

File No. 150644

Committee Item No. 2
Board Item No. 10

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Land Use & Transportation

Date SEPT 14, 2015

Board of Supervisors Meeting

Date Sept 22, 2015

Cmte Board

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Completed by: Andrea Ausberry Date SEPT 10, 2015
Completed by: _____ Date _____

[Land Transfer, Street Vacation, Gift Acceptance, Encroachment Permit, and Related Actions - Archstone Daggett Place, LLC - Daggett Street Between 16th and 17th Streets]

Ordinance approving an agreement with the Port of San Francisco for the City's transfer of Daggett Street between 16th and 7th Streets; summarily vacating the northern portion of the street; authorizing an interdepartmental transfer of the vacation area from Public Works to the Real Estate Division of the Office of the City Administrator for public open space; modifying the official public right-of-way width, changing the official sidewalk width, and changing the official grade on the remaining portion of Daggett Street and portions of 16th and 7th Streets; accepting a gift from Archstone Daggett Place, LLC, for certain open space improvements on the portion of Daggett Street to be vacated and their maintenance; approving a street encroachment permit for the shared public way improvements on the remaining southerly portion of Daggett Street; delegating to the Director of Public Works the authority to accept other required public improvements associated with the adjacent development project; authorizing the Director of Property to execute a license agreement for the maintenance of the vacation area; affirming the Planning Commission's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1 for the actions contemplated in this Ordinance.

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:

1 Section 1. **General Findings.**

2 (a) As San Francisco continues to grow and develop, the need increases for well-
3 maintained public open spaces that meet the demands of existing and new residents,
4 workers, and visitors. The Showplace Square/Potrero Hill Area Plan, a part of the Eastern
5 Neighborhoods Area Plan, identifies the need for additional open space to enhance livability in
6 the Plan Area.

7 (b) In order to provide these new open spaces, significant funding beyond existing City
8 resources is necessary to acquire, develop, and maintain the necessary new open spaces.
9 One potential source of funds is new residential development that could contribute to the
10 capital costs of open space. New residential development directly impacts the existing park
11 sites with its influx of new residents. Therefore, new development in the Eastern
12 Neighborhoods is required under Planning Code Section 423 to pay the Eastern
13 Neighborhoods Infrastructure Impact Fee directly into the Eastern Neighborhoods Public
14 Benefit Fund to, among other infrastructure improvements, acquire and/or construct new open
15 space. Alternatively, project sponsors may propose to directly provide community
16 improvements to the City in lieu of fee payments. In such a case, the Planning Commission
17 may enter into an in-kind improvement agreement with the sponsor and issue a fee waiver for
18 the Eastern Neighborhoods Infrastructure Impact Fee in the amount of the cost of the
19 acquisition of property and/or proposed improvements.

20 (c) The Eastern Neighborhoods Streets and Open Space Concept Plan (Appendix A3
21 of the 2008 Showplace Square/Potrero Hill Area Plan) identified as a priority and significant
22 opportunity for new open space the approximately one-acre one block section of Daggett
23 Street between 16th and 7th Streets, owned by the Port of San Francisco and subject to the
24 public trust. Policies 5.1.1 and 5.1.2 of the Showplace Square/Potrero Hill Area Plan (2009)
25 call for the City to "[i]dentify opportunities to create new public parks and open spaces and

1 provide at least one new public park or open space serving the Showplace/Potrero” and
2 “[r]equire new residential development and commercial development to provide, or contribute
3 to the creation of publicly accessible open space.” In addition, the Showplace Open Space
4 Plan (2010) identified Daggett Street as a potential location for open space to fulfill the goals
5 of the Showplace Square/Potrero Hill Area Plan. As described below in Section 2, the
6 Eastern Neighborhoods Community Advisory Committee (“ENCAC”), as well as various City
7 agencies, recommended use of the Eastern Neighborhoods Infrastructure Impact Fee to
8 support a new open space on this publicly-owned site.

9 (d) In 2012, the Planning Commission and Archstone Daggett Place, LLC (“Project
10 Sponsor”), which plans to develop a 453-unit rental development project on the properties
11 abutting Daggett Street, entered into an in-kind agreement to build a new open space on a
12 portion of Daggett Street in exchange for a waiver of a portion of its Eastern Neighborhoods
13 Infrastructure Impact Fee. The Planning Commission and the Project Sponsor entered into
14 the 1000 16th Street In-Kind Improvement Agreement dated as of November 29, 2012 (the
15 “In-Kind Agreement”). Project Sponsor will provide the additional cost of construction of the
16 open space improvements and maintenance of the open space as a gift to the City. On
17 November 29, 2012 and July 9, 2015, at duly noticed public hearings, the Planning
18 Commission, in Resolution Nos. 18752 and 19410 approved an In-Kind Agreement and an
19 amended In-Kind Agreement, respectively (collectively referred to herein as the “In-Kind
20 Agreements”). Copies of these resolutions and the In-Kind Agreements are on file with the
21 Clerk of the Board in File No.150644.

22 (e) The Showplace Square/Potrero Hill area will benefit greatly from this new local
23 amenity, facilitated by the Project Sponsor’s adjacent new residential development, as
24 adequate resources have not been available to fund a significant new open space in this Plan
25 Area.

1 (f) Daggett Street, which was transferred to the City under the Burton Act, was subject
2 to the public trust and placed in the jurisdiction of the Port of San Francisco. In order to
3 support new open space uses on Daggett Street, the City worked with the Port and California
4 State Lands Commission to lift the public trust from Daggett Street in exchange for the City's
5 payment of the appraised fair market value of \$1,675,000 to the Port. In exchange for such
6 payment, the Port agreed to remove the public trust and transfer jurisdiction of Daggett Street
7 to the City.

8 (g) Once construction of the open space improvements is complete, jurisdiction over
9 the portion of Daggett Street that will be vacated (the "Vacation Area") and will transfer to the
10 Real Estate Division of the Office of the City Administrator ("RED"). RED will manage the
11 Vacation Area as a public open space and intends to request the Board to designate the
12 Vacation Area as a City Plaza under Administrative Code Section 94, the San Francisco
13 Plaza Program, once RED has identified a steward for the Board's consideration and
14 approval. The Vacation Area is proposed to be zoned as public/open space use, while the
15 remaining street right-of-way portion of Daggett Street will continue as a public street under
16 the jurisdiction of Public Works.

17 (h) The Daggett open space project ("Project") was included in the adjacent 1000 16th
18 Street mixed-use project and obtained project specific environmental clearance through a
19 Final Environmental Impact Report ("FEIR") prepared in accordance with the California
20 Environmental Quality Act ("CEQA") (Public Resources Code Sections 21000 et seq.) in
21 Planning Case No. 2003.0527E. As part of various actions related to the adjacent
22 development, including approval of an in-kind agreement for the construction of the Daggett
23 open space, the Planning Commission certified the FEIR and adopted CEQA findings in
24 Motion No. 17864 and Resolution Nos. 18419 and 18752, respectively, copies of which are in
25

1 Clerk of the Board of Supervisors File No. 150644, and incorporated herein by reference. The
2 Board adopts the CEQA findings as its own.

3 (i) The Board finds that no substantial changes are proposed to the Project or the
4 circumstances under which the Project is undertaken that would cause new significant
5 environmental effects or any increase in the severity of previously identified significant effects
6 in the FEIR. The Board further finds there is no new information of substantial importance
7 showing that the Project would have any significant effects not discussed in the FEIR, that
8 significant effects would be substantially more severe, or that new or different mitigation
9 measures or alternatives would substantially reduce one or more significant effects, if any, of
10 the Project.

11 (j) The Planning Department, in a letter dated July 6, 2015, determined that the actions
12 contemplated in this ordinance are consistent, on balance, with the City's General Plan and
13 eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its
14 own. A copy of said letter is on file with the Clerk of the Board of Supervisors in File
15 No.150644, and is incorporated herein by reference.

16
17 **Section 2. Approval of the Transfer of Daggett Street from the State of California**
18 **to the City and Approval of the Interdepartmental Transfer of a Portion of Daggett**
19 **Street.**

20 (a) **Findings.**

21 (1) On October 28, 2014, at a duly noticed public hearing, the San Francisco
22 Port Commission, in Resolution No. 14-57, authorized Port staff to seek termination of the
23 public trust on Daggett Street from State Lands Commission. On December 16, 2014, at a
24 duly noticed public hearing, the San Francisco Port Commission, in Resolution No. 14-62,
25 authorized a memorandum of understanding ("Port MOU") regarding the removal of the public

1 trust from Daggett Street and jurisdictional transfer to RED. Copies of these resolutions and
2 the draft Port MOU are on file with the Clerk of the Board in File No. 150644. At RED's
3 request, jurisdiction of the entirety of Daggett Street between 16th and 7th Streets will initially
4 transfer to Public Works on behalf of the City and County of San Francisco, and following the
5 Project Sponsor's satisfactory completion of the open space improvements on the Vacation
6 Area, jurisdiction of Vacation Area will transfer to RED. Jurisdiction of the remaining right of
7 way portion of Daggett Street will remain with Public Works.

8 (2) On December 17, 2014, at a duly noticed public hearing, the State Lands
9 Commission, in Calendar Item C68, authorized termination of the State's public trust interest
10 in Daggett Street, in accordance with California State Legislative Session 2007's Chapter No.
11 660. As part of this action, the State Lands Commission authorized transfer of Daggett Street
12 to the City and County of San Francisco for \$1,675,000.00 free of any public trust interest.
13 The State Lands Commission transferred Daggett Street, free of the public trust, to the City,
14 acting by and through the Port Commission, by recording a Quitclaim Deed (City to State), a
15 Patent and Trust Termination, and a Certificate of Acceptance and Consent to Recording in
16 the Official Records of San Francisco County on July 21, 2015. Copies of this Calendar item,
17 Quitclaim Deed, this Patent and Trust Termination and this Certificate of Acceptance and
18 Consent to Recording are on file with the Clerk of the Board in File No. 150644.

19 (3) On January 27, 2009, the City issued an "Eastern Neighborhoods
20 Infrastructure Prioritization Memorandum of Understanding" ("ENMOU") between seven City
21 agencies. This MOU listed the implementation of one new open space project in the
22 Showplace Square area (generally bounded by 16th Street to the south, 7th Street to the
23 northeast, Bryant Street to the northwest, and Potrero Avenue to the west) as one of the
24 seven priority projects for funding in the Eastern Neighborhoods. On July 18, 2011, in Motion
25 No. 2011-6-1, and June 15, 2015, in Motion No. 2015-06-05, at duly noticed public meetings,

1 the ENCAC supported the use of a portion of the Eastern Neighborhoods Infrastructure
2 Impact fee that the Project Sponsor owed via an In-Kind Agreement between the City and
3 Project Sponsor, as set forth in Planning Code Section 423.3, to be allocated to the
4 construction of the open space improvements. The ENCAC recommended this action to the
5 Planning Commission and Board of Supervisors. Copies of these motions are on file with the
6 Clerk of the Board in File No. 150644.

7 (4) On September 7, 2012, the Interagency Planning and Implementation
8 Committee ("IPIC") agreed with this recommendation.

9 (5) As set forth above in Section 1, the Planning Commission on November 29,
10 2012 and July 9, 2015, approved an In-Kind Agreement and an amended In-Kind Agreement,
11 respectively, and supported the recommendation of the ENCAC and the IPIC in regard to
12 open space improvements on Daggett Street.

13 (6) The Board recognizes that additional money is necessary to complete the
14 transfer of Daggett Street. The main source of these funds is the State Housing Related Parks
15 Program Grant. On February 2, 2015, at a duly noticed hearing, the Board of Supervisors
16 approved Resolution No. 019-15 retroactively authorizing the Recreation and Park
17 Department to accept and expend a grant that included \$1,600,000 in funding for transfer of
18 Daggett Street. A copy of this Resolution is on file with the Clerk of the Board of Supervisors
19 in File No. 141305.

20 (7) The \$75,000 balance of the transfer funding will be paid to the Port pursuant
21 to the draft Port MOU.

22 (b) **Approval of the Interdepartmental Transfer from the Port.** Notwithstanding the
23 provisions of Administrative Code Chapter 23, the Board hereby approves the
24 interdepartmental transfer of Daggett Street from the Port of San Francisco to Public Works
25 and RED in accordance with terms of the draft Port MOU.

1 (c) **Approval of the Interdepartmental Transfer of the Vacation Area from Public**
2 **Works to RED.**

3 (1) Notwithstanding the provisions of Administrative Code Chapter 23, the
4 Board hereby authorizes the transfer of the Vacation Area from Public Works to RED in
5 accordance with the terms of the transfer specified above in order to establish a public open
6 space on the Vacation Area.

7 (2) This transfer also is conditioned upon the effective date of companion
8 legislation in Clerk of the Board of Supervisors File No. 150586 that will rezone the subject
9 area so that its zoning designation is P (Public) with a height and bulk designation of OS
10 (Open Space).

11 (3) The Vacation Area shall be subject to a declaration of restrictions as set
12 forth below in Section 3(a)(6) for purposes of open space use and to comply with the Building
13 Code.

14 (4) The Board also approves use of a portion of the Eastern Neighborhoods
15 Public Benefits Fund for open space and recreational facilities as set forth in Planning Code
16 Section 423.5, to transfer Daggett Street to RED and Public Works.

17
18 **Section 3. Summary Street Vacation of the Northern Portion of Daggett Street.**

19 **(a) Findings.**

20 (1) California Street and Highways Code Sections 8300 et seq. and Public
21 Works Code Section 787(a) set forth the procedures that the City and County of San
22 Francisco follows to vacate public streets and public service easements. California Street and
23 Highways Code Sections 8330 et seq. permits the summary vacation of a public street or
24 public service easement if certain conditions are satisfied.
25

1 (2) The Board of Supervisors finds it appropriate to pursue a street vacation of
2 the Vacation Area.

