

1 [Street Vacation - Resolution of Intention - Transbay Transit Center]

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3 **Resolution declaring the intention of the Board of Supervisors to vacate portions of the**
4 **public right-of-way below and/or above Natoma Street, Minna Street, First Street,**
5 **Fremont Street, Beale Street, Harrison Street, Folsom Street, Clementina Street,**
6 **Tehama Street, Howard Street, Second Street, and Oscar Alley within the Transit Center**
7 **Project area; and setting the hearing date for all persons interested in the proposed**
8 **vacation of said public right-of-way areas and public service easements.**

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10 WHEREAS, This vacation proceeding for portions of the public right-of-way below
11 and/or above Natoma Street, Minna Street, First Street, Fremont Street, Beale Street,
12 Harrison Street, Folsom Street, Clementina Street, Tehama Street, Howard Street, Second
13 Street, and Oscar Alley within the Transit Center Project area (collectively, the "Vacation
14 Area"), is conducted under the general vacation procedures of the Public Streets, Highways
15 and Service Easements Vacation Law (California Streets and Highways Code Sections 8300
16 et seq.); and

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

21 WHEREAS, The location and extent of the Vacation Area is more particularly described
22 on the Department of Public Works' draft SUR Map Nos. 6009, 7009, and 8009, dated
23 _____, 2010, copies of which are on file with the Clerk of the Board of
24 Supervisors in File No. _____ and incorporated herein by reference; and

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1 WHEREAS, The vacation of the Vacation Area is necessary for the Transbay Joint
2 Powers Authority ("TJPA") to construct the Transbay Transit Center and associated bus
3 ramps; and

4 WHEREAS, On June 15, 2004, this Board approved Motion No. M04-67 affirming the
5 Planning Commission's certification of the final environmental impact report for the Transbay
6 Terminal/Caltrain Downtown Extension/Redevelopment Project in compliance with the
7 California Environmental Quality Act ("CEQA") (California Public Resources Code sections
8 21000 et seq.) A copy of said Motion is on file with the Clerk of the Board of Supervisors in
9 File No. _____ and is incorporated herein by reference; and

10 WHEREAS, The Board of Supervisors in Resolution No. 612-04, adopted
11 environmental findings in relation to the Transbay Terminal, Caltrain Downtown Extension,
12 and Transbay Redevelopment Plan. Copies of said Resolution and supporting materials are
13 in the Clerk of the Board of Supervisors File No. 041079. The Board of Supervisors in
14 Ordinance No. 124-05, as part of its adoption of the Transbay Redevelopment Plan, adopted
15 additional environmental findings. Copies of said Ordinance and supporting materials are in
16 the Clerk of the Board of Supervisors File No. 050184. Said Resolution and Ordinance and
17 supporting materials are incorporated by reference herein for the purposes of this Ordinance;
18 and

19 WHEREAS, On April 9, 2009, the TJPA approved Resolution No. 09-019, adopting the
20 Fifth Addendum to the Transbay Terminal/Caltrain Downtown Extension/Redevelopment
21 Project FEIS/EIR finding that the proposed vacation of the Vacation Area will not trigger the
22 need for subsequent environmental review pursuant to California Public Resources Code
23 section 21166 and sections 15162 and 15163 of the CEQA Guidelines. A copy of this
24 Resolution is on file with the Clerk of the Board of Supervisors in File No. _____ and
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1 is incorporated by reference as though fully set forth herein. The Board of Supervisors adopts
2 as its own said findings pursuant to CEQA; and

3 WHEREAS, On August 5, 2010, the Planning Commission adopted Motion No. 18159,
4 making findings of consistency with the General Plan and the eight priority policies of Planning
5 Code Section 101.1 for the actions contemplated herein. A copy of this Motion is on file with
6 the Clerk of the Board of Supervisors in File No. _____ and is incorporated by
7 reference as though fully set forth herein. The Board of Supervisors adopts as its own said
8 consistency findings; and

9 WHEREAS, In DPW Order No. _____, dated _____,
10 2011, the Director of the Department of Public Works ("DPW Director") determined: (i) the
11 Vacation Area is unnecessary for the City's present or prospective public street, sidewalk, and
12 service easement purposes; (ii) conveyance of the Vacation Area to the TJPA for a sales
13 price of \$1.00 will further a proper public purpose, including, but not limited to, promoting and
14 facilitating the use of public transportation, as confirmed by the Director of the Real Estate
15 Division; (iii) there are no physical public or private utilities affected by the vacation of the
16 Vacation Area except as stated below; (iv) the TJPA, with oversight from the Department of
17 Public Works, is collaborating with utility agencies and other parties for the relocation of these
18 utilities; and (v) the vacation is subject to retention of certain time-limited rights for public and
19 private utilities as described further herein. A copy of the DPW Order is on file with the Clerk
20 of the Board of Supervisors in File No. _____ and is incorporated herein by
21 reference; and

