

BOARD of SUPERVISORS



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MEMORANDUM

TO: Mohammed Nuru, Director, Public Works

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

DATE: May 11, 2016

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, introduced by Mayor Lee on May 3, 2016.

File No. 160382

Ordinance amending the Administrative Code to establish the Downtown Neighborhoods Preservation Fund; vacating 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; approving and authorizing the sale and quitclaim of City's interest in the approximately 5,000 square foot vacation area for \$22,619,000 plus an additional payment to the aforementioned Fund of approximately \$13,000,000 for a total of approximately \$36,000,000; authorizing the City's Director of Property to execute an agreement for the sale of real estate for the vacated area by and between the City and Oceanwide Center, LLC; waiving approximately \$27,000,000 of affordable housing fees under Planning Code, Sections 413 et seq. and 415 et seq., and requiring Oceanwide Center, LLC, as part of the agreement for the sale of real estate, to pay the equivalent fee amount to the aforementioned Fund; approving a vehicular and pedestrian easement and an overland water flow easement over a portion of Assessor's Parcel Block No. 3708, Lot No. 012, where Jessie Street will be rerouted; approving an emergency vehicle access easement and commercial vehicle access easement; accepting the Public Works Order concerning the street vacations; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings that the street vacation and all other actions contemplated in this ordinance are consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; making findings of public necessity, convenience, and general welfare under Planning Code, Section 302; and authorizing actions in furtherance of this Ordinance, as defined herein.

The proposed ordinance is being transmitted, for Public Works Order Number determination. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

c:

Frank Lee, Public Works
Fuad Sweiss, Public Works

1 [Administrative Code - Establishing Downtown Neighborhoods Preservation Fund; Street
2 Vacation and Sale of Property at Jessie Street and Elim Alley - Oceanwide Center, LLC -
3 Oceanwide Center Project - Approximately \$36,000,000]

4 **Ordinance amending the Administrative Code to establish the Downtown**
5 **Neighborhoods Preservation Fund; vacating a portion of Jessie Street and a portion of**
6 **Elim Alley northwest of Mission and First Streets in connection with the Oceanwide**
7 **Center Project at 50 First Street; approving and authorizing the sale and quitclaim of**
8 **City's interest in the approximately 5,000 square foot vacation area for \$22,619,000 plus**
9 **an additional payment to the aforementioned Fund of approximately \$13,000,000 for a**
10 **total of approximately \$36,000,000; authorizing the City's Director of Property to**
11 **execute an agreement for the sale of real estate for the vacated area by and between**
12 **the City and Oceanwide Center, LLC; waiving approximately \$27,000,000 of affordable**
13 **housing fees under Planning Code, Sections 413 et seq. and 415 et seq., and requiring**
14 **Oceanwide Center, LLC, as part of the agreement for the sale of real estate, to pay the**
15 **equivalent fee amount to the aforementioned Fund; approving a vehicular and**
16 **pedestrian easement and an overland water flow easement over a portion of**
17 **Assessor's Parcel Block No. 3708, Lot No. 012, where Jessie Street will be rerouted;**
18 **approving an emergency vehicle access easement and commercial vehicle access**
19 **easement; accepting the Public Works Order concerning the street vacations; affirming**
20 **the Planning Department's determination under the California Environmental Quality**
21 **Act; adopting findings that the street vacation and all other actions contemplated in**
22 **this ordinance are consistent with the General Plan, and the eight priority policies of**
23 **Planning Code, Section 101.1; making findings of public necessity, convenience, and**
24 **general welfare under Planning Code, Section 302; and authorizing actions in**
25 **furtherance of this Ordinance, as defined herein.**

1 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
2 **Additions to Codes** are in *single-underline italics Times New Roman font*.
3 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
4 **Board amendment additions** are in double-underlined Arial font.

5 **Board amendment deletions** are in ~~strikethrough Arial font~~.
6 **Asterisks (* * * *)** indicate the omission of unchanged Code
7 subsections or parts of tables.