3 (3) The location and extent of the Vacation Area is more particularly shown on
4 the Public Works ("PW") SUR Map No. 2015-002, dated August 27, 2015. A copy of this map
5 is on file with the Clerk of the Board of Supervisors in File No. 150644.

6 (4) This portion of Daggett Street is being vacated to allow for the establishment
7 of a public open space that will be under the jurisdiction of RED. Companion legislation in
8 Clerk of the Board of Supervisors File No. 150586 will rezone the Vacation Area so that its
9 zoning designation is P (Public) with a height and bulk designation of OS (Open Space).

10 (5) Section 8334(a) of the California Streets and Highways Code provides that
11 the legislative body of a local agency may summarily vacate an excess right-of-way of a
12 street, highway, or public easement under certain circumstances.

13 (6) In PW Order No. 183968, dated September 1, 2015, the Director of Public
14 Works (the "PW Director") determined: (A) the Vacation Area has been impassable for
15 vehicular travel for over five years and is excess right-of-way that can be summarily vacated
16 under California Streets and Highways Code Sections 8331 and 8334(a), respectively; (B) in
17 addition, with the relocation of the sanitary sewer line under the jurisdiction of the San
18 Francisco Public Utility Commission as part of the open space design, there are no
19 functioning in-place public or private utility facilities that would be affected by the vacation of
20 the Vacation Area, which allows the City to proceed with a summary street vacation under
21 Streets and Highways Code Section 8334.5; (C) the Vacation Area is unnecessary for the
22 City's present or prospective public street, sidewalk, and service easement purposes; (D)
23 pursuant to the Streets and Highways Code Section 892, the Vacation Area hereunder will not
24 affect a nonmotorized transportation facility because commuters can continue to use the
25 Daggett Street shared public way that will remain in public right-of-way use; (E) the public

1 interest, convenience, and necessity do not require any easements or other rights be reserved
2 for any public or private utility facilities that are in place in the Vacation Area and that any
3 rights based upon any such public or private utility facilities shall be extinguished
4 automatically upon the effectiveness of the vacation; provided, however, that a declaration of
5 restrictions be recorded on the Vacation Area that an approximately 12-foot wide area on
6 northerly side of the Vacation Area be permanently set aside for open space use; and (F) the
7 Board of Supervisors should transfer jurisdiction of the Vacation Area from PW to RED for
8 purposes of establishing a City Plaza under Administrative Code Chapter 94. A copy of the
9 PW Order and the draft declaration of restrictions are on file with the Clerk of the Board of
10 Supervisors in File No. 150644.

11 (7) The PW Director also recommends that the effectiveness of the street
12 vacation be conditioned on PW's determination that the Vacation Area open space
13 improvements and the shared public way improvements on the remaining portion of the
14 Daggett Street public right-of-way ("Daggett Street Shared Public Way") are complete and
15 ready for their intended use. The Board of Supervisors adopts as its own, the
16 recommendations of the PW Director as set forth in PW Order No. 183968 concerning the
17 vacation of the Vacation Area and other actions in furtherance thereof and the Board hereby
18 incorporates such recommendations and findings by reference as though fully set forth herein.

19 **(b) Ordering a Summary Street Vacation of the Northern Portion of Daggett**
20 **Street.**

21 (1) The Board of Supervisors hereby summarily vacates the Vacation Area, as
22 shown on SUR Map No. 2015-002, upon satisfaction of the conditions described in this
23 ordinance and pursuant to California Street and Highways Code Sections 8300 et seq. and
24 Public Works Code Section 787(a).
25

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

3 (3) The public interest and convenience require that the vacation be done as
4 declared in this ordinance.

5 (4) The Street Vacation shall be effective automatically and without the
6 requirement for further action whatsoever, as to all of the Vacation Area, upon satisfaction of
7 the following:

8 (A) The Director of PW's determination that the open space
9 improvements on the Vacation Area and the shared public way improvements on the
10 remaining portion of the Daggett Street public right-of-way ("Daggett Street Shared Public
11 Way") are complete and ready for their intended use and

12 (B) A declaration of restrictions be recorded on the Vacation Area that
13 the approximately 12-foot wide northerly side of the Vacation Area be permanently set aside
14 for open space use, which the Director of Property is authorized to execute and record in the
15 Official Records of San Francisco County.

16 (5) The Board also finds that the Street Vacation is consistent with the General
17 Plan for the reasons set forth in the July 6, 2015 determination of the Planning Department.

18
19 **Section 4. Modifying the Official Public Right-Of-Way Width on the Daggett Street**
20 **Shared Public Way, Changing the Official Sidewalk Width, and Changing the Official**
21 **Grade.**

22 (a) Findings.

23 (1) Public Works prepared map A-17-174 to designate the new right-of-way
24 width of the Daggett Street Shared Public Way, change official sidewalk width, and change
25 official grade. In PW Order No.183969, dated September 1, 2015, the PW Director approved

1 such map and recommended that the Board of Supervisors approve such changes to the
2 Daggett Street public right-of-way.

3 **(b) Approval of Public Right-of-Way Changes.**

4 (1) Pursuant to California Streets and Highways Code Section 1806 and San
5 Francisco Administrative Code Sections 1.51 et seq., and in accordance with the
6 recommendation in PW Order No.183969, the Board of Supervisors approves the modified
7 public right-of-way width for the Daggett Street Shared Public Way.

8 (2) In accordance with the PW Order No. 183969, a copy of which is in the
9 Clerk of the Board of Supervisors File No. 150644, Board of Supervisors Ordinance No.1061,
10 entitled "Regulating the Width of Sidewalks," a copy of which is in the Clerk of the Board of
11 Supervisors Book of General Ordinances, in effect May 11, 1910, is hereby amended by
12 adding thereto a new section to read as follows:

13 Section 1603. The width of sidewalks along 16th and 7th Streets perpendicular to Daggett
14 Street on either end of the Daggett open space shall be modified as shown on Public Works Map Q-20-
15 776, dated August 27, 2015. In addition, as a result of the Daggett Street Shared Public Way design
16 there is no designated sidewalk width on Daggett Street between 16th and 7th Street as shown on
17 Public Works Map A-17-174.

18 (3) Notwithstanding California Streets and Highways Code Sections 8000 et
19 seq., the Board of Supervisors, in accordance with San Francisco Administrative Code
20 Sections 1.51 et seq., chooses to follow its own procedures for the establishment of street
21 grades and hereby accepts and designates the street grades for the Daggett Street Shared
22 Public Way as set forth in the PW Order No. 183969, Map A-17-174.

23 (4) The sidewalk widths designated by the Board pursuant to Subsection (2) do
24 not obviate, amend, alter, or in any other way affect the maintenance obligations of the
25

1 adjacent property owners and further subject to the terms of the Street Encroachment Permit
2 authorized under this ordinance.

3 (5) The Board of Supervisors hereby directs Public Works to add the public
4 right-of-way width, the sidewalk widths, and the street grade to its Official City Maps in
5 accordance with this ordinance.

6 (6) The Board also finds that the approvals actions in this Section 4 are
7 consistent with the General Plan for the reasons set forth in the July 6, 2015 determination of
8 the Planning Department.

9
10 **Section 5. Gift Acceptance of Open Space Improvements, Including Maintenance.**

11 **(a) Findings.**

12 (1) As set forth above in Section 1, the Planning Commission on November 29,
13 2012 and July 9, 2015, approved an In-Kind Agreement and an amended In-Kind Agreement,
14 respectively, in regard to constructing open space improvements on Daggett Street in lieu of
15 fee payments.

16 (2) The cost of constructing the open space improvements, estimated to be
17 \$4,899,999.00, exceeds the amount of the approved fee waiver. Consequently, the Project
18 Sponsor, has offered the excess cost of construction for the open space improvements, which
19 is approximately \$1,570,000, to the City and County of San Francisco as a gift. A copy of the
20 gift offer is on file with the Clerk of the Board in File No. 150644. In addition, the gift includes
21 permanent maintenance of the Vacation Area, as evidenced in a declaration of maintenance
22 covenants and obligations to be recorded against the property adjacent to the Vacation Area
23 and the Daggett Street Shared Public Way (the "Declaration of Maintenance Restrictions"),
24 which declaration shall be substantially in the form on file with the Clerk of the Board in File
25 No. 150644.

1 **(b) Acceptance of the Gift and Acknowledgment of Declaration of Maintenance**
2 **Restrictions.**

3 (1) The Board of Supervisors, on behalf of the City and County of San
4 Francisco, graciously accepts the gift offer from the Project Sponsor, Archstone Daggett
5 Place, LLC, for the open space improvements to the Vacation Area, including permanent
6 maintenance thereof.

7 (2) The Board of Supervisors authorizes the Director of Property to
8 acknowledge the Declaration of Maintenance Restrictions on behalf of City, to perform and
9 exercise City's rights and obligations with respect to the Vacation Area under the Declaration
10 of Maintenance Restrictions, and to enter into any amendments or modifications to
11 Declaration of Maintenance Restrictions with respect to the Vacation Area (including without
12 limitation, the exhibits) that the Director of Property determines, in consultation with the City
13 Attorney, are in the best interest of the City, do not materially increase the obligations or
14 liabilities of the City or materially decrease the obligations of Project Sponsor or its
15 successors, are necessary or advisable to effectuate the purposes of the Declaration of
16 Maintenance Restrictions or this ordinance, and are in compliance with all applicable laws,
17 including the City's Charter.

18
19 **Section 6. Street (Major) Encroachment Permit for the Daggett Street Shared**
20 **Public Way.**

21 **(a) Findings.**

22 (1) The Daggett Street Shared Public Way is a one-block street connecting 16th
23 and 7th Streets.

1 (2) The Project Sponsor currently is constructing a mixed use project consisting
2 of approximately 450 housing units along with accompanying space for ground floor retail and
3 Production, Distribution, and Repair (PDR) on its properties that abut Daggett Street.

4 (3) The Project Sponsor has agreed to construct certain public improvements
5 on and in Daggett Street, including the creation of public open space improvements of
6 approximately 38,000 square feet and a shared public way. Public Works, on August 6, 2015,
7 issued a street improvement permit (No. 15IE-0628) to the Project Sponsor to initiate
8 construction of both the open space and shared public way improvements. The shared public
9 way improvements are more fully shown in various drawings and diagrams, copies of which
10 are in the Clerk of the Board of Supervisors File No. 150644 and are incorporated herein by
11 reference.

12 (4) Pursuant to Public Works Code Section 786, the Project Sponsor requested
13 permission to occupy portions of the public right-of-way to maintain the Daggett Street shared
14 public way improvements and provide for the maintenance of the public sidewalks along 16th
15 and 7th Streets where the sidewalk is adjacent to the Daggett open space (collectively
16 referred to as the "Daggett Street Shared Public Way Permit Area").

17 (5) The Transportation Advisory Staff Committee, at its meeting of July 9, 2015,
18 recommended the proposed encroachments for approval. Minutes of said meeting are on file
19 with the Clerk of the Board of Supervisors in File No. 150644.

20 (6) After a public hearing on August 12, 2015, Public Works recommended to
21 the Board approval of a street encroachment permit ("Street Encroachment Permit" or
22 "Permit") for the maintenance of the Daggett Street Shared Public Way Permit Area. This
23 recommendation is contained in PW Order No. 184019, dated September 9, 2015, a copy of
24 which is on file with the Clerk of the Board of Supervisors in File No. 150644, and
25 incorporated herein by reference.

1 **(b) Approval of a Street (Major) Encroachment Permit for the Daggett Street**
2 **Shared Public Way Permit Area.**

3 (1) The Street Encroachment Permit and its associated encroachment
4 agreement for the Daggett Street Shared Public Way Permit Area shall not become effective
5 until:

6 (A) The Permittee executes and acknowledges the permit and delivers
7 said Permit to Public Works,

8 (B) PW records the Permit and associated encroachment agreement
9 along with the Declaration of Maintenance Restrictions ensuring maintenance of the Daggett
10 Street Shared Public Way in the County Recorder's Office, and

11 (C) The Project Sponsor posts a maintenance security in the case of a
12 default in an amount and subject to terms acceptable to the Director of PW and the City
13 Attorney to ensure continued maintenance of the Daggett Street Shared Public Way Permit
14 Area.

15 (2) The Permit and its associated street encroachment agreement ("Street
16 Encroachment Agreement") are on file with the Clerk of the Board of Supervisors in File No.
17 150644 and incorporated herein by reference. The Street Encroachment Agreement shall be
18 substantially in the form in the Clerk's file.

19 (3) The Permittee, at its sole expense and as is necessary as a result of this
20 permit, shall make the following arrangements:

21 (A) To provide for the support and protection of facilities under the
22 jurisdiction of PW, the San Francisco Public Utilities Commission; the San Francisco Fire
23 Department, and other City Departments, and public utility companies;

24 (B) To provide access to such facilities to allow said entities to construct,
25 reconstruct, maintain, operate, or repair such facilities; and,

1 (C) To remove or relocate such facilities if installation of the
2 encroachment requires said removal or relocation and to make all necessary arrangements
3 with the owners of such facilities, including payment for all their costs, should said removal or
4 relocation be required.

5 (4) No structures shall be erected or constructed within said street right-of-way
6 except as specifically permitted herein.

7 (5) The Permittee shall assume all costs for the maintenance and repair of the
8 encroachment and no cost or obligation of any kind shall accrue to Public Works by reason of
9 this permission granted.

10 (6) Pursuant to Public Works Code Section 786, the Board of Supervisors
11 hereby grants revocable permission to the Project Sponsor, Archstone Daggett Place, LLC, to
12 occupy the public right-of-way with the Daggett Street Shared Public Way improvements and
13 public sidewalk improvements on 16th and 7th Streets located on the Daggett open space
14 and to maintain this encroachment.

