

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Rich Hillis, Director, Planning Department  
Carla Short, Interim Director, Public Works  
Linda Gerull, Executive Director/CIO, Department of Technology  
Jeffrey Tumlin, Executive Director, Municipal Transportation Agency  
Jeanine Nicholson, Chief, Fire Department

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: December 15, 2021

SUBJECT: DRAFT LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following proposed draft legislation, introduced by Public Works on December 7, 2021:

**File No. 211230**

**Draft Ordinance ordering the summary street vacation of a portion of Michigan Street, generally bounded by Assessor's Parcel Block No. 4298 to the north and west, Assessor's Parcel Block No. 4310 to the east, and Cesar Chavez Street to the south, as part of the improvement of the MUNI Metro East maintenance facility, subject to the approval of the San Francisco Municipal Transportation Agency ("SFMTA") Board of Directors; approving the interdepartmental transfer of the vacation area from Public Works to SFMTA, subject to the approval of the SFMTA Board of Directors; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings that the actions contemplated in this Ordinance are consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and authorizing official acts in furtherance of this Ordinance, as defined herein.**

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: [erica.major@sfgov.org](mailto:erica.major@sfgov.org).

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Land Use and Transportation Committee  
Referral  
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cc: Scott Sanchez, Planning Department  
Corey Teague, Planning Department  
Lisa Gibson, Planning Department  
Devyani Jain, Planning Department  
Adam Varat, Planning Department  
AnMarie Rodgers, Planning Department  
Dan Sider, Planning Department  
Aaron Starr, Planning Department  
Joy Navarrete, Planning Department  
David Steinberg, Public Works  
Bryan Dahl, Public Works  
John Thomas, Public Works  
Lena Liu, Public Works  
Karen Hong Yee, Department of Technology  
Kate Breen, Municipal Transportation Agency  
Janet Martinsen, Municipal Transportation Agency  
Joel Ramos, Municipal Transportation Agency  
Theresa Ludwig, Fire Department

1 [Summary Street Vacation - Michigan Street in Connection with MUNI Metro East  
2 Improvements - Interdepartmental Property Transfer]

3 **Draft Ordinance ordering the summary street vacation of a portion of Michigan Street,**  
4 **generally bounded by Assessor’s Parcel Block No. 4298 to the north and west,**  
5 **Assessor’s Parcel Block No. 4310 to the east, and Cesar Chavez Street to the south, as**  
6 **part of the improvement of the MUNI Metro East maintenance facility, subject to the**  
7 **approval of the San Francisco Municipal Transportation Agency (“SFMTA”) Board of**  
8 **Directors; approving the interdepartmental transfer of the vacation area from Public**  
9 **Works to SFMTA, subject to the approval of the SFMTA Board of Directors; affirming**  
10 **the Planning Department’s determination under the California Environmental Quality**  
11 **Act; adopting findings that the actions contemplated in this Ordinance are consistent**  
12 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1;**  
13 **and authorizing official acts in furtherance of this Ordinance, as defined herein.**

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

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

22 Section 1. Findings.

23 (a) California Streets and Highways Code Sections 8300 et seq. and San Francisco  
24 Public Works Code Section 787(a) establish the process for the Board of Supervisors to  
25 vacate a street, highway, or public easement. Streets and Highways Code Sections 8334 and  
8334.5 provide that the legislative body of a local agency may summarily vacate an excess

1 right-of-way of a street, under certain circumstances. The actions contemplated in this  
2 ordinance are being taken in accordance with Streets and Highways Code Sections 8300 et  
3 seq. and Public Works Code Section 787(a).

4 (b) The location and extent of the area to be vacated is a portion of Michigan Street  
5 that is generally bounded by Assessor's Parcel Block No. 4298 to the north and west,  
6 Assessor's Parcel Block No. 4310 to the east, and Cesar Chavez Street to the south, as  
7 depicted on Department of Public Works ("Public Works") SUR Map No. 2021-006, dated May  
8 3, 2021 (the "Vacation Area"). A copy of this map is on file with the Clerk of the Board of  
9 Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference.