8
9 Be it ordained by the People of the City and County of San Francisco:

10 Section 1. Findings.

11 (a) On _____, 2016, the Board of Supervisors adopted Resolution No. _____ (the
12 “Resolution of Intention”), a copy of which is on file with the Clerk of the Board of Supervisors
13 in File No. _____, declaring the intention of the Board to vacate portions of Jessie
14 Street and Elim Alley located adjacent to a new mixed-use project on eight lots located at or
15 near the northwest corner of First and Mission Streets (the “Vacation Area”), defined further in
16 subsection (c).

17 (b) The location and extent of the Vacation Area is shown in Public Works SUR Map
18 No. 2016-002, dated April 18, 2016. A copy of this map is on file with the Clerk of the Board
19 of Supervisors in File No. _____ and is incorporated herein by reference.

20 (c) The City is the owner of the real property constituting the Vacation Area, known as
21 Jessie Street northwest of Mission and First Streets that is generally bounded by Assessor’s
22 Block No. 3708, Lot 055 to the north, and a portion of Assessor’s Block No. 3708, Lot 006 to
23 the south and Elim Alley northwest of Mission and First Streets and generally bounded by
24 Assessor’s Block No. 3708, Lot 006 to the north, and Assessor’s Block No. 3708, Lots 007
25 and 011 to the south.

1 (d) The Clerk of the Board of Supervisors published the Resolution of Intent in the
2 manner required by law and the Director of Public Works posted the Resolution of Intent in the
3 manner required by law.

4 (e) When such matter was considered as scheduled by the Board of Supervisors at its
5 regular meeting in the City Hall, San Francisco, on _____, 2016, the Board received
6 correspondence and testimony from all persons interested in the vacation of the Vacation
7 Area.

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

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

24 (h) Jessie Street is one-way street oriented east-west between Ecker Place and First
25 Street with a right-of-way width of 27.5 feet. The eastern portion of Jessie Street would be

1 vacated, and a 20-foot wide portion of the vacated area on Jessie Street, herein referred to as
2 the "Emergency Vehicle Access Easement Area," would be subject to the creation of an
3 emergency vehicle access easement, a reservation for commercial vehicle access, and the
4 acceptance of the offer from Oceanwide Center, LLC ("Buyer") to provide a declaration of
5 covenants and restrictions for public pedestrian access ("Public Access Declaration") therein.
6 At the easterly edge of the Jessie Street vacation area, Jessie Street will terminate and
7 vehicles will be directed to turn 90 degrees in a southerly direction toward Mission Street
8 along an approximately 20-foot wide right-of-way on and through the Project site to Mission
9 Street (the "City Easement Area"). The City Easement Area will provide a public vehicle and
10 pedestrian access easement from Jessie Street to Mission Street. It also will accommodate
11 overland or surface flow from the City's facilities on, over, or below Jessie Street in excess of
12 the 5-year storm capacity, subject to an overland flow easement. Copies of these easements
13 and the Public Access Declaration are on file with the Clerk of the Board of Supervisors in File
14 No. _____ and are incorporated herein by reference.

15 (i) Elim Alley extends 250 feet east-west between Ecker Place and First Street, having
16 a right-of-way width of 12 feet for a distance of approximately 142 feet moving east from
17 Ecker Place, then a width of 6.5 feet for the remaining approximately 108 feet before its
18 terminus at First Street. Elim Alley is an "unaccepted" street that the Board of Supervisors
19 has not accepted for City maintenance and liability purposes. The eastern portion of Elim
20 Alley will need to be vacated in order to construct the Project's urban room and the tower
21 fronting First Street. A portion of Elim Alley proposed for vacation also will be subject to the
22 Public Access Declaration for public pedestrian access.