15 (7) The Board, pursuant to Section 786 and 786.7, finds that the Daggett Street
16 Shared Public Way Permit Area shall provide a public benefit, and therefore, waives the public
17 right-of-way occupancy assessment fee.

18 (8) The Board of Supervisors accepts the recommendations of the PW Order
19 No. 184019 and approves the Street Encroachment Permit, its associated Street
20 Encroachment Agreement, and the Declaration of Maintenance Restrictions with respect to
21 the Daggett Street Shared Public Way Permit Area. The Board also authorizes the PW
22 Director to acknowledge the Declaration of Maintenance Restrictions on behalf of the City; to
23 perform and exercise the City's rights and obligations with respect to the Daggett Street
24 Shared Public Way under the Declaration of Maintenance Restrictions, the Permit, and Street
25 Encroachment Agreement; and to enter into any amendments or modifications to the Permit,

1 the Street Encroachment Agreement, and/or the Declaration of Maintenance Restrictions with
2 respect to the Daggett Street Shared Public Way Permit Area (including without limitation, the
3 exhibits) that the PW Director determines, in consultation with the City Attorney, are in the
4 best interest of the City, do not materially increase the obligations or liabilities of the City or
5 materially decrease the obligations of Project Sponsor or its successors, are necessary or
6 advisable to effectuate the purposes of the Permit, the Street Encroachment Agreement, or
7 the Declaration of Maintenance Restrictions or this ordinance with respect to the Daggett
8 Street Shared Public Way Permit Area, and are in compliance with all applicable laws,
9 including the City's Charter.

10 (9) The Board also delegates the authority to the PW Director, after
11 confirmation from the General Manager of the Public Utilities Commission and the City
12 Engineer's issuance of a determination of completion, to accept the sanitary sewer line in the
13 Daggett Street Shared Public Way for City maintenance and liability purposes, subject to any
14 terms related to its operation and maintenance that are contained in the permit or street
15 encroachment agreement. The delegated authority also extends to other limited public
16 improvements within the Daggett Street Shared Public Way Permit Area that are under the
17 jurisdiction of the MTA, such as parking meters, that the PW Director, in consultation with the
18 MTA Director of Transportation, agrees to accept for City maintenance and liability purposes.

19 (10) The Board also finds that the Street Encroachment Permit is consistent
20 with the General Plan for the reasons set forth in the July 6, 2015 determination of the
21 Planning Department.

22
23 **Section 7. Approval of Maintenance License Agreement for Open Space Vacation**
24 **Area.**
25

1 (a) Under the In-Kind Agreement, Project Sponsor agreed to maintain the open space
2 Vacation Area in perpetuity, which maintenance obligation is detailed in the Declaration of
3 Maintenance Restrictions.

4 (b) To authorize the Project Sponsor to enter on the Vacation Area to perform such
5 maintenance obligations in perpetuity under the Declaration of Maintenance Restrictions, RED
6 recommends that Project Sponsor and City enter into a maintenance license agreement in
7 substantially the form on file with the Clerk of the Board of Supervisors in File No. 150644.
8 Such agreement shall remain in effect until such time that City elects in writing to terminate
9 such maintenance obligations.

10 (c) The Board of Supervisors authorizes the Director of Property to execute such
11 maintenance license agreement on behalf of the City, to perform and exercise City's rights
12 and obligations under such agreement, and to enter into any amendments or modifications to
13 such agreement (including without limitation, the exhibits) that the Director of Property
14 determines, in consultation with the City Attorney, are in the best interest of the City, do not
15 materially increase the obligations or liabilities of the City or materially decrease the
16 obligations of Project Sponsor or its successors, are necessary or advisable to effectuate the
17 purposes of the Declaration or this ordinance, and are in compliance with all applicable laws,
18 including the City's Charter.

19
20 **Section 8. Delegation to Public Works of Acceptance of Future Public**
21 **Improvements.**

22 (a) **Findings.**

23 (1) On March 30, 2015, PW approved tentative subdivision map number 7780
24 for the Project Sponsor's development. A public improvement agreement for required but as
25 yet unfinished public improvements will accompany the final map for this development and be

1 subject to Board approval. These improvements include the Daggett open space, Daggett
2 Street Shared Public Way, and an extended sidewalk and public right-of-way area at the
3 corner of 16th and Hubbell Streets and the corner of 16th and 7th Streets. The public
4 sidewalk extensions are not complete at this time; however, the Project Sponsor has
5 submitted to PW a draft irrevocable offer of improvements and real property for these areas.
6 Consequently, the Board of Supervisors determines that it would be efficient to delegate to the
7 Director of PW the authority, upon completion of these future public improvements and the
8 satisfaction of other conditions, to adopt any related official PW maps, dedicate the
9 improvements to public use, and accept the improvements for City maintenance and liability
10 purposes, subject to the maintenance responsibility of fronting property owners pursuant to
11 the Public Works Code, including, but not limited to, Public Works Code Section 706. The
12 Board of Supervisors also determines that it would be efficient to delegate to the Director of
13 RED the authority, upon the City Engineer's determination of completion of these future public
14 improvements, to accept and record, on behalf of the City and County of San Francisco, a
15 grant deed for the fee title to property underlying the abovementioned sidewalk extensions.
16 Copies of the irrevocable offer for the sidewalk extensions and the related grant deed are on
17 file with the Clerk of the Board in File No. 150644 and are incorporated herein by reference.

18 **(b) Approval of the Delegation to the Directors of PW and RED of Certain**
19 **Authority in Regard to Required Public Improvements.**

20 (1) The Board of Supervisors hereby delegates to the Director of PW the
21 authority, upon completion of the future public improvements associated with the Project
22 Sponsor's final subdivision map and certification from the City Engineer that the
23 improvements are ready for their intended use, to adopt any related official PW maps,
24 dedicate the improvements to public use, and accept an irrevocable offer for the
25 improvements in substantially the form on file with the Clerk of the Board, subject to the

1 maintenance responsibility of the Project Sponsor or his or her successor(s) pursuant to the
2 Public Works Code, the Maintenance License Agreement, Declarations of Maintenance
3 Restrictions, and Street Encroachment Permit.

4 (2) The Board of Supervisors hereby delegates to the Director of RED the
5 authority, upon the City Engineer's determination of completion of these future public
6 improvements, to accept and record, on behalf of the City and County of San Francisco, a
7 grant deed for the fee title to property underlying the public improvements in substantially the
8 form on file with the Clerk of the Board.

9
10 **Section 9. Official Acts in Furtherance of the Ordinance.** The Board of Supervisors
11 directs the Directors of PW and RED, in consultation with the City Attorney's Office, to take all
12 actions necessary to implement the intent of this ordinance, including acceptance and
13 recordation of deeds and to acknowledge the aforementioned Declarations of Maintenance
14 Restrictions. In addition, the Board directs the Directors of PW and RED to submit final
15 signed copies of the Declaration of Maintenance Restrictions and the maintenance license
16 agreement to the Clerk of the Board for its records within 30 days of the finalization of said
17 documents.

18
19 **Section 10. Effective Date.** This ordinance shall become effective 30 days after
20 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
21 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
22 of Supervisors overrides the Mayor's veto of the ordinance.

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APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
John D. Malamut
Deputy City Attorney

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LEGISLATIVE DIGEST

[Land Transfer, Street Vacation, Gift Acceptance, Encroachment Permit, and Related Actions
- Archstone Daggett Place, LLC - Daggett Street Between 16th and 7th Streets]

Ordinance approving an agreement with the Port of San Francisco for the City's transfer of Daggett Street between 16th and 7th Streets; summarily vacating the northern portion of the street; authorizing an interdepartmental transfer of the vacation area from Public Works to the Real Estate Division of the Office of the City Administrator for public open space; modifying the official public right-of-way width, changing the official sidewalk width, and changing the official grade on the remaining portion of Daggett Street and portions of 16th and 7th Streets; accepting a gift from Archstone Daggett Place, LLC, for certain open space improvements on the portion of Daggett Street to be vacated and their maintenance; approving a street encroachment permit for the shared public way improvements on the remaining southerly portion of Daggett Street; delegating to the Director of Public Works the authority to accept other required public improvements associated with the adjacent development project; authorizing the Director of Property to execute a license agreement for the maintenance of the vacation area; affirming the Planning Commission's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1 for the actions contemplated in this ordinance.

Existing Law

The one-block segment of Daggett Street between 16th and 7th Streets currently is impassable public right-of-way under jurisdiction of the Port of San Francisco. Streets under City jurisdiction are subject to the requirements of the Public Works Code.

Amendments to Current Law

This legislation would authorize payment for and approval of the Daggett Street land transfer from the Port of San Francisco to the City using money primarily from the State Housing Related Parks Program Grant. The ordinance would approve a summary street vacation for the northern portion (approximately 2/3 of the street area) of Daggett Street, subject to certain conditions, and an interdepartmental transfer of this area to the City's Real Estate Division for the installation of open space improvements for future Board consideration as a City Plaza under Administrative Code Chapter 94. The legislation would accept a gift to the City from Archstone Daggett Place, LLC (the "Project Sponsor"), the developer of the adjacent mixed use project, for the cost of the open space improvements in excess of the Planning Code Eastern Neighborhood impact fees, which have been partially offset by the construction cost for the open space. This gift also includes the Project Sponsor's permanent maintenance of

the open space area, which obligation is addressed in a maintenance license agreement that is included in the approval actions before the Board. The ordinance would approve a new public right-of-way width for the remaining portion of Daggett Street, a grade change, and various actions related to sidewalk widths in or adjacent to Daggett Street. The legislation would approve issuance of a street (major) encroachment permit to the Project Sponsor to occupy and maintain Daggett Street with the Daggett Street Shared Public Way improvements along with the adjacent public sidewalks on the Daggett Street open space. The ordinance would delegate to the Public Works Director and Real Estate Division Director certain powers to accept future public improvement that are not yet finished and finalize various transactional documents related to this project. The legislation also adopts findings under the California Environmental Quality Act and consistency findings with the City's General Plan and Planning Code Section 101.1.

Background Information

This legislation would facilitate implementation of the Daggett open space project as identified in the Showplace Square Open Space Plan, which is a component of the Eastern Neighborhoods Area Plan, and establishment of a pedestrian-oriented shared public way on the remaining portion of Daggett Street.

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SAN FRANCISCO PLANNING DEPARTMENT

PLANNING COMMISSION MOTION 18752

Date: November 19, 2012
Case No.: 2003.0527U
Project Address: 1000 16th Street/"Daggett Park"
Plan Area: Showplace Square/Potrero Hill
Project Sponsor: Archstone
San Francisco, CA
Staff Contact: Steve Wertheim (415-558-6612)
steve.wertheim@sfgov.org

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

APPROVING AN IMPACT FEE WAIVER FOR 1000 16th STREET IN THE AMOUNT OF \$1,880,000 TO CONTRIBUTE TO THE CONSTRUCTION OF A PARK ALONG THE DAGGETT STREET RIGHT-OF-WAY BASED ON THE COMPLETION OF AN IN-KIND AGREEMENT BETWEEN THE PROJECT SPONSOR AND THE CITY

PREAMBLE

- On January 19, 2009 the Eastern Neighborhoods Plan became effective, including now Section 423.3 of the San Francisco Planning Code, the Eastern Neighborhoods Infrastructure Impact Fee applicable to all projects in the plan area, including the subject property. This Impact Fee enabled Project Sponsors to seek a waiver from the City for impact fees that they provided in-kind.
- In January of 2009, seven City agencies entered into a Memorandum of Understanding which identified "Priority Projects" for the expenditure of Eastern Neighborhoods Infrastructure Impact Fees. One of these Priority Projects was locating a site for and constructing a new park in Showplace Square.
- The Showplace Square Open Space Plan, conducted in 2009, identified the Daggett Street right-of-way as a potential location for a public park.
- On October 18, 2010, the Project Sponsor's predecessor, Cherokee, formally requested to the City for approval of an In-Kind Agreement for provision of a park along the Daggett Street right-of-way.
- On July 18, 2011, in Motion 2011-6-1, the Eastern Neighborhoods Citizens Advisory Committee unanimously supported the construction of a park along the Daggett Street right-of-way as the means to fulfill the goal of constructing a new park within the Showplace Square Area.

- On July 21, 2011, in Motion No. 18419, the Project Sponsor received entitlement by the Planning Commission to build approximately 470 units of rental housing, along with accompanying ground floor retail (Case 2003.0527). The project is projected to owe approximately \$4.2 million in Eastern Neighborhoods Infrastructure Impact Fees.

MOVED, that the Commission hereby authorizes the Eastern Neighborhoods Impact Fee Waiver for 1000 16th Street based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

- The above recitals are accurate and constitute findings of this Commission.
- The proposed Daggett Park project meets all of the thresholds established in the Planning Commission's Procedures for In-Kind Agreements, as follows:
 - The proposed project meets the following fulfills purpose of community improvements by fulfilling Policy 5.1.1 of the Showplace Square/Potrero Hill Area Plan, which calls for the City to "identify opportunities to create new public parks and open spaces and provide at least one new public park or open space serving the Showplace/Potrero."
 - The infrastructure type is identified in fee ordinance, since the Eastern Neighborhoods Community Benefits Fund includes parks as a type of infrastructure for which the Eastern Neighborhoods Infrastructure Impact Fee could be spent.
 - Expenditure category for infrastructure type is not exhausted, as the contribution of this and other projects ensure that the "parks" expenditure category within the Eastern Neighborhoods Community Benefits Fund has over \$1.88 million.
 - The proposed improvements are a priority, as the creation of a park in the Showplace Square area is a goal of the Showplace Square/Potrero Hill Area Plan, and as a "Priority Project" by the Eastern Neighborhoods Infrastructure Prioritization Memorandum of Understanding (MOU), completed in January 2009.
 - The Project is Recommended, including
 - Being identified by 2009's Showplace Square Open Space Plan,
 - Supported by a community meeting held in early 2011,
 - Supported by the Eastern Neighborhoods Citizens Advisory Committee, who unanimously supported the proposal on July 18, 2011 in Motion 2011-6-1.
 - Reviewed and supported by a number of City agencies, including the Department of Public Works, the Port, Park and Recreation, and the Office of Economic and Workforce Development.
 - The Department determined the final value of the proposed improvements to be equivalent to the fee amount based on 2012 cost estimates provided by the Project Sponsor.