10 (c) The Vacation Area is a paved portion of Michigan Street that terminates in front of  
11 the San Francisco Municipal Transportation Agency's ("SFMTA") MUNI Metro East  
12 maintenance facility ("MUNI Metro East"). The Vacation Area is not necessary for active  
13 street purposes now or in the future as: (1) the Vacation Area has been impassable and has  
14 not been maintained using public funds for five consecutive years; (2) all properties that abut  
15 the Vacation Area to the west and the north are already part of MUNI Metro East and are  
16 intended to be improved along with the Vacation Area after the Vacation Area is transferred  
17 from Public Works to SFMTA; (3) the Vacation Area has never been used, and is not useful,  
18 as a nonmotorized transportation facility under Streets and Highways Code Sections 892 and  
19 8314 as there are other such facilities available in close proximity; (4) MUNI Metro East is  
20 served by several roadways, so the Vacation Area is excess right-of-way; (5) there are no in-  
21 place functioning public utility facilities in the Vacation Area; and (6) Public Works sent notice  
22 of the proposed street vacation to the Department of Technology, SFMTA, the Fire  
23 Department, the San Francisco Public Utilities Commission, the San Francisco Planning  
24 Department, AT&T, Sprint, Comcast Cable Corp., Point to Point, Inc., XO Communications,  
25 Verizon Communications, Inc., CenturyLink/Level Three Communications, Shasta Consulting

1 Group, Inc., ExteNet Systems, Inc., and Pacific Gas and Electric. No City agency, utility  
2 company, or other notice recipient objected to the proposed vacation. Based on these  
3 factors, the Vacation Area may be summarily vacated in accordance with Streets and  
4 Highways Code Sections 8334 and 8334.5.

5 (d) The vacation of the Vacation Area, and the jurisdictional transfer of the Vacation  
6 Area from Public Works to SFMTA, would facilitate improvements and upgrades to and the  
7 expansion of MUNI Metro East.

8 (e) In Public Works Order No. 205457, the Interim Director of Public Works determined  
9 that: (1) the Vacation Area may be summarily vacated based on the factors identified in  
10 subsection (c) above and the other findings set forth below; (2) the Vacation Area is  
11 unnecessary for the City's present or prospective public street, sidewalk, and service  
12 easement purposes; (3) there will be no physical public or private utilities affected by the  
13 vacation of the Vacation Area, based on the absence of any objections from any utility  
14 company and notice recipient, and the fact that the public interest, convenience, and  
15 necessity do not require any easements or other rights be reserved for any public or private  
16 utility facilities that may be in place in the Vacation Area; (4) any rights based upon any public  
17 or private utility facilities shall be extinguished automatically upon the effectiveness of the  
18 vacation; and (5) it is a policy matter for the Board of Supervisors to approve the  
19 interdepartmental property transfer of the Vacation Area from Public Works to SFMTA. A  
20 copy of this Public Works Order is on file with the Clerk of the Board of Supervisors in File No.  
21 \_\_\_\_\_ and is incorporated herein by reference.

22 (f) In Order No. 205457, pursuant to California Streets and Highways Code Sections  
23 892 and 8314, the Interim Director of Public Works also found that the Vacation Area is  
24 currently not accessible to or necessary for non-motorized transportation, because there are  
25 adjacent streets available for such transportation, and because those members of the public

1 availing themselves of non-motorized transportation will not be inconvenienced by the street  
2 vacation.

3 (g) The Interim Director of Public Works recommends that the Board of Supervisors  
4 adopt as its own the recommendations set forth in Public Works Order No. 205457 concerning  
5 the vacation of the Vacation Area and other actions in furtherance thereof. The Board hereby  
6 incorporates such recommendations and findings by reference as though fully set forth herein.

7 (h) In a letter dated March 31, 2021, (the "Planning Letter"), the Planning Department  
8 determined that the proposed vacation of the Vacation Area and other actions contemplated  
9 in this ordinance are consistent with the General Plan and priority policies of Planning Code  
10 Section 101.1. A copy of said letter is on file with the Clerk of the Board of Supervisors in File  
11 No. \_\_\_\_\_ and is incorporated herein by reference. The Board of Supervisors adopts  
12 as its own the findings in the Planning Letter.