23 (j) The Project obtained environmental clearance through the Transit Center District
24 Plan Final Environmental Impact Report ("FEIR") prepared in accordance with the California
25 Environmental Quality Act ("CEQA") (Public Resources Code sections 21000 et seq.) certified

1 by the Planning Commission in its Motion No. 18628, and affirmed by the Board of
2 Supervisors in Motion No. M12-78, and project-specific clearance through a Community Plan
3 Exemption, including mitigation measures (the "CPE"), prepared in accordance with CEQA
4 and issued by the Planning Department in Planning Case No. 2006.1523E. Copies of
5 Planning Commission Motion No. 18628 and Board Motion No. M12-78 are on file with the
6 Clerk of the Board of Supervisors in File No. 120697 and are incorporated herein by
7 reference. A copy of the CPE is on file with the Clerk of the Board in File No. _____
8 and is incorporated herein by reference. The Board of Supervisors affirms this CEQA
9 determination and the environmental findings related thereto.

10 (k) The Board further finds that no substantial changes are proposed to the Project or
11 the circumstances under which the Project is undertaken that will cause new significant
12 environmental effects or any increase in the severity of previously identified significant effects.
13 The Board further finds there is no new information of substantial importance showing that the
14 Project would have any significant effects not discussed in the FEIR or the CPE, that
15 significant effects would be substantially more severe, or that new or different mitigation
16 measures or alternatives would substantially reduce one or more significant effects of the
17 Project.

18 (l) On _____, 2016, the Planning Commission conducted a duly noticed
19 public hearing on the Project, including the proposed vacation and sale of the Vacation Area.
20 The Planning Commission, in Motion No. _____, found that the street vacations
21 related to the Project and the sale of the Vacation Area are, on balance, consistent with the
22 City's General Plan and the eight priority policies of Planning Code Section 101.1. As part of
23 these findings, the Planning Commission required the Buyer to provide a Public Access
24 Declaration over a segment of Jessie Street and Elim Alley proposed for vacation and
25 recommended that the Board accept this offer. A copy of the Planning Commission Motion is

1 on file with the Clerk of the Board of Supervisors in File No. _____ and is
2 incorporated herein by reference. The Board adopts the Planning Commission findings as its
3 own.

4 (m) On April 26, 2016, the Public Utilities Commission (“PUC”) conducted a duly
5 noticed public hearing on the proposed street vacations and the overland flow easement in
6 the City Easement Area. The PUC, in Resolution No. 16-0079, determined that the street
7 vacation, temporary utility easements during the Project’s construction phase, an overland
8 flow easement, and other actions related to the Project were acceptable and recommended
9 approval to the Board of Supervisors. A copy of the PUC Resolution is on file with the Clerk
10 of the Board of Supervisors in File No. _____.

11 (n) In Public Works Order No. 184851, dated May 2, 2016, the Director of Public
12 Works (the “PW Director”) determined: (1) the Vacation Area is unnecessary for the City's
13 present or prospective public street, sidewalk, and service easement purposes as all existing
14 physical public or private utilities located in the Vacation Area will be relocated to the
15 satisfaction of the City as part of the construction of the Project; and (2) with the exception of
16 those public easements noted in subsection (o) below, the public interest, convenience, and
17 necessity do not require any easements or other rights be reserved for any public or private
18 utility facilities that are in place in the Vacation Area and that any rights based upon any such
19 public or private utility facilities shall be extinguished automatically upon the effectiveness of
20 the vacation; (3) in accordance with California Streets and Highways Code Section 892, the
21 Vacation Area is unnecessary for a non-motorized transportation facility because alternative
22 facilities for the benefit of the public shall be provided in the rerouted segment of Jessie Street
23 and (4) it is a policy matter for the Board of Supervisors to quitclaim the City’s interest in the
24 Vacation Area to the Buyer. A copy of the PW Order is on file with the Clerk of the Board of
25 Supervisors in File No. _____ and is incorporated herein by reference.

1 (o) In addition, the PW Director determined that the public interest, convenience, and
2 necessity require that the City, as a condition of the vacation of the Vacation Area, obtain a
3 non-exclusive easement for emergency vehicle access and a commercial vehicle access
4 easement over a segment of Jessie Street proposed for vacation, a public vehicle and
5 pedestrian access easement over the rerouted segment of Jessie Street to provide for a
6 connection to Mission Street, and an overland flow easement for this same area. Further, the
7 PW Director finds that it is necessary to reserve temporary easements for street purposes in
8 the Vacation Area for the continued use of the public streets until City facilities have been
9 relocated or alternate facilities have been constructed and the City Engineer, after
10 consultation with all affected City departments, issues a notice of completion that the facilities
11 have been constructed according to City permits and the facilities are ready for their intended
12 use. The Board adopts the findings of the PW Director as its own.