DECISION

The Commission, after carefully balancing the competing public and private interests, and based upon the Recitals and Findings set forth above, in accordance with the standards specified in the Code, hereby approves an impact fee waiver .

The Commission approves an in-kind agreement that substantially conforms to the attached drafts and authorizes the Director and City Attorneys' office to make changes as necessary to finalize the agreement.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on November 29th, 2012.

Jonas Ionin
Acting Commission Secretary

AYES: Fong, Wu, Antonini, Borden, Hillis, Moore, Sugaya

NAYS:

ABSENT:

ADOPTED: November 29, 2012



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion 19410

HEARING DATE JULY 9, 2015

Project Name: 1000 16th Street (Daggett Park) In-Kind Agreement
Case No.: 2003.0527U
Project Address: 1000 16th Street/"Daggett Park"
Plan Area: Showplace Square/Potrero Hill
Project Sponsor: Archstone Daggett Place, LLC
San Francisco, CA
Staff Contact: Steve Wertheim (415-558-6612)
steve.wertheim@sfgov.org

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APPROVING AN IMPACT FEE WAIVER FOR 1000 16th STREET IN THE AMOUNT OF \$2,369,144 TO CONTRIBUTE TO THE CONSTRUCTION OF A PARK ALONG THE DAGGETT STREET RIGHT-OF-WAY BASED ON THE COMPLETION OF AN UPDATED AND AMENDED IN-KIND AGREEMENT BETWEEN THE PROJECT SPONSOR AND THE CITY

PREAMBLE

- On January 19, 2009 the Eastern Neighborhoods Plan became effective, including now Section 423.3 of the San Francisco Planning Code, the Eastern Neighborhoods Infrastructure Impact Fee applicable to all projects in the plan area, including the subject property. This Impact Fee enabled Project Sponsors to seek a waiver from the City for impact fees that they provided in-kind.
- In January of 2009, seven City agencies entered into a Memorandum of Understanding which identified "Priority Projects" for the expenditure of Eastern Neighborhoods Infrastructure Impact Fees. One of these Priority Projects was locating a site for and constructing a new park in Showplace Square.
- The Showplace Square Open Space Plan, conducted in 2009, identified the Daggett Street right-of-way as a potential location for a public park.
- On October 18, 2010, the Project Sponsor's predecessor, Cherokee, formally requested to the City for approval of an In-Kind Agreement for provision of a park along the Daggett Street right-of-way.
- On July 18, 2011, in Motion 2011-6-1, the Eastern Neighborhoods Citizens Advisory Committee unanimously supported the construction of a park along the Daggett Street right-of-way as the means to fulfill the goal of constructing a new park within the Showplace Square Area.

- On July 21, 2011, in Motion No. 18419, the Project Sponsor's predecessor, Archstone, received entitlement by the Planning Commission to build approximately 470 units of rental housing, along with accompanying ground floor retail (Case 2003.0527). The project is projected to owe approximately \$4.2 million in Eastern Neighborhoods Infrastructure Impact Fees.
- On November 29, 2012, in Motion No. 18752, the Planning Commission voted unanimously to approve the "original" In-Kind Agreement and fee waiver for \$1,880,000 for the construction of the new park.
- Much has happened since the approval of the In-Kind Agreement to bring the park closer to implementation – and to create the need to update some of the information in the original In-Kind Agreement. These include:
 - The City negotiated transfer of the land from the Port of San Francisco, and removal of the State's "Public Trust" requirements (which precludes the creation of neighborhood-serving parks);
 - The City received a grant from the State's Housing-Related Parks Program to cover \$1,600,000 of the \$1,675,000 transfer cost;
 - The remaining \$75,000 transfer cost was included in the City's FY 2015-16 City Budget.
 - The City created the Plaza's Program, ensuring on-going stewardship for plazas and parks that are publicly owned but are not managed by the Recreation and Parks Department;
 - Legislation was introduced to complete the myriad legal steps necessary to realize the park, including acquiring the land, vacating the street, rezoning the street to a park, granting an encroachment to the sponsor to maintain the park, and accepting the gift from the project sponsor (BOS 150586 and BOS 150644); and
 - An increase to the cost of building the park.
- Based on these changes, the Project Sponsor, Archstone Daggett Place, LLC, and the City sought to create an "Updated and Amended" In-Kind Agreement for the project, including an impact fee waiver for \$2,369,144 for construction of the new park.

MOVED, that the Commission hereby authorizes the Eastern Neighborhoods Impact Fee Waiver for 1000 16th Street in the amount of \$2,369,144.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. The proposed In-Kind Agreement is consistent with the Planning Code Section 423.3.
3. The proposed Daggett Park project meets all of the thresholds established in the Planning Commission's "Procedures for In-Kind Agreements", as follows:

- The proposed project meets the following fulfills purpose of community improvements by fulfilling Policy 5.1.1 of the Showplace Square/Potrero Hill Area Plan, which calls for the City to “identify opportunities to create new public parks and open spaces and provide at least one new public park or open space serving the Showplace/Potrero.”
 - The infrastructure type is identified in fee ordinance, since the Eastern Neighborhoods Community Benefits Fund includes parks as a type of infrastructure for which the Eastern Neighborhoods Infrastructure Impact Fee could be spent.
 - Expenditure category for infrastructure type is not exhausted, as the contribution of this and other projects ensure that the “parks” expenditure category within the Eastern Neighborhoods Community Benefits Fund has over \$2,369,144.
4. The proposed improvements are a priority, as the creation of a park in the Showplace Square area is a goal of the Showplace Square/Potrero Hill Area Plan, and as a “Priority Project” by the Eastern Neighborhoods Infrastructure Prioritization Memorandum of Understanding (MOU), completed in January 2009.
5. The Project is Recommended, including:
- Being identified by 2009’s Showplace Square Open Space Plan,
 - Supported by a community meeting held in early 2011,
 - Supported by the Eastern Neighborhoods Citizens Advisory Committee, who unanimously supported the original In-Kind Agreement on July 18, 2011 in Motion 2011-6-1 and the Updated and Amended In-Kind Agreement on June 15, 2015 in Motion 20150605.
 - Reviewed and supported by a number of City agencies, including the Department of Public Works, the Port, Park and Recreation, and the Office of Economic and Workforce Development.
 - The Department determined the final value of the proposed improvements to be equivalent to the fee amount based on 2015 cost estimates provided by the Project Sponsor.
6. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan

RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 2

INCREASE RECREATION AND OPEN SPACE TO MEET THE LONG-TERM NEEDS OF THE CITY AND BAY REGION

Policy 2.1

Prioritize acquisition of open space in high needs areas.

Discussion: The project would create new open space in an area identified by the Eastern Neighborhoods Plan as an area of high need.

SHOWPLACE SQUARE/POTRERO HILL AREA PLAN

OBJECTIVE 5.1

PROVIDE PUBLIC PARKS AND OPEN SPACES THAT MEET THE NEEDS OF RESIDENTS, WORKERS, AND VISITORS

Policy 5.1

Identify opportunities to create new public parks and open spaces and provide at least one new public park or open space serving the Showplace/Potrero.

Discussion: The project would create a new public park meeting the needs of the residents, workers, and visitors to Showplace Square and Potrero Hill.

Policy 5.2

Require new residential development and commercial development to provide, or contribute to the creation of publicly accessible open space.

Discussion: The project is an example of new residential development contributing directly to the creation of publicly accessible open space.

7. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would likely benefit neighborhood-serving retail, as the proposed Daggett Park would be a place for the community to congregate, and therefore may improve opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would improve neighborhood character by providing a new public park.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

- 5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not adversely affect our industrial and service sectors or future opportunities for resident employment and ownership in these sectors.

- 6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an impact on City's preparedness against injury and loss of life in an earthquake.

- 7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not adversely affect the City's landmarks and historic buildings.

- 8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would help facilitate the creation of a new City park, and would not have an impact on other parks and open spaces and their access to sunlight and vistas.

DECISION

The Commission, after carefully balancing the competing public and private interests, and based upon the Recitals and Findings set forth above, in accordance with the standards specified in the Code, hereby approves an impact fee waiver.

The Commission approves an in-kind agreement that substantially conforms to the attached drafts and authorizes the Director and City Attorneys' office to make changes as necessary to finalize the agreement.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on July 9th, 2015.

Jonas Ionin
Acting Commission Secretary

AYES: Fong, Antonini, Johnson, Moore, Richards, Wu
NAYS:
ABSENT: Hillis
ADOPTED: July 9, 2015

**1000 16th STREET IN-KIND AGREEMENT
(PER PLANNING CODE SECTION 423.3)**

THIS IN-KIND AGREEMENT (the "Agreement") is entered into as of November 29th, 2012, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through the Planning Commission (the "City") and ARCHSTONE DAGGETT PLACE LLC, a Delaware limited liability company ("Project Sponsor"), with respect to the project approved for 1000 16th Street, San Francisco, California 94107 (the "Project").

RECITALS

A. On December 19, 2008, the San Francisco Board of Supervisors enacted Ordinance No. 298-08 (File No. 081153) (the "Ordinance"), adding Section 327 to the San Francisco Planning Code (now Sections 423-423.5). Any undefined term used herein shall have the meaning given to such term in Article 4 of the Planning Code, and all references to Sections 423-423.5 shall mean Sections 423-423.5 of the San Francisco Planning Code.

B. In order to mitigate the impacts from the new mixed residential and commercial development permitted under the Eastern Neighborhoods Plan, the Ordinance imposed an Impact Fee on new residential and commercial development (the "Fee"). Under Section 423.3(e), the Fee is required to be paid to the City before issuance of the first construction document for a development project. As an alternative to payment of the Fee, the Ordinance provides that the City may reduce the Fee obligation at that time if the project sponsor agrees to provide specified community improvements. In order for the project sponsor to satisfy its Fee obligation by providing such in-kind improvements, the Ordinance requires the City and the Project Sponsor to enter into an "In-Kind Agreement" described in Section 423.3(d).

C. The property described in Exhibit A attached hereto (the "Land") and generally known as 1000 16th Street (Lots 1, 2, and 3 in Assessor's Block 3833 and Lot 1 in Assessor's Block 3834) is owned by Project Sponsor. Archstone New Development Holdings LP, the Project Sponsor's predecessor in interest, submitted an application for the development of a mixed residential and commercial development on the Land, and the Planning Commission approved the Project on July 28, 2011 (Motion No. 18419). In its approval motion, the Commission urged the Project Sponsor to pursue an In-Kind Agreement for open space improvements in the Daggett Street right-of-way.

D. The Showplace Square/Potrero Area Plan contains objectives and policies for creating a complete mixed-use neighborhood along 16th Street, including developing public open space in the vicinity of the Project. The Showplace Square Open Space Study identified the Daggett Street right-of-way, an unaccepted street situated between Block 3833 and Block 3834, as a priority location for a public open space in the Showplace Square neighborhood. The Daggett Street right-of-way land is owned by the Port of San Francisco, and the City's Department of Public Works ("DPW") holds an easement over the land for public street purposes.

E. The Project Sponsor has requested that the City enter into an In-Kind Agreement associated with development of public open space improvements in a portion of the Daggett Street right-of-way to create a public open space referred to herein as "Daggett Park," in order to reduce its Fee obligation per the terms of the Ordinance, provided the owner of the land upon which Daggett Park would be constructed (currently, the Port of San Francisco) and any public street easement holder timely and irrevocably consent to the construction and maintenance of such improvements.

F. The In-Kind Improvements meet an identified community need as analyzed in the Eastern Neighborhoods Community Improvements Program and are not a physical improvement or provision of space otherwise required by the Planning Code or any other City Code.

G. On July 18, 2011, the Eastern Neighborhoods Citizens Advisory Committee voted in Motion 2011-6-1 to support the use of Eastern Neighborhoods Public Benefit Funds for the development of a Daggett Park, via an In-Kind Agreement with the sponsor of the surrounding development.

H. The City is willing to enter into an In-Kind Agreement, on the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the following words and phrases have the following meanings.

"**Agreement**" shall mean this Agreement.

"**City**" shall have the meaning set forth in the preamble to this Agreement.

"**Date of Satisfaction**" shall have the meaning set forth in Section 4.8 below.

"**DBI**" shall have the meaning set forth in Section 3.3 below.

"**DPW**" shall have the meaning set forth in Recital D.

"**Effective Date**" shall have the meaning set forth in Section 5.1 below.

"**Final Inspection Notice**" shall have the meaning set forth in Section 4.6 below.

"First Construction Document" shall have the meaning set forth in Section 401 of the Planning Code.

"Impact Fee" or **"Fee"** shall mean the fee charged to all residential and commercial development projects in the Eastern Neighborhoods Plan Areas under Section 423.3 of the Ordinance.

"In-Kind Improvements" shall have the meaning set forth in Recital E.

"In-Kind Value" shall have the meaning set forth in Section 3.2 below.

"Initial Amount" shall have the meaning set forth in Section 3.3 below.

"Inspection Notice" shall have the meaning set forth in Section 4.6 below.

"Land" shall have the meaning set forth in Recital C.

"Memorandum of Agreement" shall have the meaning set forth in Section 7.1 below.

"Ordinance" shall have the meaning designated in Recital A.

"Payment Analysis" shall have the meaning set forth in Section 5.2 below.

"Payment Documentation" shall have the meaning set forth in Section 4.7 below.

