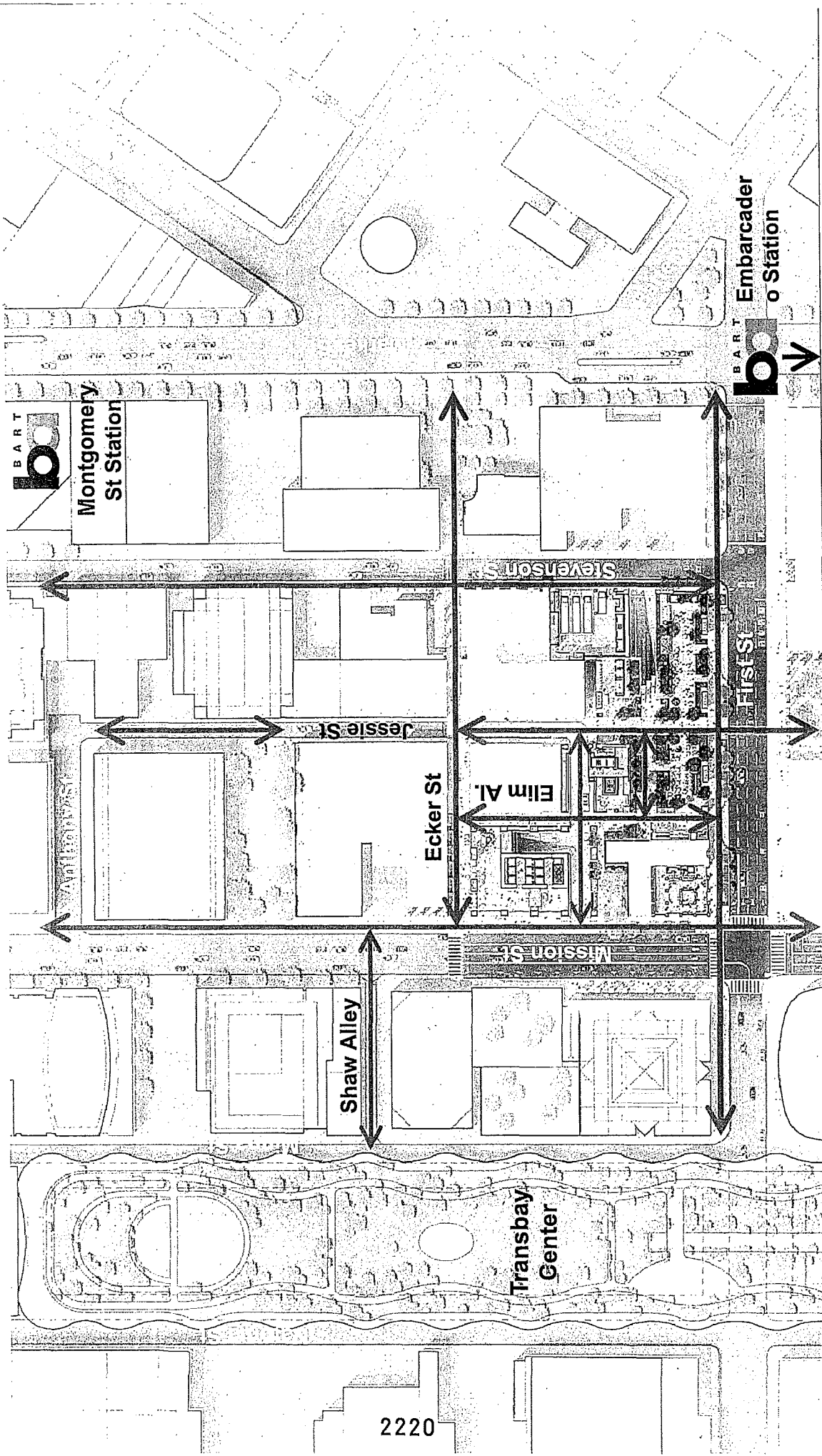


Ecker Street



Maiden Lane





Montgomery
St Station