13 (p) The street vacation actions are conducted under the general vacation procedures
14 of the Public Streets, Highways, and Service Easements Vacation Law (California Streets and
15 Highways Code, sections 8300 et seq.) and San Francisco Public Works Code section 787(a).

16 (q) Buyer and City have negotiated an agreement for the sale of real estate
17 (“Agreement”) for the Vacation Area, a copy of which is on file with the Clerk of the Board of
18 Supervisors in File No. _____ and incorporated herein by reference. The Agreement
19 provides for the transfer and quitclaim of the City’s interest in the Vacation Area to Buyer,
20 subject to the satisfaction of express conditions precedent, as more particularly described in
21 the Agreement. The Agreement, as recommended by the City’s Director of Property
22 (“Property Director”), sets forth the terms of the real estate transaction should the conditions,
23 including the adoption and enactment of the ordinance approving the street vacation, be
24 satisfied. The Property Director determined that the \$22,619,000.00 purchase price in the
25 Agreement is reasonable and represents fair market value for the Vacation Area to be

1 acquired by Buyer. The Agreement includes an additional approximately \$13 million payment
2 into the Downtown Neighborhoods Preservation Fund, a new fund created in this ordinance.
3 The Agreement also acts as a conduit to redirect a portion of Planning Code affordable
4 housing fees (approximately \$27 million) into this Fund. But for the payments into this Fund,
5 the Property Director and other City officials would not recommended approval of the
6 Agreement and the transactions contemplated therein.

7 (r) On _____, 2016, the Planning Commission conducted a duly noticed
8 public hearing on the ordinance, including the waiver of fee payment under Planning Code
9 Sections 413 et seq. and 415 et seq. The Planning Commission, in Motion No.
10 _____, found that the ordinance is, on balance, consistent with the City's General
11 Plan and the eight priority policies of Planning Code Section 101.1. A copy of the Planning
12 Commission Motion is on file with the Clerk of the Board of Supervisors in File No.
13 _____ and is incorporated herein by reference. The Board adopts the Planning
14 Commission findings as its own.

15 (s) Pursuant to Planning Code Section 302, this Board finds that the waiver of
16 Planning Code fees identified in this ordinance will serve the public necessity, convenience,
17 and general welfare for the reasons set forth in Planning Commission Motion No.
18 _____ and the Board incorporates such reasons herein by reference.

20 Section 2. Vacation and Conditions.

21 (a) With the exception of the reservation and creation of easements and/or other rights
22 in Section 3 below, the Board of Supervisors hereby vacates the Vacation Area, as shown on
23 SUR Map No. 2016-002, upon satisfaction of the conditions described in this ordinance and
24 pursuant to California Streets and Highways Code sections 8300 et seq. and San Francisco
25 Public Works Code section 787(a).

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

3 (c) The Board of Supervisors hereby finds that the public interest and convenience
4 require that the vacation be done as declared in this ordinance.

5 (d) The street vacation shall be effective as to all of the Vacation Area upon
6 simultaneous recording of the City's quitclaim deed in substantially the same form as the draft
7 quitclaim deed on file with the Clerk of the Board of Supervisors in File No. _____,
8 and in connection with the closing of the transaction contemplated in the Agreement.

9
10 Section 3. Conditions to the Street Vacation; Reservations and Easements. The
11 vacation of the Vacation Area is subject to the reservation and/or creation of the following
12 easements or other rights:

13 (a) A permanent, non-exclusive emergency vehicle access easement, providing
14 emergency vehicle access in, upon, over, and across a 20-foot wide portion of the Vacation
15 Area located on Jessie Street, also known herein as the Emergency Vehicle Access
16 Easement Area.

