

[Street Vacation - Portion of Airspace over Natoma Street between First and Second Streets]

Ordinance ordering the summary street vacation of a portion of the airspace above Natoma Street between First and Second Streets and adjacent to the Transbay Transit Center; waiving application of Administrative Code, Chapter 23 to the conveyance of the street vacation area; finding the street vacation area is not necessary for City's use and is exempt surplus property under the California Surplus Land Act, California Government Code, Sections 54220 et seq.; quitclaiming the City's interest in the street vacation area to the Transbay Joint Powers Authority; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of the Planning Code, Section 101.1.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Background and General Findings.

(a) The Transbay Transit Center is located between Beale, Mission, Second, and Howard Streets in San Francisco's South of Market neighborhood. In addition to providing access to multiple modes of transportation, retail, entertainment, and cultural spaces, the Transbay Transit Center features a public 5.4-acre rooftop park (the "Rooftop Park").

1 (b) 524 Howard Street, LLC (“Developer”) owns that certain real property at 524 and
2 530 Howard Street (together, the “Property”) located across Natoma Street from the Transbay
3 Transit Center.

4 (c) Existing structures on the Property consist of a surface parking lot and a four-story,
5 29,955-square foot commercial building.

6 (d) Developer intends to construct on the Property (1) a new 72-story, approximately
7 795-foot tall (approximately 844 feet inclusive of permitted rooftop appurtenances) residential
8 building containing approximately 818,922 gross square feet of residential use (the “Tower”);
9 and (2) a 30-foot wide pedestrian bridge spanning Natoma Street and connecting the Tower
10 to the Rooftop Park (the “Pedestrian Bridge,” and together with the Tower, the “Project”). The
11 Project includes 672 dwelling units, with 68 dwelling units dedicated to households earning no
12 more than 50% AMI (area median income).

13 (e) On June 18, 2024, the Planning Department issued a Planning Approval Letter for
14 Record No. 2023-010883PRJ, approving the Project in accordance with the provisions of
15 California Government Code Section 65912.120 (Assembly Bill No. 2011 (2023)).

16 (f) In 2011, the Board of Supervisors (“Board”) adopted Ordinance No. 43-11, ordering
17 the vacation and conveyance to the Transbay Joint Powers Authority (“TJPA”), a joint powers
18 board established under California Government Code Sections 6500 et seq., of a portion of
19 Natoma Street, including airspace, for purposes of constructing the Transbay Transit Center.
20 The portion of Natoma Street vacated by Ordinance No. 43-11 included a 14.5-foot wide
21 portion of the airspace over Natoma Street adjacent Transbay Transit Center to accommodate
22 the Center’s design, but did not include an approximately 20-foot square section on the
23 southern portion of the Natoma Street airspace that is required for construction and operation
24 of the Pedestrian Bridge.
25

1 (g) To facilitate construction and operation of the Pedestrian Bridge and connection of
2 the Tower to the Rooftop Park, the TJPA requested that the City vacate and quitclaim its
3 interest in a portion of the airspace over Natoma Street between First and Second Streets (the
4 "Vacation Area") to the TJPA (the "Street Vacation"). On September 16, 2024, the TJPA
5 submitted a letter to the City making this request. The Vacation Area is comprised of
6 approximately 410 square feet and more particularly shown on the Public Works SUR Map
7 No. 2024-001, dated August 29, 2024. The Vacation Area is adjacent to property owned by
8 the TJPA and not contiguous to land that is owned by a state or local agency where such
9 property is used for open-space or low- and moderate-income housing purposes. A copy of
10 the SUR Map is on file with the Clerk of the Board in File No. 240928 and incorporated herein
11 by reference.
12

13 Section 2. Environmental, Land Use, and Street Vacation Findings.

14 (a) On May 24, 2012, the Planning Commission, in Motion No. 18628, certified the
15 Final Environmental Impact Report for the Transit Center District Plan ("FEIR") and related
16 actions as in compliance with the California Environmental Quality Act ("CEQA") (California
17 Public Resources Code Sections 21000 et seq.).

18 (b) On May 24, 2012, the Planning Commission conducted a duly noticed public
19 hearing and, by Motion No. 18629, adopted findings pursuant to CEQA, including a mitigation
20 monitoring and reporting program, for the Transit Center District Plan and related actions. In
21 Ordinance No. 182-12, the Board adopted the Planning Commission's environmental findings
22 as its own. For purposes of the Street Vacation and the actions contemplated in this
23 ordinance, the Board relies on the environmental findings in Ordinance No. 182-12 and
24 concurs with the Planning Department's determination that the Project's environmental effects
25 were adequately analyzed in the FEIR and that no further environmental review is required.