"Plans" shall have the meaning set forth in Section 4.3 below.

"Project" shall have the meaning set forth in the preamble to this Agreement.

"Project Sponsor" shall have the meaning set forth in the preamble to this Agreement.

"Project Sponsor Fee" shall mean the Project Sponsor's share of the Fee, as calculated pursuant to Section 3.1 hereof.

ARTICLE 2 PROJECT SPONSOR REPRESENTATIONS AND COVENANTS

The Project Sponsor hereby represents, warrants, agrees and covenants to the City as follows:

2.1 The above recitals relating to the Project are true and correct.

2.2 Project Sponsor: (1) is a limited liability company duly organized and existing under the laws of the State of Delaware, (2) has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated to be conducted, (3) has the power to execute and perform all the undertakings of this Agreement, and (4) is the fee owner of the real property on which the Project is located.

2.3 The execution and delivery of this Agreement and other instruments required to be executed and delivered by the Project Sponsor pursuant to this Agreement: (1) have not violated and will not violate any provision of law, rule or regulation, any order of court or other agency or government, and (2) have not violated and will not violate any provision of any agreement or instrument to which the Project Sponsor is bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature.

2.4 No document furnished or to be furnished by the Project Sponsor to the City in connection with this Agreement contains or will contain any untrue statement of material fact, or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.

2.5 Neither the Project Sponsor, nor any of its principals or members, have been suspended, disciplined or debarred by, or prohibited from contracting with, the U.S. General Services Administration or any federal, state or local governmental agency during the past five (5) years.

2.6 Pursuant to Section 423.3(d)(5), the Project Sponsor shall reimburse all City agencies for their administrative and staff costs in negotiating, drafting, and monitoring compliance with this Agreement.

ARTICLE 3 CALCULATION OF FEE AND IN-KIND CREDIT

3.1 The Project Sponsor Fee shall be calculated in accordance with Section 423.3(c) of the Ordinance. Based on the project entitled by the Planning Commission, the Fee is estimated at \$4,197,142 (for the fee calculations, see Exhibit B). The final Fee shall be calculated based on the project entitled by its First Construction Document.

3.2 Based on two estimates provided by independent sources, the Director of Planning determines that the In-Kind Improvements have a value of approximately \$1,880,000 (the "In-Kind Value"); provided, however, if upon final completion the actual construction and development costs to the Project Sponsor of providing the In-Kind Improvements are lower than this amount, the provisions of Section 5.2 shall apply. Documentation establishing the estimated eligible costs of providing the In-Kind Improvements in compliance with applicable City standards is attached hereto as Exhibit C (the "Cost Documentation").

3.3 The Project Sponsor shall pay to the Development Fee Collection Unit at the Department of Building Inspection ("DBI") \$2,317,142 (the "Initial Amount"), which is an amount equal to the Project Sponsor Fee (see Exhibit B) minus the In-Kind Value (see Exhibit C), prior to issuance of the Project's First Construction Document, pursuant to Section 423.3 of the Planning Code and Section 107A.13.3 of the San Francisco Building Code. On the Date of Satisfaction, the Project Sponsor shall receive a credit against the Project Sponsor Fee in the amount of the In-Kind Value, subject to Section 5.2 below.

ARTICLE 4
IN-KIND IMPROVEMENTS

4.1 The Port of San Francisco ("Port") is the current owner of Daggett Street. The City, acting by and through its Planning Commission, hereby requests that the Port (or its successor in interest) and any public street easement holder of the Daggett Street right-of-way irrevocably consent in writing, at no cost to the Project Sponsor, to use of Daggett Street for public open space purposes in a form acceptable to the Project Sponsor (the "Port Consent") prior to the following milestones:

4.1.1 If the Port Consent is given prior to March 1, 2013, the Project Sponsor shall proceed with design and construction of the In-Kind Improvements pursuant to the terms of this Agreement.

4.1.2 If the Port Consent is not given prior to March 1, 2013, the Project Sponsor shall have the option of terminating this Agreement. If the Project Sponsor elects not to terminate this Agreement and instead elects to proceed with design of the In-Kind Improvements, all such design costs (up to a maximum cost of \$500,000) shall be deemed an In-Kind Value and be credited against the Project Sponsor Fee whether or not the Port Consent is ever received.

4.2 The Project Sponsor agrees to take all steps necessary to construct and provide, at the Project Sponsor's sole cost, the In-Kind Improvements for the benefit of the City and the public, and the City shall accept the In-Kind Improvements in lieu of a portion of the Project Sponsor Fee under this Agreement if this Agreement is still in effect and each of the following conditions are met:

4.2.1 The Port Commission authorizes the Port Consent as provided in Section 4.1. The Project Sponsor agrees that the Port Consent may be conditioned on the construction, operation, and maintenance of the In-Kind Improvements at no cost to the Port.

4.2.2 The Project Sponsor will prepare an Operations Plan providing maintenance services for the life of Daggett Park, including, but not limited to, gardening, maintenance, and security services for Daggett Park, prior to issuance of the first temporary certificate of occupancy for the Project. Prior to the issuance of the Final Inspection Notice for the park, this Operations Plan must be approved by the Director of Planning, in consultation with relevant City agencies such as Park and Recreation and the Department of Public Works. The Project Sponsor shall comply with the Operations Plan at no cost to the City or Port and must ensure that Daggett Park functions as a public open space including equal access for all members of the public with operating hours similar to similar publicly owned and operated open spaces, other rules of operation similar to other publicly owned and operated public open spaces, including allowable activities.

4.3 Plans and Permits. The Project Sponsor shall cause its landscape architect to prepare detailed plans and specifications for the In-Kind Improvements, which plans and specifications shall be submitted for review and approval by DPW and DBI in the ordinary course of the process of obtaining a building permit for the Project (upon such approval, the

"Plans"). Such review and approval of the plans and specifications of the In-Kind Improvements by DPW and DBI shall not be unreasonably withheld, delayed or conditioned. The Project Sponsor shall be responsible, at no cost to the City, for completing the In-Kind Improvements strictly in accordance with the approved Plans and shall not make any material change to the approved Plans during the course of construction without first obtaining the Director of Planning's written approval. Upon completion of the In-Kind Improvements, the Project Sponsor shall furnish the City with a copy of the final approved plans and specifications for the In-Kind Improvements and documentation of any material changes or deviations therefrom that may occur during construction of the In-Kind Improvements.

4.4 Construction. All construction with respect to the In-Kind Improvements shall be accomplished prior to the First Certificate of Occupancy for the Project, including a temporary Certificate of Occupancy. The improvements shall be accomplished and in accordance with good construction and engineering practices and applicable laws. The Project Sponsor, while performing any construction relating to the In-Kind Improvements, shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to the surrounding property, and the risk of injury to members of the public, caused by or resulting from the performance of such construction. All construction relating to the In-Kind Improvements shall be performed by licensed, insured and bonded contractors, and pursuant to a contract that includes a release and indemnification for the benefit of the City.

4.5 If the Final Inspection Notice has not been completed prior to issuance of the First Certificate of Occupancy, the Project Sponsor shall provide a letter of credit, surety bond, escrow account, or other security reasonably satisfactory to the Planning Director in the amount of one hundred percent (100%) of the Cost Documentation applicable to the uncompleted In-Kind Improvements (the "Security") to be held by the City until issuance of the Final Inspection Notice, at which date it shall be returned to the Project Sponsor.

4.6 Upon final completion of the In-Kind Improvements and the Project Sponsor's receipt of all final permit sign-offs, the Project Sponsor shall notify the Director of Planning that the In-Kind Improvements have been completed. The Director of Planning, or his or her agent, shall inspect the site to confirm compliance with this Agreement, and shall promptly thereafter notify the Project Sponsor that the In-Kind Improvements have been completed in accordance with the requirements of this Agreement, or, if there are any problems or deficiencies, shall notify the Project Sponsor of any such problems or deficiencies (the "Inspection Notice"). The Project Sponsor shall correct any such problems or deficiencies set forth in the Inspection Notice and then request another inspection, repeating this process until the Director of Planning approves the In-Kind Improvements as satisfactory. Such approval shall be based on the requirements of this Agreement and shall not be unreasonably withheld. This condition will not be satisfied until the Director of Planning delivers an Inspection Notice that certifies that the In-Kind Improvements are ready for use by the public, as determined by the Director of Planning based on current City standards, and constitute the full satisfaction of the obligation to provide In-Kind Improvements in the form required hereunder (the "Final Inspection Notice"). The City may, in its sole discretion, waive the requirements of this Section 4.5.]

4.7 Evidence of Payment. The Project Sponsor shall provide the Planning Department with documentation substantiating payment by the Project Sponsor of the cost of

providing the In-Kind Improvements in the form of third-party checks and invoices and its or its general contractor's standard general conditions allocation (the "Payment Documentation"). The Payment Documentation shall include information necessary and customary in the construction industry to verify the Project Sponsor's costs and payments. The cost of providing the In-Kind Improvements shall be substantially similar to the average capital costs for the City to provide the same square feet of public open space, based on current value of recently completed projects.

4.8 The Project Sponsor shall not receive final credit for the In-Kind Improvements until the Final Inspection Notice is delivered, the Memorandum of Agreement is recorded and the City receives any additional payments as may be required under Articles 4 and 5 below, and all other obligations of the Project Sponsor under this Agreement have been satisfied (the "Date of Satisfaction"). The Project Sponsor assumes all risk of loss during construction, and shall not receive final credit for the In-Kind Improvements until the Date of Satisfaction. Notwithstanding the foregoing, on and after the Effective Date (as defined in Section 5.1 below), for so long as this Agreement remains in effect and the Project Sponsor is not in breach of this Agreement the City shall not withhold the issuance of any additional building or other permits necessary for the Project due to the Project Sponsor's payment of less than the full Project Sponsor Fee amount in anticipation of the In Kind Improvements ultimately being accepted and credited against the Project Sponsor Fee under the terms and conditions set forth in this Agreement.

ARTICLE 5 PAYMENT AND SECURITY

5.1 This Agreement shall not be effective until this Agreement is signed by both the Project Sponsor and the City, is approved as to form by the City Attorney, and is approved by the Planning Commission. The date upon which the foregoing requirements have been satisfied shall be the "Effective Date".

5.2 The City shall provide the Project Sponsor with a written report of its review of the Payment Documentation ("Payment Analysis") within ten (10) business days of its receipt thereof, which review shall be conducted for the exclusive purpose of determining whether the Payment Documentation substantially and reasonably document that the cost of providing the In-Kind Improvements shall be substantially similar to the average capital costs for the City to provide the same type of public open space, with comparable improvements, based on current value of recently completed projects, as selected by the City in its sole discretion. If the Payment Analysis reasonably substantiates that the Project Sponsor made payments in respect of the In-Kind Improvements in an amount less than the In-Kind Value, the Project Sponsor shall, within sixty (60) days of the date of the Payment Analysis, pay the City in an amount equal to the difference between the In-Kind Value and the actual amount paid in respect of the In-Kind Improvements by the Project Sponsor. If the Payment Analysis reasonably substantiates that the Project Sponsor made payments in respect of the improvements in an amount equal to or greater than the In-Kind Value, the Project Sponsor shall not be entitled to a refund of such overpayments and the City shall not be entitled to any additional funds related to the In-Kind Value.

5.3 The City and Project Sponsor shall endeavor to agree upon the Payment Analysis. If they are unable to so agree within thirty (30) days after receipt by Project Sponsor of the City's

Payment Analysis, Project Sponsor and the City shall mutually select a third-party engineer/cost consultant. The City shall submit its Payment Analysis and Project Sponsor shall submit the Payment Documentation to such engineer/cost consultant, at such time or times and in such manner as the City and Project Sponsor shall agree (or as directed by the engineer/cost consultant if the City and Project Sponsor do not promptly agree). The engineer/cost consultant shall select either the City's Payment Analysis or Project Sponsor's determination pursuant to the Payment Documentation, and such determination shall be binding on the City and Project Sponsor.

5.4 Notwithstanding anything in this Agreement to the contrary:

5.4.1 The City shall not issue or renew any further certificates of occupancy to the Project Sponsor until the City receives payment of the full Project Sponsor Fee (in some combination of the payment of the Initial Amount, the acceptance of In-Kind Improvements having the value described under this Agreement and other cash payments received by the City directly from Project Sponsor) before issuance of the First Certificate of Occupancy for the Project.

5.4.2 The City's issuance of a certificate of final completion or any other permit or approval for the Project shall not release the Project Sponsor of its obligation to pay the full Project Sponsor Fee (with interest, if applicable), if such payment has not been made at the time the City issues such certificate of final completion.

5.4.3 If the In-Kind Improvements for any reason prove to be insufficient to provide payment for sums due from the Project Sponsor as and when required, and after demand by the City the Project Sponsor fails to pay such amount, such amount shall accrue interest from the date of such demand at the rate of [one-half percent per month, or fraction thereof, compounded monthly, until the date of payment]. If such nonpayment continues for a period of six (6) months, the City's Treasurer shall initiate proceedings in accordance with Article XX of Chapter 10 of the San Francisco Administrative Code to make the entire unpaid balance of the Project Sponsor Fee, including interest, a lien against all parcels used for the housing in the Project and shall send all notices required by that Article.

5.5 The Project Sponsor understands and agrees and any payments to be credited against the Project Sponsor Fee shall be subject to the provisions set forth in San Francisco Administrative Code Sections 6.80-6.83 relating to false claims. Pursuant to San Francisco Administrative Code Sections 6.80-6.83, a party who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A party who submits a false claim shall also be liable to the City for the cost, including attorney's fees, of a civil action brought to recover any of those penalties or damages and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A party will be deemed to have submitted a false claim to the City if the party: (a) knowingly presents or causes to be presented to any officer or employee of the City a false claim; (b) knowingly makes, uses or causes to be made or used a false record or statement to get a false claim approved by the City; (c) conspires to defraud the City by getting a false claim allowed by the City; (d) knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the City; or (e) is beneficiary of an inadvertent

submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim. The Project Sponsor shall include this provision in all contracts and subcontracts relating to the In-Kind Improvements, and shall take all necessary and appropriate steps to verify the accuracy of all payments made to any such contractors and subcontractors.