17 (b) A permanent, non-exclusive easement for commercial vehicle access in, upon,
18 over, and across the Emergency Vehicle Access Easement Area to allow commercial vehicles
19 to exit to 1st Street from the portion of Jessie Street that will remain a public street.

20 (c) A Public Access Declaration providing public pedestrian access, for the benefit of
21 the public, in, upon, over and across the Emergency Vehicle Access Easement Area, and for
22 a portion of Elim Alley that will be vacated.

23 (d) A public access easement providing vehicular and pedestrian access, for the
24 benefit of the public, in, upon, over, and across an approximately 20-foot wide and
25

1 approximately 3,600 square foot portion of Assessor's Block 3708, Lot 012, from the rerouted
2 Jessie Street to Mission Street, also known herein as the City Easement Area.

3 (e) A overland flow easement for the City Easement Area.

4 (f) Reservation of a temporary easement for street and utility purposes in the Vacation
5 Area for the continued use of the public streets until City facilities have been relocated or
6 alternate facilities have been constructed and the City Engineer, after consultation with all
7 affected City departments, issues a notice of completion that the facilities have been
8 constructed according to City permits and the facilities are ready for their intended use. In
9 addition, prior to the quitclaim of the City's interest in the Vacation Area, the Buyer shall
10 provide an irrevocable offer for all new public improvements and expressly assume in writing
11 the ownership of and responsibility for the abandoned City water and sewer facilities
12 remaining in the Vacation Area.

13 (g) Notwithstanding Subsections (a)-(f), no other easements or other rights are
14 reserved or created for any public utility facilities that are in place in the Vacation Area and
15 any rights based upon any such public utility facilities shall be extinguished upon the
16 effectiveness of the vacation hereunder.

17 (h) Copies of the easements, reservation, and Declaration identified in Subsections
18 (a)-(f), are on file with the Clerk of the Board of Supervisors in File No. _____ and
19 are incorporated herein by reference. The Board hereby approves and adopts such
20 easements, reservation, and Declaration in substantially the form on file with the Clerk subject
21 to the terms and conditions specified in the Agreement.

22
23 Section 4. The Administrative Code Chapter 10, Article XIII is hereby amended by
24 adding Section 10.100-64, to read as follows:

25 **SEC. 10.100-64. DOWNTOWN NEIGHBORHOODS PRESERVATION FUND.**

1 (a) Establishment of Fund. The Downtown Neighborhoods Preservation Fund is established
2 as a category four fund to receive fee revenue dedicated to affordable housing and other contributions
3 to the fund. The fund receives money from:

4 _____ (1) An approximately \$7 million portion of Planning Code Sections 413 et seq. (Jobs-
5 Housing Linkage Program) affordable housing fee payment that the Board of Supervisors waived for
6 the Oceanwide Center project at 50 First Street. This payment is addressed in an ordinance
7 concerning the street vacation of portions of Jessie Street and Elim Alley in connection with the
8 Oceanwide Center project, which is on file with the Clerk of the Board of Supervisors in File No.

9 _____.

10 _____ (2) An approximately \$20 million payment of Planning Code Sections 415 et seq.
11 (Inclusionary Housing Program) affordable housing fees that the Board of Supervisors waived for the
12 Oceanwide Center project at 50 First Street in an ordinance on file with the Clerk of the Board of
13 Supervisors in File No. _____.

14 _____ (3) An approximately \$13 million payment that is included in a purchase and sale
15 agreement between the City and Oceanwide Development, LLC for the sale of City property associated
16 with the street vacation of portions of Jessie Street and Elim Alley as set forth in the ordinance
17 identified in subsections (a)(1) and (a)(2). The combination of the payment under subsection (a)(2) and
18 (3) is the equivalent payment of an affordable housing percentage fee of 33% under Planning Code
19 Sections 415 et seq.

20 _____ (4) Repayments of loans and other program income associated with investments
21 initially made with monies from the fund.