1 Copies of Planning Commission Motion Nos. 18628 and 18629 and Ordinance No. 182-12 are
2 on file with the Clerk of the Board in File No. 120665 and incorporated herein by reference.

3 (c) On February 27, 2024, the Planning Department issued a letter finding that the
4 Street Vacation was in conformity with the General Plan and the eight priority policies of
5 Planning Code Section 101.1. A copy of this Planning Department letter is on file with the
6 Clerk of the Board in File No. 240928 and is incorporated herein by reference.

7 (d) California Streets and Highways Code Sections 8300 et seq. and San Francisco
8 Public Works Code Section 787(a) set forth the procedures that the City follows to vacate
9 public streets.

10 (e) The Board finds it appropriate and in the public interest to pursue the Street
11 Vacation in order to provide for enhanced public access to the Rooftop Park from the new
12 Pedestrian Bridge approximately 70 feet above the surface of Natoma Street between the
13 Tower and the Rooftop Park.

14 (f) In Public Works Order No. 211306, dated October 3, 2024 (the "PW Order"), the
15 Public Works Director determined and the City Engineer certified that: (1) the Vacation Area is
16 unnecessary for the City's present or prospective public street, sidewalk, and service
17 easement purposes; (2) the public interest, convenience, and necessity do not require any
18 easements or other rights be reserved for any public or private utility facilities that are in place
19 in the Vacation Area and that any rights based upon any such public or private utility facilities
20 not specifically excepted shall be extinguished upon the effectiveness of the Street Vacation;
21 (3) in accordance with California Streets and Highways Code Sections 892 and 8314, the
22 Vacation Area is not useful as a public street, sidewalk, or nonmotorized transportation facility
23 because the Vacation Area is unoccupied airspace approximately 70 feet above the surface of
24 the street; (4) Public Works obtained the consent from all property owners adjacent to the
25 Vacation Area agreeing to the Street Vacation; and (5) it is a policy matter for the Board to

1 authorize the Street Vacation, including the conveyance of the property to the TJPA. A copy
2 of the PW Order is on file with the Clerk of the Board in File No. 240928 and is incorporated
3 herein by reference.

4 (g) In PW Order No. 211036, the Public Works Director and City Engineer (collectively,
5 the “PW Director”) also found that the Street Vacation qualifies for a summary street vacation
6 for the following reasons:

7 (1) Under California Streets and Highways Code Section 8330, the Street
8 Vacation would not (A) cut off all access to a person’s property that adjoins the street; or (B)
9 terminate a public service easement.

10 (2) Under California Streets and Highways Code Section 8334(a), the airspace
11 portion of Natoma Street to be vacated is excess public right-of-way not required for street or
12 highway purposes.

13 (3) Under California Streets and Highways Code Section 8334.5, there are no
14 in-place public utility facilities that are in use and would be affected by the Street Vacation.

15 (h) In PW Order No. 211036, the PW Director recommended that the Street Vacation
16 be conditioned upon the following restrictions (the “Street Vacation Conditions”):

17 (1) Should the Board determine to quitclaim the City’s interest in the Vacation
18 Area, it shall not be conveyed to any party other than the TJPA or its successor; provided,
19 however, that the TJPA may assign or convey an easement in the Vacation Area to Developer
20 (or Developer’s successors and assigns) to construct the Pedestrian Bridge and create public
21 access to the Rooftop Park, as set forth in the draft 530 Howard Street Pedestrian Bridge
22 Easement Agreement between the TJPA and Developer, dated October 2, 2024 (the “Bridge
23 Easement”) or similar agreement as may be amended from time to time; and

24 (2) If the TJPA ever abandons the Vacation Area for use of the Pedestrian
25 Bridge or the Pedestrian Bridge is not completed within eight years of the operative date of

1 this ordinance or such later date as may be determined in the discretion of the PW Director,
2 the PW Director may terminate the Street Vacation by written notice to the TJPA, upon which
3 notice the Vacation Area shall revert back to the City in fee simple as public right-of-way in
4 accordance with California Streets and Highways Code Section 8341.

5 (i) In a letter dated September 12, 2024, the Director of the Division of Real Estate
6 (“DRE Director”) determined that the value to the City of providing public access to the
7 Rooftop Park from the Pedestrian Bridge to be constructed within the Vacation Area equals or
8 exceeds the value of the City’s interest in the Vacation Area, and recommended that the City
9 approve the Street Vacation and property conveyance for a nominal cost, provided that the
10 Street Vacation Conditions have been met or required as condition of the property transfer.
11 The DRE Director’s letter also attaches a draft quitclaim deed that includes the Street
12 Vacation Conditions. The Director’s letter and draft quitclaim deed are on file with the Clerk of
13 the Board in File No. 240928 and incorporated herein by reference.