13 (i) In the Planning Letter, the Planning Department also determined that the Project is  
14 within the scope of the project evaluated under the Third Street Light Rail Project/Central  
15 Subway Final Supplemental Environmental Impact Statement/Final Supplemental  
16 Environmental Impact Report adopted in August 2008 (Planning Case No. 1996.281E) ("Third  
17 Street Light Rail Project/Central Subway FSEIS/FSEIR") pursuant to the California  
18 Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). A  
19 copy of the Third Street Light Rail Project/Central Subway FSEIS/FSEIR is on file with the  
20 Clerk of the Board of Supervisors in File No. 210548. The Board of Supervisors further finds  
21 that no substantial changes are proposed by the Project or the circumstances under which the  
22 Project is undertaken that would cause new significant environmental effects or any increase  
23 in the severity of previously identified significant effects. The Board further finds that there is  
24 no new information of substantial importance showing that the Project would have any  
25 significant effects not discussed in the Third Street Light Rail Project/Central Subway

1 FSEIS/FSEIR, or that significant effects would be substantially more severe, or that new or  
2 different mitigation measures or alternatives would substantially reduce one or more  
3 significant effects of the Project. Consequently, the Board hereby adopts the Planning  
4 Department's environmental findings in the Third Street Light Rail Project/Central Subway  
5 FSEIS/FSEIR as its own for purposes of this ordinance.

6

7 Section 2. Summary Street Vacation.

8 (a) The Vacation Area, as shown on SUR Map No. 2021-006, is hereby ordered  
9 summarily vacated pursuant to California Street and Highways Code Sections 8300 et seq.,  
10 including Sections 8334 and 8334.5, and San Francisco Public Works Code Section 787(a).

11 The vacation of the Vacation Area shall not take effect until the SFMTA Board of Directors has  
12 approved the acquisition of the Vacation Area and Public Works and SFMTA have indicated in  
13 writing that they are prepared to have the Vacation Area transferred into the jurisdiction of  
14 SFMTA.

15 (b) The Board of Supervisors finds that the Vacation Area is unnecessary for present  
16 active public street use or prospective public street use.

17 (c) The public interest and convenience require that the vacation be done as declared  
18 in this ordinance.

19

20 Section 3. Interdepartmental Property Transfer from Public Works to SFMTA.

21 Notwithstanding the requirements of Administrative Code Chapter 23, the Board of  
22 Supervisors hereby approves the interdepartmental property transfer of the Vacation Area  
23 from Public Works to SFMTA subject to the SFMTA Board of Directors' approval of the  
24 transfer, and directs the Director of the Division of Real Estate to modify the City's records

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1 concerning City property ownership and jurisdiction accordingly. Until such transfer occurs,  
2 the Vacation Area shall remain under the jurisdiction of Public Works.

3

4 Section 4. Official Acts in Connection with this Ordinance.

5 (a) The Mayor, Clerk of the Board of Supervisors, Interim Director of Public Works,  
6 Acting City and County Surveyor, and the Director of the Division of Real Estate are hereby  
7 authorized and directed to take any and all actions which they or the City Attorney may deem  
8 necessary or advisable to effectuate the purpose and intent of this ordinance (including,  
9 without limitation, the filing of this ordinance in the Official Records of the City and County of  
10 San Francisco and modification of the City’s property ownership designation in accordance  
11 with the interdepartmental property transfer).

12 (b) Immediately upon the effective date of this ordinance, this ordinance shall be  
13 recorded.

14

15 Section 5. Effective Date.

16 This ordinance shall become effective 30 days after enactment. Enactment occurs  
17 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not  
18 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the  
19 Mayor’s veto of the ordinance.

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21 APPROVED AS TO FORM:  
22 DAVID CHIU, City Attorney

23 By: \_\_\_\_\_  
24 Christopher Tom  
Deputy City Attorney

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