Embarcader
o Station

Shaw Alley

Ecker St

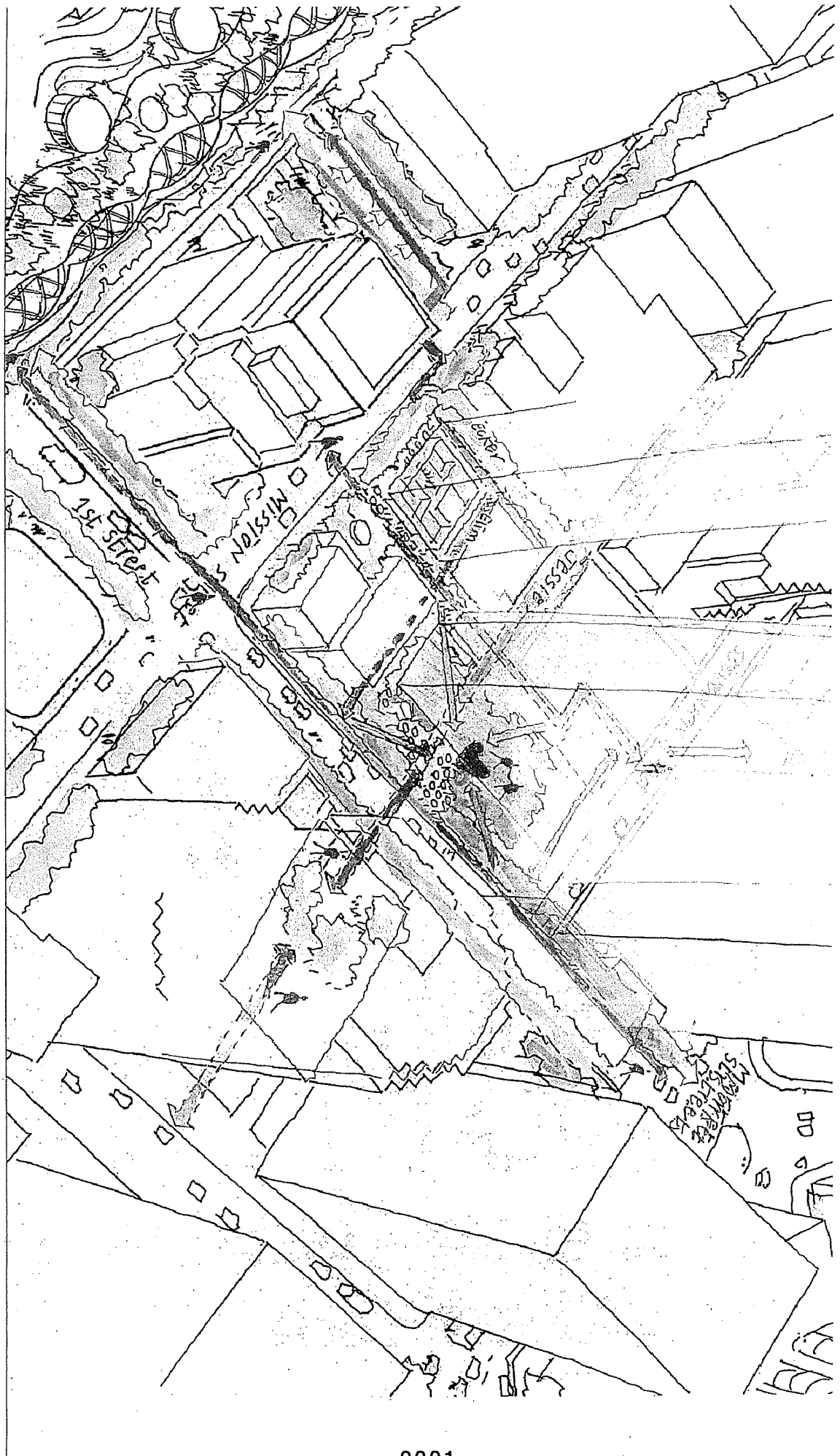
Elim Al.