ARTICLE 6 NOTICES

Any notice given under this Agreement shall be effective only if in writing and given by delivering the notice in person or by sending it first-class mail or certified mail with a return receipt requested or by overnight courier, return receipt requested, addressed as follows:

CITY:

Director of Planning
City and County of San Francisco
1650 Mission St., Suite 400
San Francisco, CA 94103

with a copy to:

Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Evan Gross

PROJECT SPONSOR:

Archstone Daggett Place LLC
c/o Equity Residential
333 Third Street, Suite 210
San Francisco, CA 94107
Attn: Jim Kelly

with a copy to:

Farella Braun + Martel LLP
235 Montgomery Street
San Francisco, CA 94104
Attn: Steven L. Vettel, Esq.

or to such other address as either party may from time to time specify in writing to the other party. Any notice shall be deemed given when actually delivered if such delivery is in person, two (2) days after deposit with the U.S. Postal Service if such delivery is by certified or registered mail, and the next business day after deposit with the U.S. Postal Service or with the commercial overnight courier service if such delivery is by overnight mail.

ARTICLE 7 RUN WITH THE LAND

7.1 The parties understand and agree that this Agreement shall run with the Project Sponsor's land, and shall burden and benefit every successor owner of the Land. The City would not be willing to enter into this Agreement without this provision, and the parties agree to record a Memorandum of Agreement in the form attached hereto as Exhibit C (the "Memorandum of Agreement"). On the Date of Satisfaction or if this Agreement is terminated pursuant to Section 8.4, this Agreement shall terminate and the City shall execute and deliver to the Project Sponsor a release of the Memorandum of Agreement, which the Project Sponsor may record.

ARTICLE 8 ADDITIONAL TERMS

8.1 This Agreement contemplates the acquisition of In-Kind Improvements as authorized under the Ordinance and is not a public works contract. The City and the Project Sponsor agree that the In-Kind Improvements are of local and not state-wide concern, and that the provisions of the California Public Contracts Code shall not apply to the construction of the In-Kind Improvements.

8.2 The City shall have the right, during normal business hours and upon reasonable notice, to review all books and records of the Project Sponsor pertaining to the costs and expenses of providing the In-Kind Improvements.

8.3 This instrument (including the exhibit(s) hereto) contains the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

8.4 This Agreement may be effectively amended, changed, modified, altered or terminated only by written instrument executed by the parties hereto except that the Project Sponsor may terminate this Agreement by written notice to the City at any time prior to issuance of the Project's first construction document, in which event the Project Sponsor shall have no obligations or liabilities under this Agreement and the City would have no obligation to issue the first construction document unless and until this Agreement is reinstated, another agreement is executed by the parties, or the Project Sponsor's obligations under the Ordinance are satisfied in another manner. Any material amendment shall require the approval of the City's Planning Commission, in its sole discretion.

8.5 No failure by the City to insist upon the strict performance of any obligation of Project Sponsor under this Agreement or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of payments during the continuance of any such breach, shall constitute a waiver of such breach or of the City's right to demand strict compliance with such term, covenant or condition. Any waiver must be in writing, and shall be limited to the terms or matters contained in such writing. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. In the event of any breach of this Agreement by the Project Sponsor, the City shall have all rights and remedies available at law or in equity.

8.6 This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of California.

8.7 The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. Time is of the essence in all matters relating to this Agreement.

8.8 This Agreement does not create a partnership or joint venture between the City and the Project Sponsor as to any activity conducted by the Project Sponsor relating to this Agreement or otherwise. The Project Sponsor is not a state or governmental actor with respect to any activity conducted by the Project Sponsor hereunder. This Agreement does not constitute authorization or approval by the City of any activity conducted by the Project Sponsor. This Agreement does not create any rights in or for any member of the public, and there are no third party beneficiaries.

8.9 Notwithstanding anything to the contrary contained in this Agreement, the Project Sponsor acknowledges and agrees that no officer or employee of the City has authority to commit the City to this Agreement unless and until the Planning Commission adopts a resolution approving this Agreement, and it has been duly executed by the Director of Planning and approved as to form by City Attorney.

8.10 The Project Sponsor, on behalf of itself and its successors, shall indemnify, defend, reimburse and hold the City and the Port, including their respective employees and agents, harmless from and against any and all claims, demands, losses, liabilities, damages, injuries, penalties, lawsuits and other proceedings, judgments and awards and costs by or in favor of a third party, incurred in connection with or arising directly or indirectly, in whole or in part, out of: (a) any accident, injury to or death of a person, or loss of or damage to property occurring in, on or about Daggett Park, provided that such accident, injury, death, loss or damage does not result from the gross negligence of the City; (b) any default by the Project Sponsor under this Agreement, (c) the condition of the In-Kind Improvements constructed by or on behalf of the Project Sponsor; and (d) any acts, omissions or negligence of the Project Sponsor or its agents in or about Daggett Park. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's and Port's costs of investigation. The Project Sponsor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City and the Port from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the Project Sponsor by City or the Port and continues at all times thereafter. The Project Sponsor's obligations under this Section shall survive the expiration or sooner termination of this Agreement.

ARTICLE 9 CITY CONTRACTING PROVISIONS

9.1 The Project Sponsor understands and agrees that under the City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the State Public Records Law (Gov't Code Section 6250 et seq.), this Agreement and any and all records, information, and materials submitted to the City hereunder are public records subject to public disclosure. The Project Sponsor hereby acknowledges that the City may disclose any records, information and materials submitted to the City in connection with this Agreement.

9.2 In the performance of this Agreement, the Project Sponsor covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status,

marital status, disability, weight, height or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee or any City employee working with or applicant for employment with the Project Sponsor, in any of the Project Sponsor's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Project Sponsor.

9.3 Through execution of this Agreement, the Project Sponsor acknowledges that it is familiar with the provisions of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provision and agrees that if it becomes aware of any such fact during the term, the Project Sponsor shall immediately notify the City.

9.4 Through execution of this Agreement, the Project Sponsor acknowledges that it is familiar with Section 1.126 of City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City, whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for the contract until three (3) months after the date the contract is approved by the City elective officer or the board on which that City elective officer serves. San Francisco Ethics Commission Regulation 1.126-1 provides that negotiations are commenced when a prospective contractor first communicates with a City officer or employee about the possibility of obtaining a specific contract. This communication may occur in person, by telephone or in writing, and may be initiated by the prospective contractor or a City officer or employee. Negotiations are completed when a contract is finalized and signed by the City and the contractor. Negotiations are terminated when the City and/or the prospective contractor end the negotiation process before a final decision is made to award the contract.

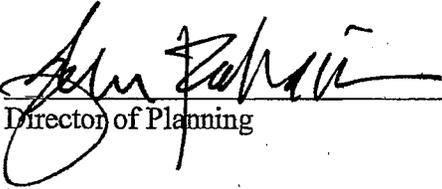
9.5 The City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. The City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. The Project Sponsor acknowledges that it has read and understands the above statement of the City concerning doing business in Northern Ireland.

9.6 The City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product.

[Signature page follows.]

NOW THEREFORE, the parties hereto have executed this In-Kind Agreement as of the date set forth above.

CITY AND COUNTY OF SAN FRANCISCO, acting by and through its Planning Commission

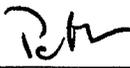
By: 
Director of Planning

ARCHSTONE DAGGETT PLACE LLC, a Delaware limited liability company

By: EQR-WARWICK, L.L.C., a Delaware limited liability company, its sole member

By: ERP Operating Limited Partnership, an Illinois limited Partnership, its managing member

By: Equity Residential, a Maryland real estate investment trust, its general partner

By: 
Name: Peter Scan
Title: VICE PRESIDENT

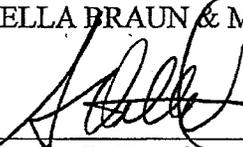
APPROVED:

DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

APPROVED AS TO FORM:

FARELLA BRAUN & MARTEL, LLP

By: 
Steven L. Vettel

ACKNOWLEDGED:

Department of Building Inspection

By: _____
Authorized Representative

ACKNOWLEDGED:

Port of San Francisco

By: _____
Authorized Representative

ACKNOWLEDGED:

Department of Public Works

By: _____
Authorized Representative

EXHIBIT A
LAND DESCRIPTION

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL A:

BEGINNING AT THE POINT FORMED BY THE INTERSECTION OF THE SOUTHWESTERLY LINE OF 7TH STREET WITH THE NORTHWESTERLY LINE OF DAGGETT STREET; RUNNING THENCE NORTHWESTERLY, ALONG SAID SOUTHWESTERLY LINE OF 7TH STREET, 146 FEET; THENCE AT A RIGHT ANGLE SOUTHWESTERLY 262 FEET; THENCE AT A RIGHT ANGLE SOUTHEASTERLY 146 FEET TO THE NORTHWESTERLY LINE OF DAGGETT STREET; THENCE NORTHEASTERLY, ALONG SAID NORTHWESTERLY LINE OF DAGGETT STREET, 262 FEET TO ITS INTERSECTION WITH THE SOUTHWESTERLY LINE OF 7TH STREET AND THE POINT OF BEGINNING. BEING A PORTION OF SOUTH BEACH BLOCK NO. 36

PARCEL B:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF DAGGETT STREET, DISTANT THEREON 262 FEET SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF 7TH STREET; RUNNING THENCE NORTHWESTERLY, AT A RIGHT ANGLE TO SAID LINE OF DAGGETT STREET, PARALLEL WITH SAID LINE OF 7TH STREET, 146 FEET; THENCE AT A RIGHT ANGLE SOUTHERLY, PARALLEL WITH SAID LINE OF DAGGETT STREET 267 FEET, 7-¼ INCHES TO THE NORTHERLY LINE OF 16TH STREET; THENCE EASTERLY, ALONG SAID LINE OF 16TH STREET, 224 FEET, 8-¼ INCHES TO THE NORTHWESTERLY LINE OF DAGGETT STREET; THENCE NORTHEASTERLY, ALONG SAID LINE OF DAGGETT STREET, 96 FEET, 9-¼ INCHES TO THE POINT OF BEGINNING. BEING A PORTION OF SOUTH BEACH BLOCK NO. 36

PARCEL C:

BEGINNING AT THE POINT FORMED BY THE INTERSECTION OF THE SOUTHEASTERLY LINE OF HUBBELL STREET WITH THE SOUTHWESTERLY LINE OF 7TH STREET; RUNNING THENCE SOUTHEASTERLY, ALONG SAID SOUTHWESTERLY LINE OF 7TH STREET, 94 FEET; THENCE AT A RIGHT ANGLE SOUTHWESTERLY 529 FEET, 7-¼ INCHES, MORE OR LESS, TO THE NORTHERLY LINE OF 16TH STREET; THENCE WESTERLY, ALONG SAID NORTHERLY LINE OF 16TH STREET, 144 FEET, 8-¼ INCHES, MORE OR LESS, TO THE SOUTHEASTERLY LINE OF HUBBELL STREET; THENCE NORTHEASTERLY, ALONG SAID SOUTHEASTERLY LINE OF HUBBELL STREET, 639 FEET, 6-7/8 INCHES, MORE OR LESS, TO THE SOUTHWESTERLY LINE OF 7TH STREET AND THE POINT OF BEGINNING. BEING A PORTION OF SOUTH BEACH BLOCK NO. 36

PARCEL D:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHWESTERLY LINE OF

7TH STREET AND THE SOUTHEASTERLY LINE OF DAGGETT STREET; RUNNING
THENCE SOUTHEASTERLY, ALONG SAID LINE OF 7TH STREET, 170 FEET, 9-³/₄
INCHES TO THE NORTHERLY LINE OF 16TH STREET; THENCE WESTERLY, ALONG
SAID NORTHERLY LINE OF 16TH STREET, 262 FEET, 10-¹/₂ INCHES TO THE
SOUTHEASTERLY LINE OF DAGGETT STREET; THENCE NORTHEASTERLY, ALONG
SAID SOUTHEASTERLY LINE OF DAGGETT STREET, 199 FEET, 9-⁷/₈ INCHES TO THE
POINT OF BEGINNING. BEING SOUTH BEACH BLOCK NO. 35-¹/₂.

Assessor's Lot 001; Block 3833

Assessor's Lot 002; Block 3833

Assessor's Lot 003; Block 3833

Assessor's Lot 001; Block 3834

EXHIBIT B
CALCULATION OF IMPACT FEES

North Building

400,683 square feet of residential space at \$8.51 per square foot	\$3,409,812
6,048 square feet of non-residential space at \$10.63 per square foot	\$ 64,290

South Building

74,536 square feet of residential space at \$8.51 per square foot	\$ 634,301
8,348 square feet of non-residential space at \$10.63 per square foot	\$ 88,739

Total	\$4,197,142
--------------	--------------------

EXHIBIT C
CALCULATION OF IN-KIND VALUE

The calculation of In-Kind Value for the proposed Daggett Park at 1000 16th Street has multiple components. These include:

- Determining the value of required improvements
- Determining the value of the proposed improvements
- Determining the specific improvements that would be provided via this In-Kind Agreement
- Determining the specific improvements that would need to be provided via a gift to the City

Determining the Value of Required Improvements

Fee waivers cannot be made for improvements that the Project Sponsor is already legally required to undertake. In this instance, the Project Sponsor is responsible for improving the entire Daggett Street right-of-way, given that their development is on both sides of this street. Such improvement would likely consist of transforming the unimproved areas into a new roadway, with sidewalk and landscaping. Working with the Department of Public Works, it was estimated that such improvements would cost \$802,350.

