

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

2

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 March 1, 2011 at 3:00 p.m. for all persons**  
8 **interested in the proposed vacation of said public right-of-way areas and public service**  
9 **easements.**

10

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

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

22 WHEREAS, The location and extent of the Vacation Area is more particularly described  
23 on the Department of Public Works' draft SUR Map Nos. 6009, 7009, and 8009, dated  
24 December 17, 2010, copies of which are on file with the Clerk of the Board of Supervisors in  
25 File No. 110017 and incorporated herein by reference; and

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. 040629 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. 110017 and is  
25

1 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. 110017 and is incorporated by reference as  
7 though fully set forth herein. The Board of Supervisors adopts as its own said consistency  
8 findings; and

9 WHEREAS, In DPW Order No. 179,054, dated January 7, 2011, the Director of the  
10 Department of Public Works ("DPW Director") determined: (i) the Vacation Area is  
11 unnecessary for the City's present or prospective public street, sidewalk, and service  
12 easement purposes; (ii) conveyance of the Vacation Area to the TJPA for a sales price of  
13 \$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. 110017 and is incorporated herein by reference; and

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

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

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

23 WHEREAS, The DPW Director also recommends that the public interest, convenience,  
24 and necessity require that, except as specifically provided above, no other easements or other  
25 rights should be reserved for any public or private utilities or facilities that are in place in such

1 Vacation Area and that any rights based upon any such public or private utilities or facilities  
2 should be extinguished; and

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

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

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

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

24  
25

1           FURTHER RESOLVED, That notice is hereby given that on the 1st day of  
2   March, 2011, beginning at approximately 3:00 P.M. in the Legislative Chambers of the Board  
3   of Supervisors, all persons interested in or objecting to the proposed vacation will be heard;  
4   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.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25