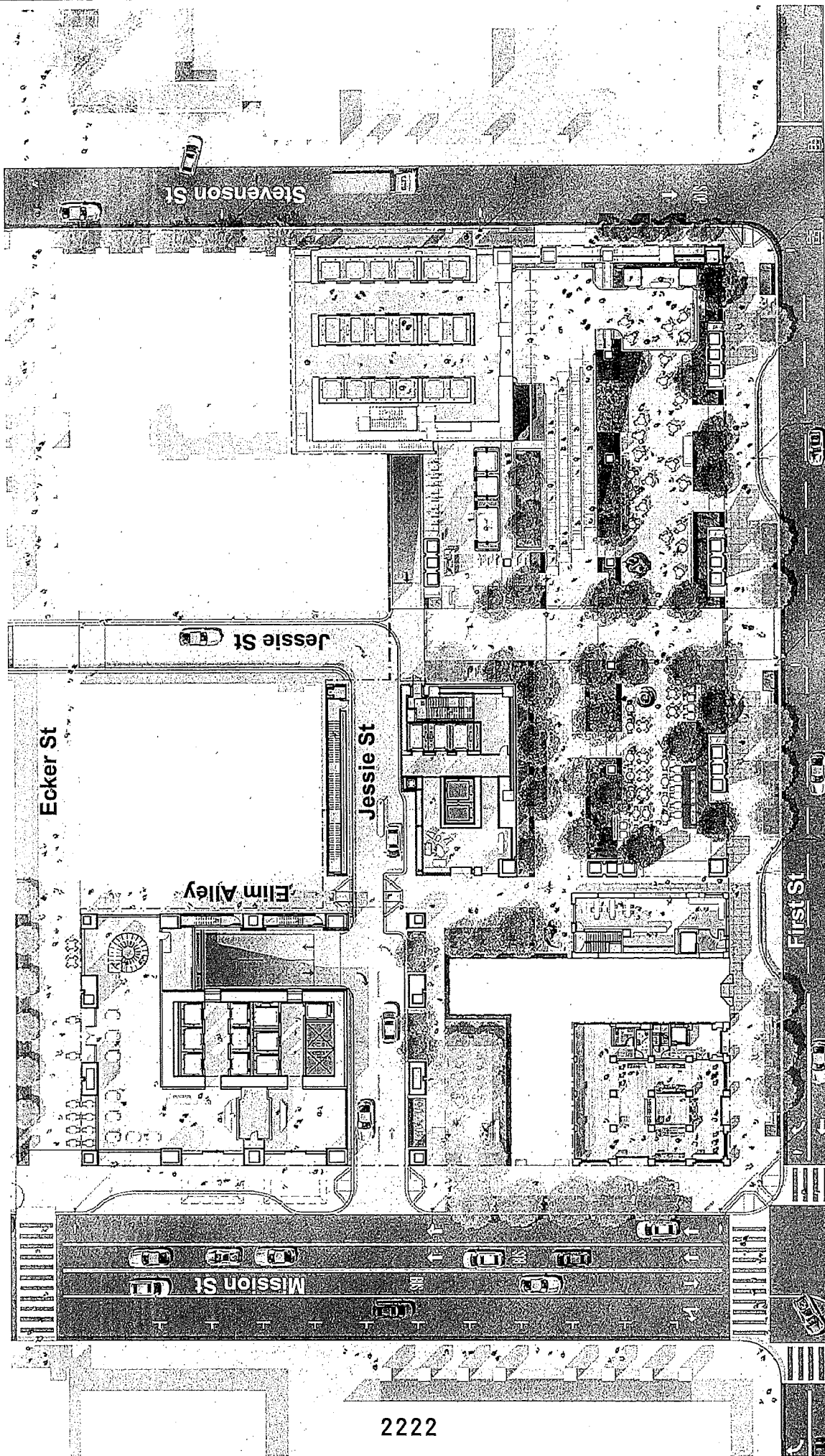
Jessie St

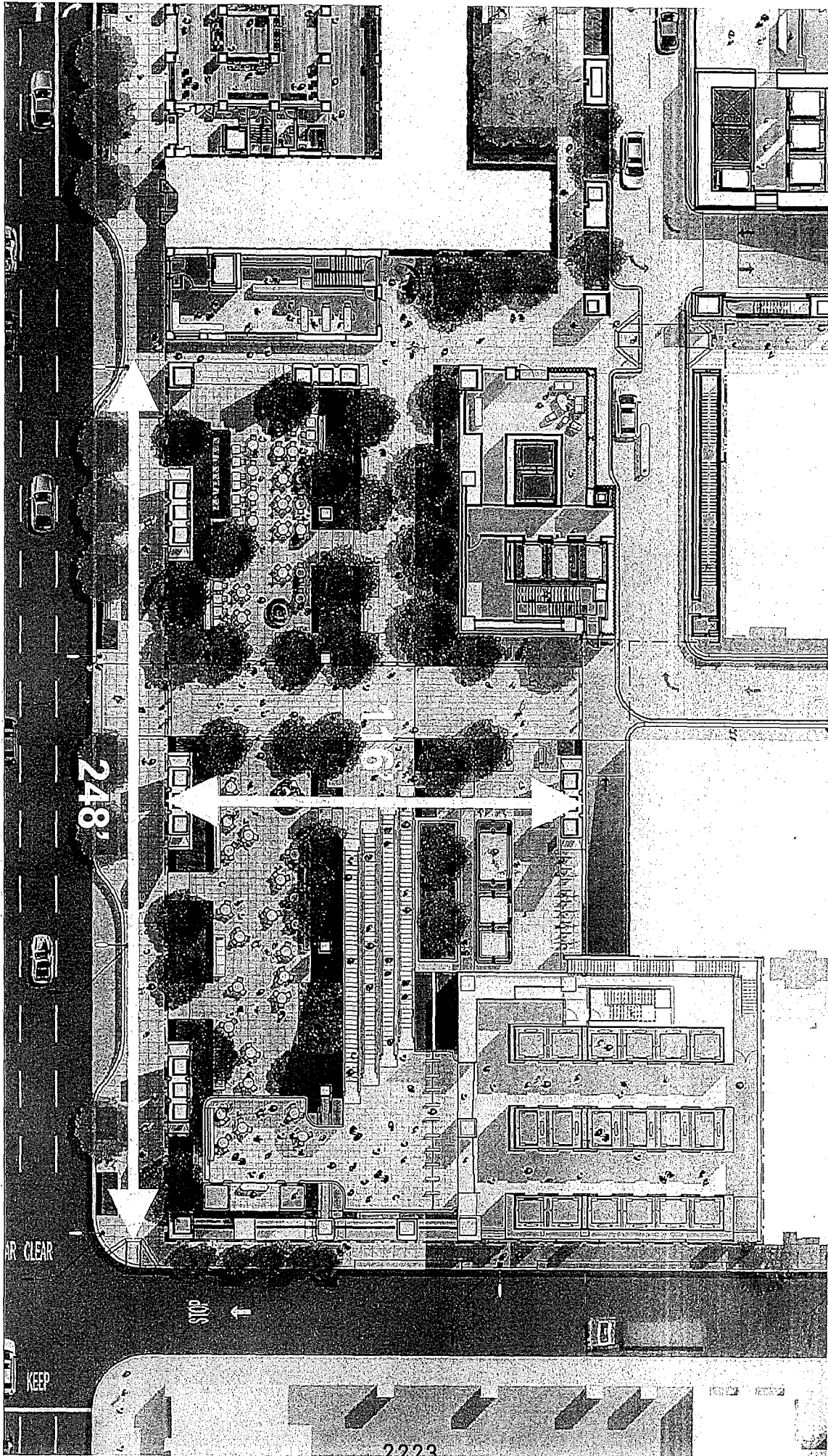