22 (b) Use of Fund. The fund is to be used exclusively by the Mayor's Office of Housing and
23 Community Development (MOHCD), or its successor, for the purpose of supporting affordable housing
24 as specified in this subsection (b). Within the fund, all fees, repayments, and program income shall be
25 separately accounted for in accordance with the uses set forth below in subsections (b)(1)-(4).

1 (1) The equivalent of the fee amount that the Board of Supervisors waived pursuant to
2 Planning Code Sections 413 et seq. and as identified in subsection (a)(1) will be dedicated for the
3 construction of new affordable housing and/or acquisition and/or rehabilitation of existing housing
4 within a one mile radius of 50 First Street.

5 (2) The equivalent of the fee amount that the Board of Supervisors waived pursuant to
6 Planning Code Sections 415 et seq. and as identified in subsection (a)(2) will be dedicated to the
7 acquisition and/or rehabilitation of existing housing within a one mile radius of 50 First Street.

8 (3) The fee payment specified in subsection (a)(3) will be dedicated to the same purpose
9 identified in subsection (b)(2).

10 (c) Exceptions to Fund Category. The Director of MOHCD shall approve all expenditures
11 from the fund.

12 (d) Administration of Fund. The MOHCD shall administer the fund and shall report annually
13 to the Board of Supervisors on the current status of the fund, the amounts approved for disbursement,
14 and the number and types of housing units or households assisted. The MOHCD shall have the
15 authority to prescribe rules and regulations governing the fund. Any unexpended funds remaining after
16 10 years from the effective date of the ordinance identified in subsections (a)(1) and (a)(2) shall be
17 deposited into the Citywide Affordable Housing Fund as established in Administrative Code Section
18 10.100-49 or its successor fund.

19
20 Section 5. Planning Code Fee Waiver.

21 Notwithstanding the fee payment requirements of Planning Code Sections 413 et seq.
22 (Jobs-Housing Linkage Program) and 415 et seq. (Inclusionary Housing Program), the fee
23 payments for the Oceanwide Center project at 50 First Street are hereby waived in the
24 following amounts: (a) as to Planning Code Sections 413 et seq., a \$7 million portion of the
25 fee is waived and (b) as to Planning Code Sections 415 et seq. the entire fee is waived. In

1 lieu of paying said fees, the project sponsor shall pay the fees directly to the Downtown
2 Neighborhoods Preservation Fund as established in Administrative Code Section 10.100-64
3 and as provided in the Agreement identified in Section 6 of this ordinance. Said fees shall be
4 paid at the same time fees are paid in accordance with Planning Code Sections 413 et seq.
5 and 415 et seq.

6
7 Section 6. Real Property Transaction.

8 (a) The Board of Supervisors hereby approves the execution, delivery, and
9 performance of the Agreement with a purchase price of \$22,619,000.00 for the Vacation Area,
10 and authorizes the Property Director and Director of the Mayor's Office of Housing and
11 Community Development ("MOHCD") to execute the Agreement, in substantially the form of
12 Agreement referenced herein, on behalf of the City, and any such other documents that are
13 necessary or advisable to complete the transaction contemplated by the Agreement and
14 effectuate the purpose and intent of this ordinance. This Agreement also includes the
15 payment of approximately \$13 million into the Downtown Neighborhoods Preservation Fund
16 ("Fund") as established in Administrative Code Section 10.100-64. This \$13 million payment
17 in combination with the fee amount that the Board waived under Planning Code Sections 415
18 et seq. (Inclusionary Housing Program) and, in furtherance of Section 5 of this ordinance,
19 redirected into the Fund, is the equivalent payment of an affordable housing percentage fee of
20 33% under Planning Code Sections 415 et seq. The approximately \$7 million fee amount that
21 the Board waived under Planning Code Sections 413 et seq. (Jobs-Housing Linkage
22 Program) and, in furtherance of Section 5 of this ordinance, redirected into the Fund, also is
23 addressed in this Agreement. But for the payments into this Fund described in this subsection
24 (a), the Board of Supervisors would not approve the Agreement and the transactions
25 contemplated therein.