14 (j) Companion Legislation. This ordinance is related to a companion ordinance
15 concerning a Planning Code waiver of the Transit Center District Open Space Fee for the
16 Project (the “Open Space Fee Waiver Ordinance”). The Open Space Fee Waiver Ordinance
17 is on file with the Clerk of the Board in File No. 240879.

18
19 Section 3. Waiver of Administrative Code Chapter 23. In light of the public benefit
20 served by the Street Vacation, including conveyance of the property to the TJPA, and future
21 construction of a public pedestrian bridge to the Rooftop Park at the Transit Center, the Board
22 hereby waives the requirements of Administrative Code Chapter 23, including its requirement
23 to obtain an appraisal prior to the conveyance of any City property.

1 Section 4. Summary Vacation of a Portion of the Airspace above Natoma Street and
2 Exempt Surplus Property Determination.

3 (a) The Board finds that the Vacation Area is unnecessary for present or prospective
4 public use and that the Street Vacation, subject to the Street Vacation Conditions, will further
5 a proper public purpose, including, but not limited to, promoting and facilitating the use of
6 public transportation, and enhancing access to and enjoyment of the Rooftop Park. The
7 Board also adopts and approves the findings and recommendations of the PW Director
8 concerning the Street Vacation and other actions in furtherance thereof, as set forth in PW
9 Order No. 211036.

10 (b) The Board adopts as its own the findings in the Planning Department's
11 February 27, 2024 letter that the Street Vacation, including the City's property conveyance, is,
12 on balance, consistent with the General Plan and eight priority policies of Planning Code
13 Section 101.1.

14 (c) The Board acknowledges and accepts the recommendation of the DRE Director
15 that the value of providing public access to the Rooftop Park from the Pedestrian Bridge to be
16 constructed within the Vacation Area equals or exceeds the value of the City's interest in the
17 Vacation Area; and, as a consequence, the City should assess the nominal charge of \$1.00
18 for the Street Vacation.

19 (d) Subject to the Street Vacation Conditions, the Vacation Area, as shown on SUR
20 Map No. 2024-001, dated August 29, 2024, is hereby ordered summarily vacated pursuant to
21 California Streets and Highways Code Sections 8300 et seq., in particular its Sections 8330,
22 8334, and 8334.5, and San Francisco Public Works Code Section 787(a).

23 (e) Based on the findings in this ordinance, the Board declares the Vacation Area is
24 not necessary for City's use and is exempt surplus property under the California Surplus Land
25

1 Act (California Government Code Sections 54220 et seq.), in particular its Sections
2 54221(b)(1), 54221(f)(1)(B), 54221(f)(1)(D), and 54221(f)(1)(E).

3 (f) The Board delegates to the DRE Director, in consultation with the City Attorney's
4 Office, the authority to finalize and execute a quitclaim deed on behalf of the City in
5 accordance with the terms set forth in this ordinance and in substantially the same form as the
6 draft quitclaim deed on file with the Clerk of the Board in File No. 240928. In addition, the
7 Board directs DRE Director to provide the California Department of Housing and Community
8 Development ("HCD") with prior written notice of the conveyance as required under the
9 Updated Surplus Land Act Guidelines that the HCD issued on August 1, 2024. The Board
10 also directs the DRE Director to submit a copy of the final quitclaim to the Clerk of the Board
11 for the Clerk's files on this ordinance within 30 days of the date the quitclaim deed is recorded.
12

13 Section 5. Official Acts in Connection with the Ordinance.

14 The Mayor, Clerk of the Board, DRE Director, County Surveyor, and PW Director are
15 hereby authorized and directed to take any and all actions which they or the City Attorney may
16 deem necessary or advisable in order to effectuate the purpose and intent of this ordinance,
17 including, without limitation, revising official public right-of-way maps if deemed necessary;
18 finalizing the quitclaim deed for the Vacation Area, executing such deed on behalf of the City,
19 and recording of such deed and ordinance in the Official Records of the City; confirmation of
20 satisfaction of the Street Vacation Conditions; and execution and delivery of any evidence of
21 the same.
22
23
24

25 Section 6. Effective and Operative Date.

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

5 (b) Operative Date. This ordinance shall become operative on its effective date or on
6 the effective date of the Open Space Fee Waiver Ordinance, referenced in Section 2(j) of this
7 ordinance, whichever date occurs later; provided, that this ordinance shall not become
8 operative if the ordinance regarding the Open Space Fee Waiver Ordinance is not enacted.
9

10
11 APPROVED AS TO FORM:
12 DAVID CHIU, City Attorney

13 By: /s/ JOHN D. MALAMUT
14 JOHN D. MALAMUT
Deputy City Attorney

15 n:\legana\as2024\2500048\01783495.docx
16
17
18
19
20
21
22
23
24
25