Table 1 – Value of Required Improvements

	AMOUNT	UNIT	UNIT COST	TOTAL COST
Site remediation	1,048	Tons	\$145	\$151,960
Site engineering	43,400	Square Feet	\$0.40	\$17,360
Earthwork	43,400	Square Feet	\$2.00	\$86,800
Hydraulic engineering				\$75,000
Curb & gutter	654	Linear Feet	\$40.00	\$26,160
City Sidewalk	7,800	Square Feet	\$8.00	\$62,400
Ramps	8	Each	\$2,500.00	\$20,000
Paving material	34,100	Square Feet	\$4.00	\$136,400
Street trees	28	Each	\$3,265.00	\$91,420
Curbside planting	1,500	Square Feet	\$10.00	\$15,000
Traffic Striping	310	Linear Feet	\$3.00	\$930
Traffic Routing			\$15,000.00	\$15,000
Curbside Irrigation	1,500	Square Feet	\$10.00	\$15,000
Lighting	7	Each	\$8,000.00	\$56,000
Subtotal				\$769,430
City tax			0.12%	\$923
General Contractor insurance			0.35%	\$2,696
Fee			3.50%	\$27,057
Bonds				\$2,424
Total				\$802,530

Determining the Value of Proposed Improvements

To help determine the value of the proposed improvements, the Project Sponsor provided two cost estimates of the hard costs: one from the James E. Roberts – Obayashi Corporation, and one by Johnstone Moyer, Inc. These estimates are included below. The lower estimate was utilized by the Project Sponsor in calculating the overall value of the proposed improvements, including other costs such as design and engineering fees, site preparation, and hazardous remediation. This estimate concluded that the overall cost of the improvements was \$3,724,407. These estimates were reviewed and corroborated by staff at the Department of Public Works.

Determining the Specific Improvements that Would be Provided via this In-Kind Agreement

The approval of this In-Kind Agreement would commit the Project Sponsor to creating a public park on the Daggett Street right-of-way, and not a typical city street. Therefore, the \$802,530 that the Project Sponsor would be required to contribute will instead be directed towards the construction of the park.

In addition, through this In-Kind Agreement the Project Sponsor would commit to \$1,880,000 in improvements in return for a reduction in their Eastern Neighborhoods Infrastructure Impact Fee of the same amount. Combined, that means that this In-Kind Agreement would enable \$2,682,530 towards the creation of a park along the Daggett Street right-of-way. The City and Project Sponsor have agreed that this amount will include all the preliminaries necessary to make a park. This includes the following items:

- Site Preparation
- Hazardous Remediation
- Sewer Relocation/Abandon Gas Line
- Design and Engineering
- Permits and Fees
- Testing and Inspections

Based on the Project Sponsor's cost estimate, the total for these preliminaries is \$1,623,170 (including the City tax and other mark-ups applied to each item).

The remaining \$1,059,360 would be spent on improvements to the park. They will focus on baseline amenities, including:

- Site engineering
- Earthwork
- Public art
- Landscaping
- Storm Drainage

Determining the specific improvements that would need to be provided via a gift to the City

The cost of the proposed improvements to the Daggett Street right-of-way (\$3,724,407) exceed the Project Sponsors required contribution (\$802,530) and requested fee waiver (\$1,880,000) by

\$1,041,877. The Project Sponsor is proposing to gift the City the value of these improvements. Such a gift would occur via a separate legal agreement with the City. Such a gift should include all of those items identified as proposed improvements by the Project Sponsor but that are not included in this In-Kind Agreement.



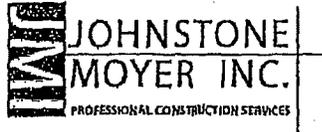
James E. Roberts - Obayashi Corporation

GENERAL CONTRACTOR
LICENSE NO. 159519

Daggett Place Park
San Francisco, CA

Item	Description	Sec #	3-20-12 Total
1	General Conditions	01100	N/A
2	Demolition	02050	\$ 63,877
3	Site Engineering	02100	\$ 11,440
4	Earthwork	02200	\$ 67,820
5	Site Concrete	02510	\$ 296,525
6	Precast Concrete Pavers	02520	\$ 96,140
7	Storm Drainage	02640	\$ 129,649
8	Penta-Step Precast	02800	\$ 184,250
9	Site Carpentry	02825	\$ 1,720
10	Metal Fence & Gates	02835	\$ 27,220
11	Site Furnishings	02870	\$ 43,300
12	Landscaping	02900	\$ 524,213
13	Metal Fabrication	05500	\$ 53,540
14	Electrical	16100	\$ 75,000
15			
16	Offsite Work	20000	\$ 142,454
17			
18	Testing & Inspections	21000	By Owner
19	Building Permits & Fees	21020	By Owner
20	Street Permits	21040	By Owner
21	Water Fees	21060	By Owner
22	Sewer Fees	21080	By Owner
23	PG&E Joint Trench	21100	By Owner
24	Security Guard or Roving Patrols	21120	By Owner
25	Builders Risk	21040	By Owner
26	Sub Bonds	21060	By Owner

	SUBTOTAL	\$	1,717,147
	City Tax	0.20%	\$ 3,434
*Based on OCIP insurance provided by owner	GC offsite Liability Fee	0.50%	\$ 8,603
	G.C. Bond	3.50%	\$ 60,521
			\$ 25,568
	**Current Market Total		\$ 1,815,274
	Recommended design / escalation contingency	5.00%	\$ 90,764
			\$ 1,906,038



1720 South Amphlett Boulevard, Suite 250
 San Mateo, CA 94402
 T 650.570.6161 F 650.570.6144
 www.johnstonemoyer.com

Daggett Place Park, San Francisco, CA Landscaping Costs

Mr. Fred Kriebel
 Archstone
 807 Broadway #210 Oakland, CA
fred@kriebelandassociates.com

Johnstone Moyer is pleased to present you with pricing for the landscaping work at Daggett Place Park. Pricing is based off of the David Baker and Partners drawings date 2-21-12. Please review the following pricing and contact us with any questions or concerns.

General Conditions		\$94,000
Demolition		\$67,000
Misc. Offsite Improvements		\$138,250
Site Engineering		\$12,200
Site Furnishings		\$42,000
Lanscaping		\$513,750
Earthwork		\$75,300
Storm Drain		\$133,400
Site Concrete		\$322,200
Concrete Pavers		\$94,200
Penta-Step Pre-Cast		\$193,400
Misc. Site Carpentry		\$1,800
Metal Fence		\$29,000
Misc Metals		\$62,500
Electrical		\$83,100
Subtotal		\$1,862,100
City Tax	0.20%	\$3,724
Offsite Liability Insurance	0.50%	\$9,329
Fee	4.00%	\$75,006.13
Bond	1.00%	\$19,502
Total		\$1,969,661
Contingency	5%	\$98,483.05
Grand Total		\$2,068,144

DAGGETT PARK
 SAN FRANCISCO, CALIFORNIA
 IN-KIND COST REVIEW

100% Design Development
 6-Sep-12

DESCRIPTION	TOTAL	COMMENTS
Design & Engineering Fees		
CMG (Landscape Architecture)	\$ 210,000	
LUK Associates (Civil)	\$ 26,000	
Robison (Lighting & Electrical)	\$ 4,000	
ECS (Park power service, gas line demo)	\$ 4,500	
David Baker + Partners	\$ 50,000	
Design Sub-Total	\$ 294,500	
Site Preparation-Demo	\$ 63,877	
Hazardous Remediation	\$ 1,044,453	Park site 3' overex 6,285 tons @ \$145/ton offhaul, Class I; + 2,324 cy @ \$22/cy import; + Generator tax \$82K
Sewer Relocation/Abandon Gas Line	\$ 67,000	\$57k for sewer reloc in main bldg., \$10k gas abandon/cap
Improvements	\$ 1,653,270	James E Roberts-Obayashi 3.20.12 est less site prep.
Permits and Fees	\$ 10,000	
Testing and Inspections	\$ 10,000	
Sub-Total	\$ 3,143,100	
Mark-Ups (applied to improvement cost)	\$ 281,307	City tax (0.2%); GC Offsite Liability (0.5%); GC Fee (3.5%); GC Bond (1.5%); Escalation Contingency (3.25%)
Public Art	\$ 300,000	
TOTAL PARK COST	\$ 3,724,407	
Value of Street Improvements (theoretical)	\$ 404,643	70' ROW = (2) 12' traffic lanes, (2) 8' parking, (2) 15' s/w
Park Cost less street improvements	\$ 3,319,764	
IN-KIND FUNDING	\$ 1,880,000	

Exhibit D

Memorandum of Agreement

**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

**City and County of San Francisco
Department of Planning
1650 Mission St., Suite 400
San Francisco, CA 94103
Attn: Director**

(Free Recording Requested Pursuant to
Government Code Section 27383)

Memorandum of In-Kind Agreement

This Memorandum of In-Kind Agreement (this "Memorandum"), is dated as of _____, 2014, and is by and between the City and County of San Francisco, a municipal corporation, acting and through the Planning Commission (the "City"), and Archstone Daggett Place LLC (the "Project Sponsor").

1. The property described in Exhibit A attached hereto (the "Land") and generally known as 1000 16th Street, San Francisco, California 94107 is owned by Project Sponsor.
2. Under San Francisco Planning Code Section 423.3 ("Section 423.3"), the Project Sponsor must pay to the City an Impact Fee (the "Fee") on or before the issuance of the first construction document for the Land; provided, however, the City can reduce such payment under Section 423.3(d) if the Project Sponsor enters into an agreement with the City to provide in-kind improvements.
3. In accordance with Section 423.3(d), the City and the Project Sponsor have entered into an in-kind agreement (the "In-Kind Agreement"), which permits the Project Sponsor to receive construction documents with the satisfaction of certain conditions in return for the Project Sponsor's agreement to provide certain in-kind improvements under the terms and conditions set forth therein.
4. Upon the Project Sponsor's satisfaction of the terms of the In-Kind Agreement, the In-Kind Agreement shall terminate and the City will execute and deliver to the Project Sponsor a termination of this Memorandum in recordable form.

5. The Project Sponsor and the City have executed and recorded this Memorandum to give notice of the In-Kind Agreement, and all of the terms and conditions of the In-Kind Agreement are incorporated herein by reference as if they were fully set forth herein. Reference is made to the In-Kind Agreement itself for a complete and definitive statement of the rights and obligations of the Project Sponsor and the City thereunder.

6. This Memorandum shall not be deemed to modify, alter or amend in any way the provisions of the In-Kind Agreement. In the event any conflict exists between the terms of the In-Kind Agreement and this Memorandum, the terms of the In-Kind Agreement shall govern.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum as of the date first written above.

CITY AND COUNTY OF SAN FRANCISCO, acting by and through its Planning Commission

By: _____
Director of Planning

ARCHSTONE DAGGETT PLACE LLC,
a Delaware limited liability company

By: EQR-WARWICK, L.L.C., a Delaware limited liability company, its sole member

By: ERP Operating Limited Partnership, an Illinois limited Partnership, its managing member

By: Equity Residential, a Maryland real estate investment trust, its general partner

By: _____
Name:
Title:

CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGEMENT

State of California
County of _____

On _____ before me,

(here insert name and title of the officer)
personally appeared

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

**AMENDED AND RESTATED IN-KIND AGREEMENT
(PER ARTICLE 4 OF THE PLANNING CODE)**

THIS AMENDED AND RESTATED IN-KIND AGREEMENT (“**Agreement**”) is entered into as of July 9, 2015, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through the Planning Commission (the “**City**”) and ARCHSTONE DAGGETT PLACE LLC, a Delaware limited liability company (“**Project Sponsor**”), with respect to a development project approved for 1000 16th Street, San Francisco, California 94107, San Francisco, California (the “**Project**”).

RECITALS

A. Article 4 of the San Francisco Planning Code authorizes the City, acting through the Planning Commission, and the sponsor of a development project in specified areas of the City to enter into an In-Kind Agreement that would allow the project sponsor to directly provide community improvements to the City as an alternative to payment of all or a portion of a fee that would be imposed on the development project in order to mitigate the impacts caused by the development project. Any undefined term used herein shall have the meaning given to such term in Article 4 of the Planning Code.

B. This Agreement shall not be effective until it has been signed by both the Project Sponsor and the City, is approved as to form by the City Attorney, and is approved by the Planning Commission. The date upon which the foregoing requirements have been satisfied shall be the “**Effective Date**.”

C. The property described in Exhibit A attached hereto and generally known as 1000 16th Street (Lots 1, 2, and 3 in Assessor’s Block 3833 and Lot 1 in Assessor’s Block 3834) (the “**Land**”) is owned by Project Sponsor. Archstone New Development Holdings LP, the Project Sponsor’s predecessor in interest, submitted an application for the development of a project on the Land that is subject to the Eastern Neighborhoods Infrastructure Impact Fee (the “**Fee**”).

D. Pursuant to the provisions of Article 4 of the Planning Code, the Project Sponsor has requested that the City enter into an In-Kind Agreement associated with the Project in order to reduce its Fee obligation under Section 423.3 of the Planning Code. The in-kind improvements consist of a development of public open space improvements in a portion of the Daggett Street right-of-way to create a public open space referred to herein as “Daggett Park,” as more particularly described in Exhibit B (“**In-Kind Improvements**”).

E. The cost of the In-Kind Improvements exceeds the amount of the Fee waiver that would be made by the City pursuant to this Agreement, and Project Sponsor has offered to make a gift of such excess cost. Project Sponsor has also offered to assume full physical maintenance responsibility for the In-Kind Improvements and liability relating to the construction and maintenance of the In-Kind Improvements in perpetuity, while the City would retain all right and responsibility for the operation of Daggett Park. The City’s Office of Economic and Workforce Development and the City’s Director of Property intend to request the City’s Board of

Supervisors to consider placing Daggett Park in the San Francisco Plaza Program under Chapter 94 of the San Francisco Administrative Code.