Stevenson St

Transbay
Center

2220





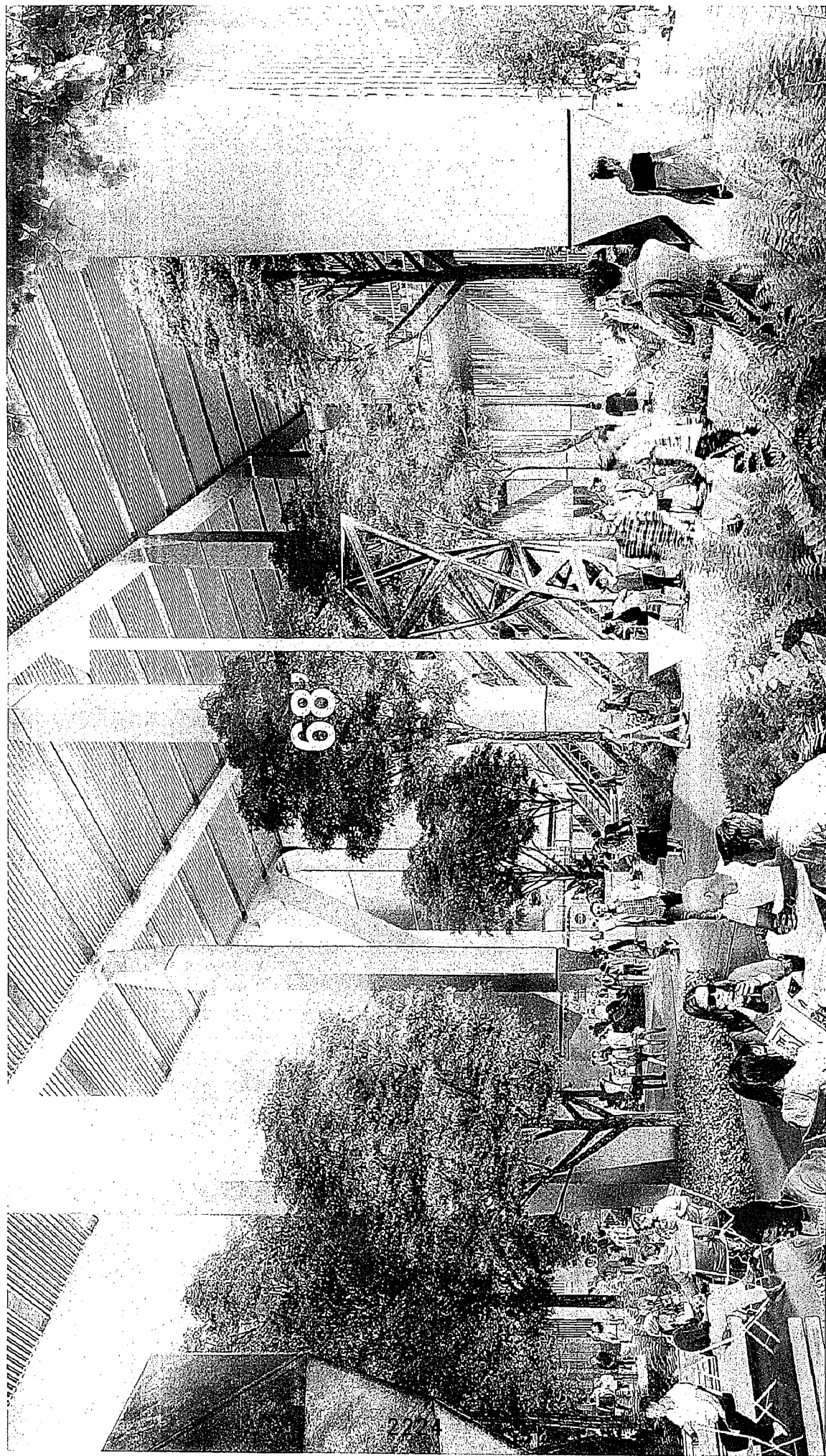


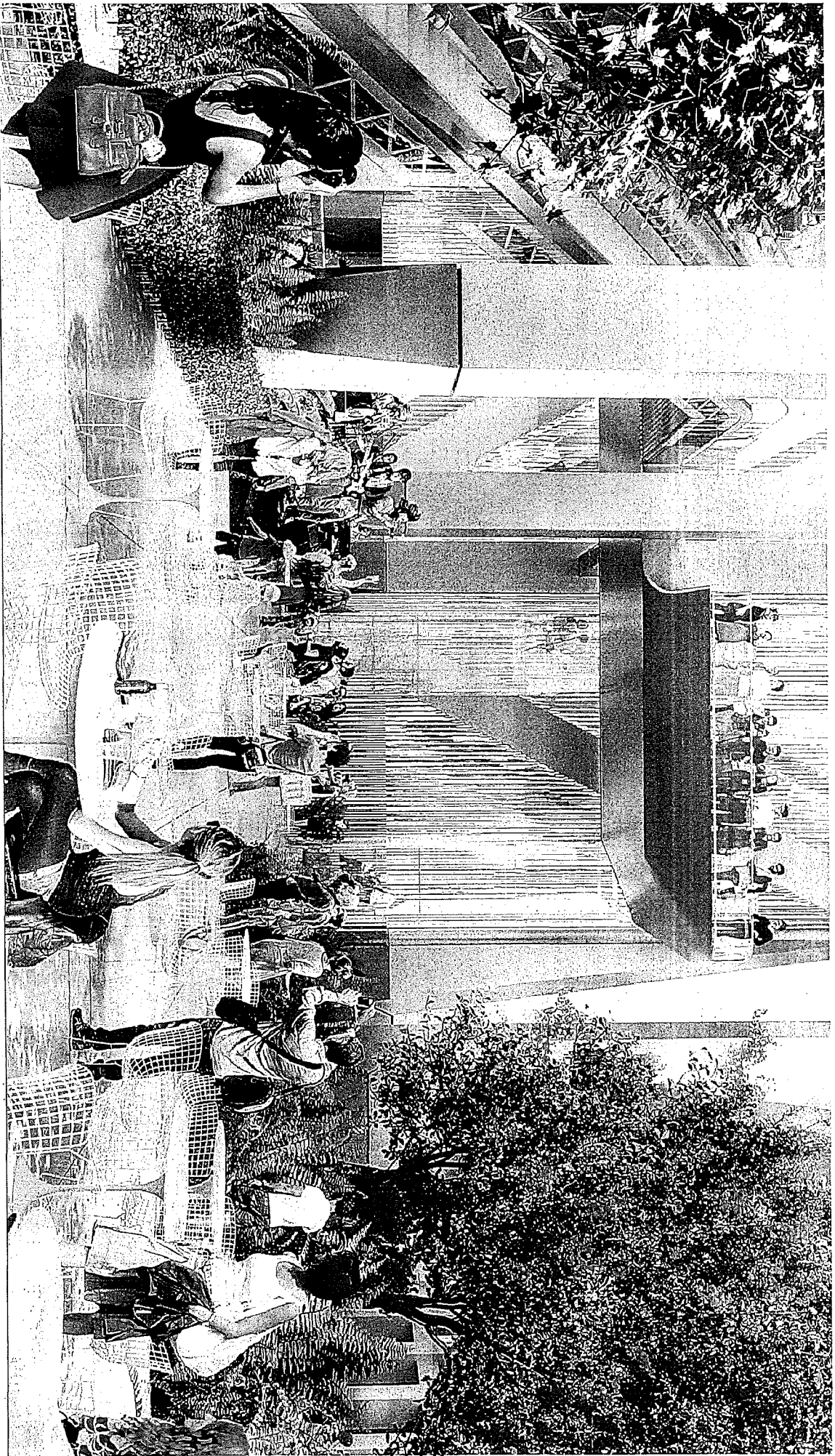
248'