1 (b) The Board of Supervisors hereby authorizes the Property Director and MOHCD
2 Director to enter into any amendments or modifications to the Agreement (including, without
3 limitation, the attached Declaration and exhibits) and the public easements and reservations
4 identified in Section 3 that the Property Director, in consultation with the City Attorney, the
5 MOHCD Director, PW Director, the San Francisco Municipal Transportation Agency's Director
6 of Transportation (the "Director of Transportation"), and the PUC General Manager, deems to
7 be in the best interest of the City, and which do not otherwise materially increase the
8 obligations or liabilities of the City, are necessary or advisable to effectuate the purposes of
9 the Agreement, and are in compliance with all applicable laws, including the City's Charter.

10 (c) The Property Director also is authorized to issue a quit claim deed of the City's
11 interest in the Vacation Area to the Buyer in substantially the same form as on file with the
12 Clerk of the Board of Supervisors in connection with closing the transaction contemplated in
13 the Agreement, and to take any and all steps (including, but not limited to, the execution and
14 delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing
15 documents and other instruments or documents) as the Property Director deems necessary or
16 appropriate to consummate the conveyance of the Vacation Area pursuant to the Agreement,
17 or to otherwise effectuate the purpose and intent of this ordinance.

18
19 Section 7. Delegation to Public Works of Acceptance of Future Public Improvements.

20 (a) Findings. The Board of Supervisors determines that it would be efficient to delegate
21 to the Director of PW the authority, upon completion of the future public improvements related
22 to the public easements and the satisfaction of other conditions, to adopt any related official
23 PW maps, dedicate the improvements to public use, and accept the improvements for City
24 maintenance and liability purposes, subject to the maintenance responsibility of fronting
25

1 property owners pursuant to the Public Works Code, including, but not limited to, Public
2 Works Code Section 706 and any encroachment permit(s) associated with the Project.

3 (b) Approval of the Delegation to the PW Director of Certain Authority in Regard to
4 Required Public Improvements. The Board of Supervisors hereby delegates to the PW
5 Director the authority, upon completion of the future public improvements associated with the
6 Project and certification from the City Engineer that the improvements are ready for their
7 intended use, to adopt any related official PW maps, dedicate the improvements to public use,
8 and accept an irrevocable offer for the improvements, subject to the maintenance
9 responsibility of the Buyer or his or her successor(s) pursuant to the Public Works Code and
10 any associated encroachment permit(s).

11
12 Section 8. The Board of Supervisors hereby directs the Clerk of the Board of
13 Supervisors to transmit to the PW Director a certified copy of this ordinance, and the Board
14 hereby directs the PW Director to record this ordinance together with any other documents
15 necessary to effectuate this ordinance and proceed in the manner required by law.

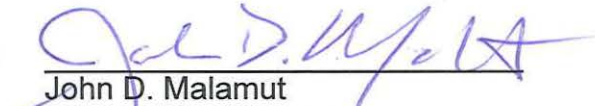
16
17 Section 9. The Mayor, Clerk of the Board, Property Director, PW Director, Director of
18 Transportation, and General Manager of the PUC are hereby authorized and directed to take
19 any and all actions which they or the City Attorney may deem necessary or advisable in order
20 to effectuate the purpose and intent of this ordinance (including, without limitation, the filing of
21 the ordinance in the Official Records of the City and County of San Francisco; confirmation of
22 satisfaction of the conditions to the effectiveness of the vacation of the Vacation Area
23 hereunder; and execution and delivery of any evidence of the same, which shall be conclusive
24 as to the satisfaction of the conditions upon signature by any such City official or his or her
25 designee).

1 Section 10. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 Section 11. Scope of Ordinance. In enacting this ordinance, the Board intends to
7 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
8 punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that
9 are explicitly shown in this ordinance as additions, deletions, Board amendment additions,
10 and Board amendment deletions in accordance with the "Note" that appears under the official
11 title of the ordinance.

12
13
14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By:


18 John D. Malamut
19 Deputy City Attorney

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