22 WHEREAS, The DPW Director further recommends that: (1) the public interest,
23 convenience and necessity require that the City reserve and except from the vacation non-
24 exclusive easements for the benefit of those in-place and functioning utilities, including City
25 utilities, PG&E, IPN, AT&T, AT&T Legacy T, Verizon, TCG, Qwest, Comcast, Level 3, and

1 AboveNet facilities utilities and facilities, that are currently located within the Vacation Area, to
2 the extent necessary to maintain, operate, repair and remove existing lines of pipe, conduits,
3 cables, wires, poles, and other convenient structures, equipment and fixtures for the operation
4 of said utilities, together with reasonable access to the foregoing utilities and facilities for the
5 purposes set forth above; (2) reservation stated herein should be time-limited because said
6 utilities are to be relocated from these easement locations; (3) the TJPA should be
7 responsible for relocating the City utilities and facilities. PG&E, IPN, AT&T, AT&T Legacy T,
8 Verizon, TCG, Qwest, Comcast, Level 3, and AboveNet should be responsible for relocating
9 their own utilities and facilities; (4) reserved easements for the City utilities should expire when
10 the TJPA relocates the utility to the satisfaction of the City; and (6) reserved easements for
11 PG&E, IPN, AT&T, AT&T Legacy T, Verizon, TCG, Qwest, Comcast, Level 3, and AboveNet
12 should expire at the time the Department of Public Works grants to the TJPA a general
13 excavation permit to undertake pre-trench work at the location of the subject reserved
14 easement(s); and

15 WHEREAS, As part of this vacation action, the City recognizes that private
16 encroachments permitted by the Department of Public Works, other than utilities covered in
17 the paragraph above, may exist within the Vacation Area. To the extent that such
18 encroachments are incompatible with the Transbay Program, the DPW Director recommends
19 that the City should: (1) take the necessary steps, consistent with the law, to revoke
20 permission for those encroachments and (2) reserve and except from the vacation any private
21 encroachment rights that have been validly permitted by the Department of Public Works as of
22 the date of the accompanying Street Vacation Ordinance, until such permission is revoked by
23 the City; and

24 WHEREAS, The DPW Director also recommends that the public interest, convenience,
25 and necessity require that, except as specifically provided above, no other easements or other

1 rights should be reserved for any public or private utilities or facilities that are in place in such
2 Vacation Area and that any rights based upon any such public or private utilities or facilities
3 should be extinguished; and

4 WHEREAS, The DPW Director also recommends that the vacation of the Vacation
5 Area should be conditioned upon the following restrictions: (i) that the property can be used
6 only for the Transbay Transit Center or related bus ramps and rail extensions; (ii) the property
7 cannot be conveyed to another party for another use, provided, however, that the TJPA may
8 convey the property to another governmental entity if the transferee would own and operate
9 the Transit Center or related bus ramps and rail extensions; and (iii) if the TJPA abandons the
10 use, or never completes construction of any portion of the Transit Center or its bus ramps, the
11 associated vacated areas will automatically revert back to the City and County of San
12 Francisco in fee simple; and (iv) that the TJPA shall retain 6 to 11 feet of public right-of-way
13 width (depending on location) vacated on First and Fremont Streets as public sidewalk expect
14 for limited areas around the base of the Transit Center basket columns where small barriers
15 will be installed to protect pedestrians and the columns; and

16 WHEREAS, Subject to the conditions specified in this Resolution, none of the Vacation
17 Area is necessary for present or prospective public use; and

18 WHEREAS, Pursuant to the Streets and Highways Code Section 892, the DPW
19 Director also finds that the Vacation Area is inaccessible to non-motorized transportation, and
20 therefore has no use for a non-motorized transportation facility; now, therefore, be it

21 RESOLVED, That under California Streets and Highway Code Sections 8320 et seq.,
22 the Board of Supervisors hereby declares that it intends to order the vacation of the Vacation
23 Area, as shown on draft SUR Map Nos. 6009, 7009, and 8009, and adopt the
24 recommendations of the DPW Director; and, be it

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1 FURTHER RESOLVED, That notice is hereby given that on the _____ day of
2 _____, 2011, beginning at approximately _____ P.M. in the Legislative
3 Chambers of the Board of Supervisors, all persons interested in or objecting to the proposed
4 vacation will be heard; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board
6 to transmit to the Department of Public Works a certified copy of this Resolution, and the
7 Board of Supervisors urges the Director of Public Works to publish and post this Resolution
8 promptly in the manner required by law and to give notice of the hearing of such contemplated
9 action in the manner required by law.

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