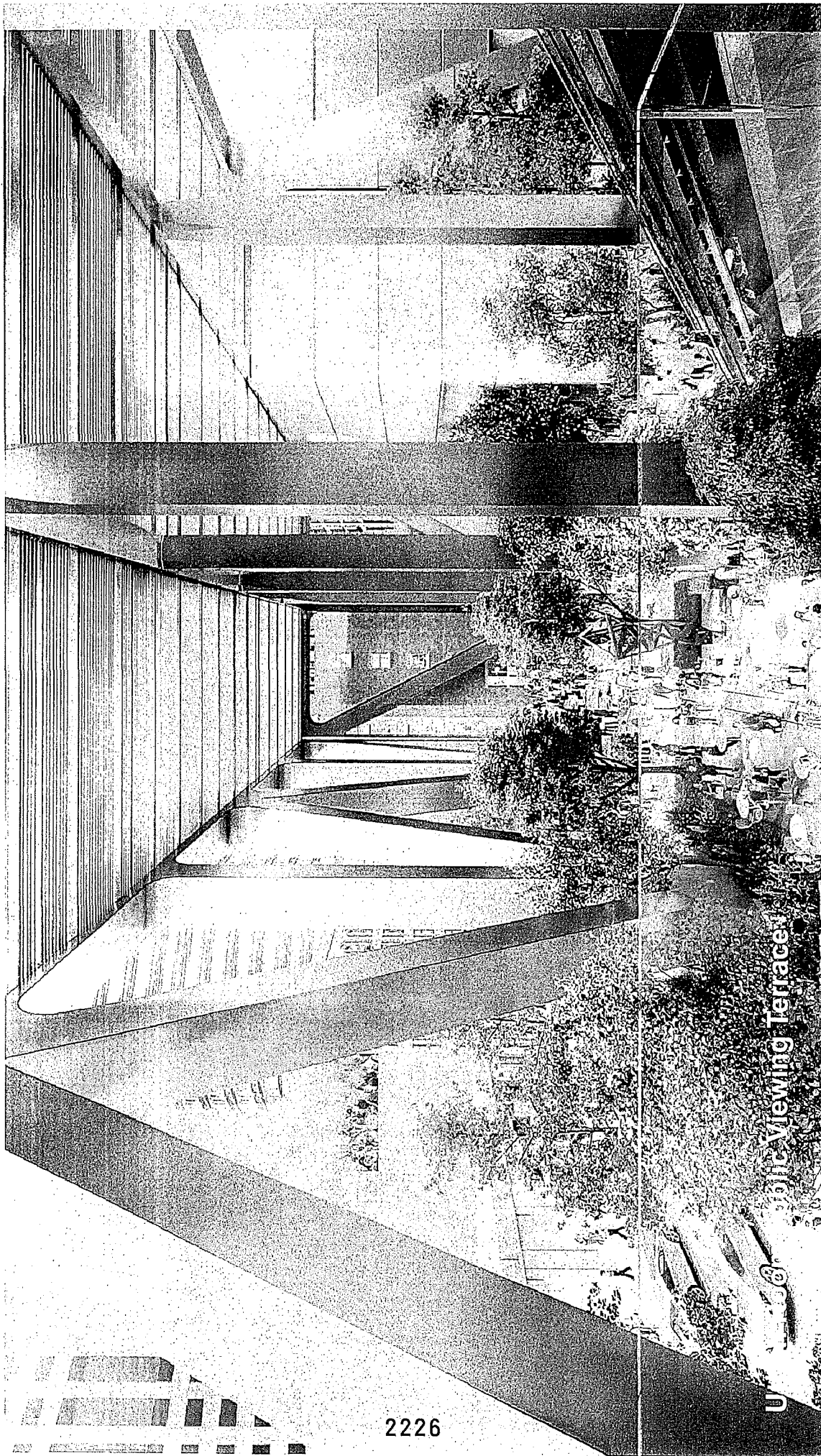
KEEP CLEAR

STOP

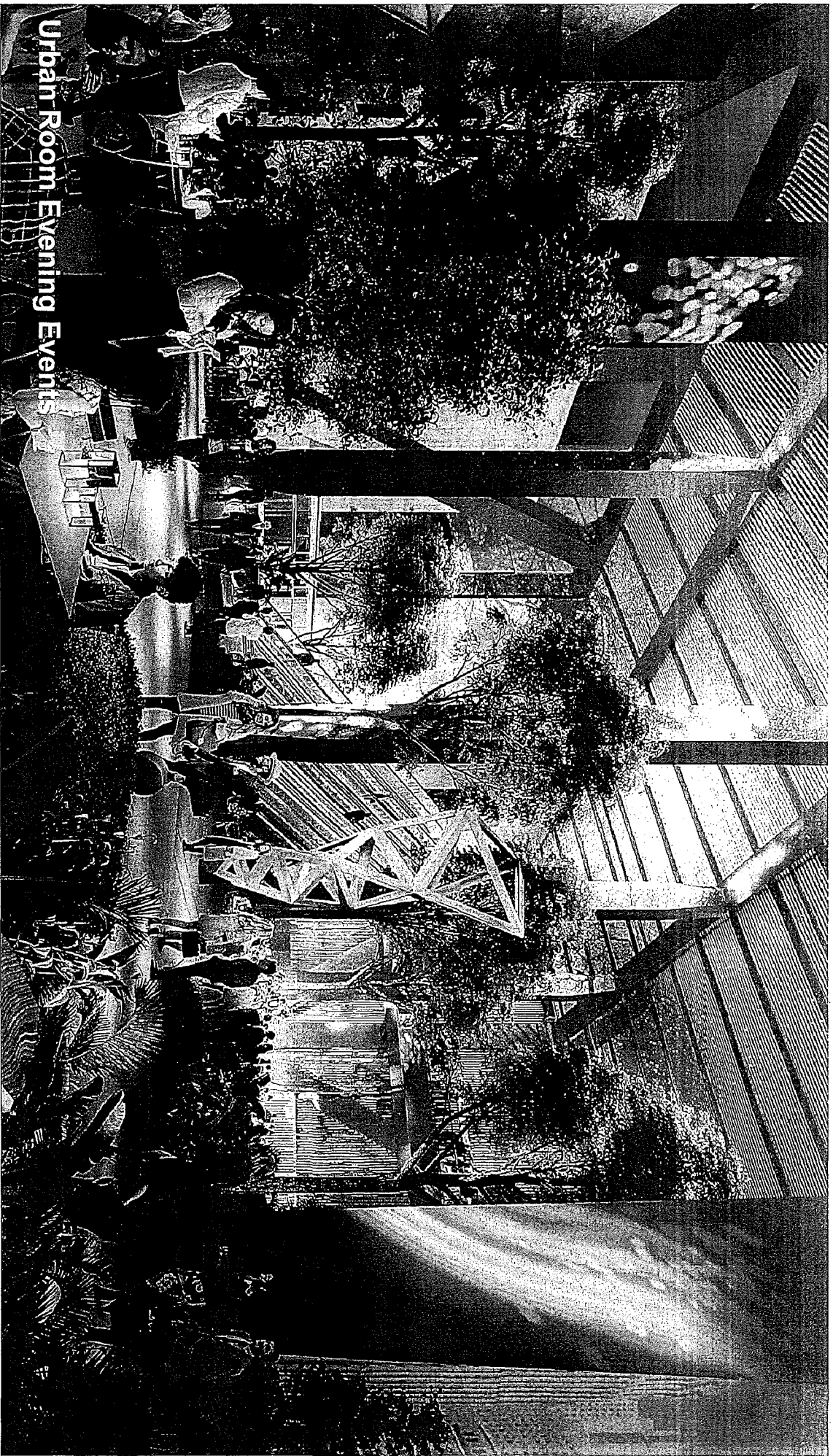
2223



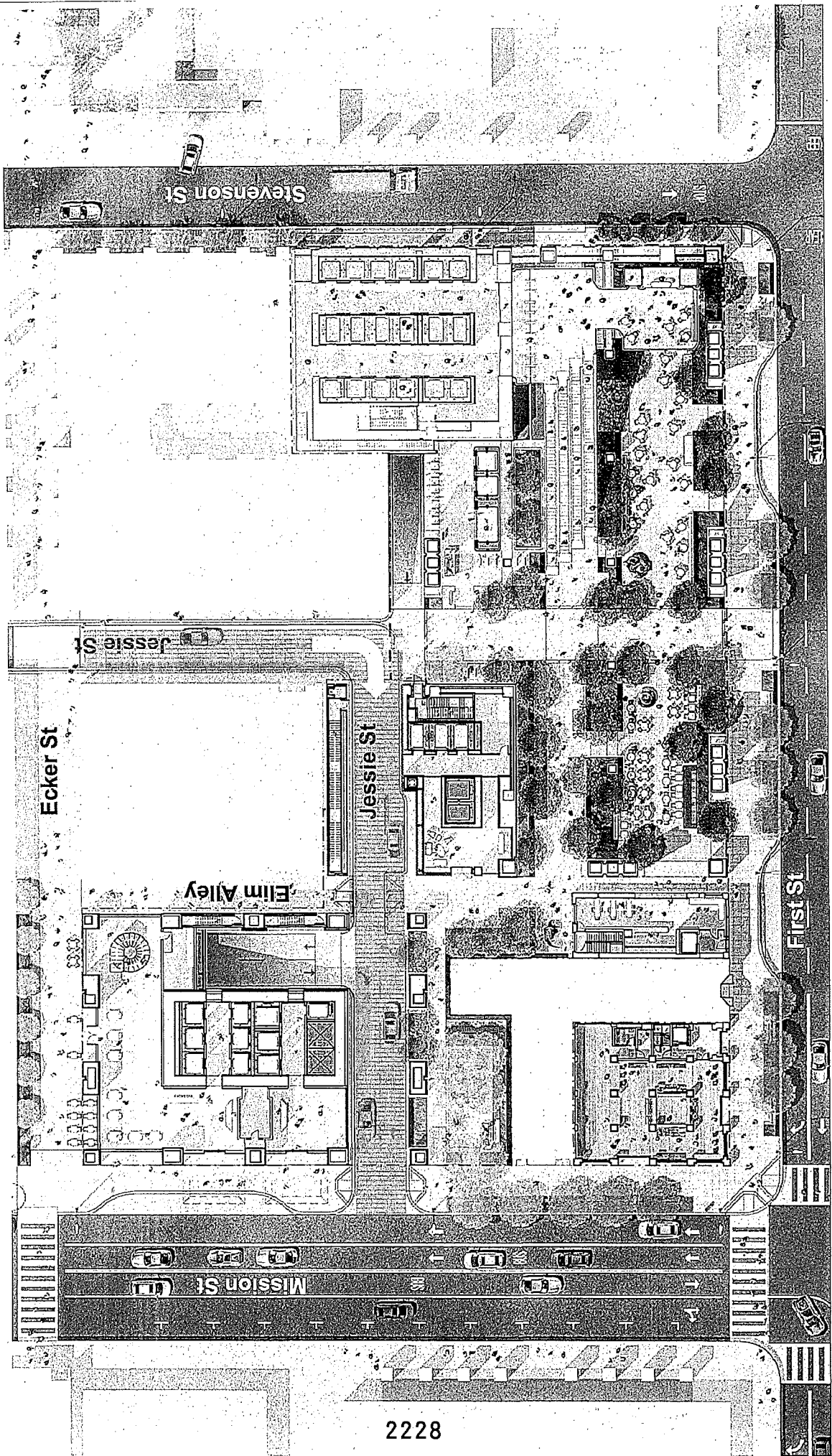




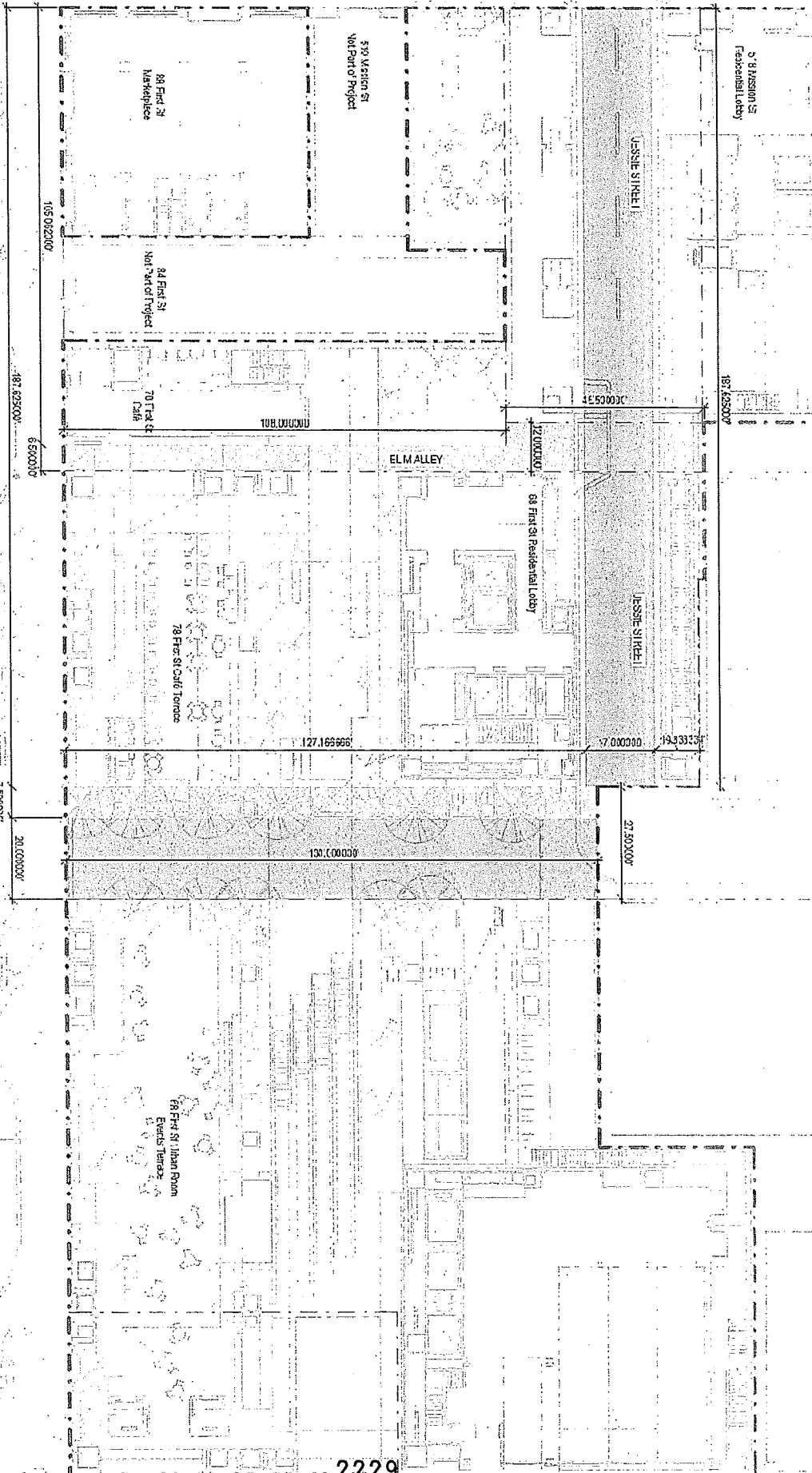
University of California, San Diego - Multi-Viewing Terrace



Urban Room Evening Events



FIRST STREET



BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Mohammed Nuru, Director, Public Works
John Rahaim, Director, Planning Department

FROM: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

DATE: April 27, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Lee on April 19, 2016.

File No. 160387

Resolution declaring the intention of the Board of Supervisors to order the vacation of a portion of Jessie Street and a portion of Elim Alley northwest of Mission and First Streets in connection with the Oceanwide Center Project at 50 First Street, subject to certain conditions; and setting a hearing date for all persons interested in the proposed vacation of said street areas.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: andrea.ausberry@sfgov.org

c:

Frank Lee, Public Works
Fuad Sweiss, Public Works
Aaron Starr, Acting Manager of Legislative Affairs
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

OFFICE OF THE MAYOR
SAN FRANCISCO



EDWIN M. LEE

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: *EW* Mayor Edwin M. Lee
RE: Resolution of Intent to Vacate Portions of Jessie Street and Elim Alley –
Oceanwide Project
DATE: April 19, 2016

Attached for introduction to the Board of Supervisors is a resolution declaring the intention of the Board of Supervisors to order the vacation of a portion of Jessie Street and a portion of Elim Alley northwest of Mission and First Streets in connection with the Oceanwide Center Project at 50 First Street, subject to certain conditions; and setting a hearing date for all persons interested in the proposed vacation of said street areas.

I respectfully request that this item be heard in Budget & Finance Committee on May 25, 2016.

Should you have any questions, please contact Nicole Elliott (415) 554-7940.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2016 APR 19 PM 3:59
BY *EW*