F. The In-Kind Improvements meet the following identified community need and are not a physical improvement or provision of space otherwise required by the Project entitlements or other City Code: The Showplace Square/Potrero Area Plan contains objectives and policies for creating a complete mixed-use neighborhood along 16th Street, including developing public open space in the vicinity of the Project. The Showplace Square Open Space Study identified the Daggett Street right-of-way, an unaccepted street situated between Block 3833 and Block 3834, as a priority location for a public open space in the Showplace Square neighborhood.

G. On July 18, 2011, in Motion 2011-6-1, the Eastern Neighborhoods Citizens Advisory Committee passed a resolution supporting the proposed In-Kind Improvements in the amount of \$1,880,000.

H. On November 29, 2012 (Motion No. 18752), the Planning Commission approved the Fee waiver and authorized the Director of Planning to enter into an In-Kind Agreement and the parties executed an In-Kind Agreement effective on that date (the "**Original In-Kind Agreement**"). The Original In-Kind Agreement provided for the Developer to terminate the agreement in the event the Port of San Francisco ("**Port**") did not consent to the In-Kind Improvements prior to March 1, 2013. The Developer elected not to terminate the agreement, despite the lack of consent from the Port prior to March 1, 2013.

I. On December 16, 2014, the Port Commission approved a jurisdictional transfer of the Daggett Street right-of-way to the City. On December 17, 2014, the California State Lands Commission affirmed the Port's transfer of the Daggett Street right-of-way to the City free of the State's public trust. City staff plans to submit legislation for consideration by the City's Board of Supervisors to authorize the transfer of the Daggett Street right-of-way from the Port and vacating a portion of its right-of-way.

J. Since the approval of the Original In-Kind Agreement, the estimated cost for the In-Kind Improvements has increased substantially, due to the application of wage and hiring requirements (including "Prevailing Wage" and "Local Hire"), because of delays in commencing construction (due to the complicated inter-governmental process for City's acquisition of the Daggett Street right-of-way free of the public trust), and because of the general rise in hard construction costs in the Bay Area.

K. On June 15, 2015, in Motion 2015-06-05, the Eastern Neighborhoods Citizens Advisory Committee passed a resolution supporting the proposed Amended and Restated In-Kind Improvements in the amount of \$2,369,144.

L. On July 9, 2015 (Motion No. 19410), the Planning Commission approved the amended Fee waiver and authorized the Director of Planning to enter into this Agreement.

M. The parties wish to now amend and restate the Original In-Kind Agreement to reflect the changes made since its approval in November, 2012.

N. The City and the Project Sponsor are willing to enter into this Agreement on the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 DEFINITIONS

Defined Terms. As used in this Agreement, the following words and phrases have the following meanings.

“**Agreement**” shall mean this Agreement.

“**City**” shall have the meaning set forth in the preamble to this Agreement.

“**Date of Satisfaction**” shall have the meaning set forth in Section 5.3 below.

“**Development impact fee**” or “**Fee**” shall mean the fee charged to development projects under Article 4, Section 423.3 of the Planning Code.

“**DBI**” shall mean the Department of Building Inspection.

“**DPW**” shall mean the Department of Public Works.

“**Effective Date**” shall have the meaning set forth in Recital B.

“**First Construction Document**” shall have the meaning set forth in Section 401 of the Planning Code.

“**In-Kind Improvements**” shall have the meaning set forth in Recital D.

“**In-Kind Value**” shall have the meaning set forth in Section 3.2 below.

“**Land**” shall have the meaning set forth in Recital C.

“**Maintenance Declaration**” shall have the meaning set forth in Section 4.5 below.

“**Maintenance License**” shall have the meaning set forth in Section 4.5 below.

“**Memorandum of Agreement**” shall have the meaning set forth in Article 8 below.

“**Notice of Satisfaction**” shall have the meaning set forth in Section 5.3 below.

“Payment Analysis” shall have the meaning set forth in Section 5.2 below.

“Payment Documentation” shall have the meaning set forth in Section 5.1 below.

“Plans” shall have the meaning set forth in Section 4.2 below.

“Project” shall have the meaning set forth in the preamble to this Agreement.

“Project Sponsor” shall have the meaning set forth in the preamble to this Agreement.

“Project Fee” shall mean the Project Sponsor’s share of the Eastern Neighborhoods Infrastructure Impact Fee, as calculated pursuant to Section 3.1 below.

“Remainder Amount” shall have the meaning set forth in Section 3.3 below.

“Security” shall have the meaning set forth in Section 5.4 below.

ARTICLE 2 PROJECT SPONSOR REPRESENTATIONS AND COVENANTS

The Project Sponsor hereby represents, warrants, agrees and covenants to the City as follows:

2.1 The above recitals relating to the Project are true and correct.

2.2 Project Sponsor: (1) is a limited liability company duly organized and existing under the laws of the State of Delaware, (2) has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated to be conducted, (3) has the power to execute and perform all the undertakings of this Agreement, and (4) is the fee owner of the Land on which the Project is located.

2.3 The execution and delivery of this Agreement and other instruments required to be executed and delivered by the Project Sponsor pursuant to this Agreement: (1) have not violated and will not violate any provision of law, rule or regulation, any order of court or other agency or government, and (2) have not violated and will not violate any provision of any agreement or instrument to which the Project Sponsor is bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature.

2.4 No document furnished or to be furnished by the Project Sponsor to the City in connection with this Agreement contains or will contain any untrue statement of material fact, or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.

2.5 Neither the Project Sponsor, nor any of its principals or members, have been suspended, disciplined or debarred by, or prohibited from contracting with, the U.S. General

Services Administration or any federal, state or local governmental agency during the past five (5) years.

2.6 Pursuant to Section 423.3(d)(5) of the Planning Code, the Project Sponsor shall reimburse all City agencies for their administrative and staff costs in negotiating, drafting, and monitoring compliance with this Agreement and the Original In-Kind Agreement.

ARTICLE 3 CALCULATION OF FEE AND IN-KIND CREDIT

3.1 The Project Fee has been calculated in accordance with Section 423.3 of the Planning Code. Based on the development project entitled by the First Construction Document, the Project Fee was determined to be \$4,288,200. (For the fee calculations, see Exhibit C.)

3.2 Based on two estimates provided by independent sources, the Director of Planning determines that the In-Kind Improvements have a value of approximately \$2,369,144 (the "**In-Kind Value**"); provided, however, if upon final completion the actual construction and development costs to the Project Sponsor of providing the In-Kind Improvements are lower than this amount, the provisions of Section 5.2 shall apply. Documentation establishing the estimated third-party eligible costs of providing the In-Kind Improvements in compliance with applicable City standards is attached hereto as Exhibit D (the "**Cost Documentation**").

3.3 Pursuant to Section 423.3 of the Planning Code and Section 107A.13.3 of the San Francisco Building Code, the Project Sponsor shall pay to the Development Fee Collection Unit at DBI \$1,919,0564 (the "**Remainder Amount**"), which is an amount equal to the Project Fee (see Exhibit C) minus the In-Kind Value (see Exhibit D), prior to issuance of the Project's First Certificate of Occupancy. On the Date of Satisfaction, the Project Sponsor shall receive a credit against the Project Fee in the amount of the In-Kind Value, subject to Section 5.1 below.

ARTICLE 4 CONSTRUCTION OF IN-KIND IMPROVEMENTS

4.1 **Conditions of Performance.** The Project Sponsor agrees to take all steps necessary to construct and provide, at the Project Sponsor's sole cost, the In-Kind Improvements for the benefit of the City and the public, and the City shall accept the In-Kind Improvements in lieu of a portion of the Project Fee under this Agreement if this Agreement is still in effect and each of the following conditions are met:

4.2 **Plans and Permits.** The Project Sponsor shall cause an appropriate design professional to prepare detailed plans and specifications for the In-Kind Improvements, which plans and specifications shall be submitted for review and approval by DBI, DPW and other applicable City departments or agencies in the ordinary course of the process of obtaining a site or building permit for the Project (upon such approval, the "**Plans**"). The Project Sponsor shall be responsible for obtaining all permits and approvals from other affected departments that are necessary to implement this proposal, including the appropriate DPW permit required for Project Sponsor to use the Daggett Street right of way to construct the In-Kind Improvements. Review

and approval of the plans and specifications of the In-Kind Improvements by the City's Planning Department shall not be unreasonably withheld, delayed or conditioned. The Project Sponsor shall be responsible, at no cost to the City, for completing the In-Kind Improvements strictly in accordance with the approved Plans and shall not make any material change to the approved Plans during the course of construction without first obtaining the Director of Planning's written approval. Upon completion of the In-Kind Improvements, the Project Sponsor shall furnish the City with a copy of the final approved Plans for the In-Kind Improvements and documentation of any material changes or deviations therefrom that may occur during construction of the In-Kind Improvements.

4.3 **Construction.** All construction with respect to the In-Kind Improvements shall be accomplished prior to the first certificate of occupancy for the Project, including any temporary certificate of occupancy. The In-Kind Improvements shall be installed in accordance with good construction and engineering practices and applicable laws. The Project Sponsor, while performing any construction relating to the In-Kind Improvements, shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to the surrounding property, and the risk of injury to members of the public, caused by or resulting from the performance of such construction. All construction relating to the In-Kind Improvements shall be performed by licensed, insured and bonded contractors, and pursuant to a contract that includes a release and indemnification for the benefit of the City.

4.4 **Inspections.** The Project Sponsor shall request the customary inspections of the In-Kind Improvement work by DBI, DPW and all other applicable City departments or agencies during construction using applicable City procedures in accordance with the City's Building Code and other applicable law. Upon final completion of the work and the Project Sponsor's receipt of all final permit sign-offs, the Project Sponsor shall notify all applicable City departments or agencies that the In-Kind Improvements have been completed. The City departments or agencies shall inspect the site to confirm compliance with applicable City standards for the work. This condition will not be satisfied until all applicable City departments and agencies have certified that the In-Kind Improvements are complete and ready for their intended use, including the City Engineer's issuance of a Determination of Completion.

4.5 **Completion of In-Kind Improvements.** Upon final completion of the In-Kind Improvements and the Project Sponsor's receipt of all final permit sign-offs, the Project Sponsor shall notify the Director of Planning that the In-Kind Improvements have been completed. The Director of Planning, or his or her agent, shall inspect the site to confirm compliance with this Agreement, and shall promptly notify the Project Sponsor if there are any problems or deficiencies. The Project Sponsor shall correct any such problems or deficiencies and then request another inspection, repeating this process until the Director of Planning approves the In-Kind Improvements as satisfactory. Such approval shall be based on the requirements of this Agreement and shall not be unreasonably withheld. If the Director of Planning approves the In-Kind Improvements as satisfactory, the Project Sponsor shall promptly deliver to the Director of Planning an original copy of the Declaration of Maintenance Obligations in the form attached to this Agreement as **Exhibit E** (the "**Maintenance Declaration**"), duly executed by Project Sponsor and notarized, and two original copies of the Maintenance License Agreement in the

form attached to this Agreement as Exhibit F (the “Maintenance License”), duly executed by Project Sponsor

ARTICLE 5 SATISFACTION OF OBLIGATIONS

5.1 **Evidence of Payment.** The Project Sponsor shall provide the Planning Department with documentation substantiating payment by the Project Sponsor of the cost of providing the In-Kind Improvements in the form of third-party checks and invoices and its or its general contractor’s standard general conditions allocation (the “**Payment Documentation**”). The Payment Documentation shall include information necessary and customary in the construction industry to verify the Project Sponsor’s costs and payments. The cost of providing the In-Kind Improvements shall not be significantly higher than the average capital costs for the City to provide comparable improvements, based on current value of recently completed projects, as selected by the City in its sole discretion.

5.2 **Payment Analysis.** The City shall provide the Project Sponsor with a written report of its review of the Payment Documentation (“**Payment Analysis**”) within ten (10) business days of its receipt thereof, which review shall be conducted for the exclusive purpose of determining whether the Payment Documentation substantially and reasonably documents that the cost of providing the In-Kind Improvements shall not be significantly higher than the average capital costs for the City to provide comparable improvements, based on current value of recently completed projects, as selected by the City in its sole discretion.

5.2.1 If the Payment Analysis reasonably substantiates that the Project Sponsor made payments in respect of the In-Kind Improvements in an amount less than the In-Kind Value, the Project Sponsor shall, within sixty (60) days of the date of the Payment Analysis, pay the City an amount equal to the difference between the In-Kind Value and the actual amount paid in respect of the In-Kind Improvements by the Project Sponsor. If the Payment Analysis reasonably substantiates that the Project Sponsor made payments in respect of the In-Kind Improvements in an amount equal to or greater than the In-Kind Value, the Project Sponsor shall not be entitled to a refund of such overpayments and the City shall not be entitled to any additional funds related to the In-Kind Value.

5.2.2 The City and Project Sponsor shall endeavor to agree upon the Payment Analysis. If they are unable to so agree within thirty (30) days after receipt by Project Sponsor of the City’s Payment Analysis, Project Sponsor and the City shall mutually select a third-party engineer/cost consultant. The City shall submit its Payment Analysis and Project Sponsor shall submit the Payment Documentation to such engineer/cost consultant, at such time or times and in such manner as the City and Project Sponsor shall agree (or as directed by the engineer/cost consultant if the City and Project Sponsor do not promptly agree). The engineer/cost consultant shall select either the City’s Payment Analysis or Project Sponsor’s determination pursuant to the Payment Documentation, and such determination shall be binding on the City and Project Sponsor.

5.3 Satisfaction of Obligations. Upon agreement of the Payment Analysis and completion of the In-Kind improvements, the Director of Planning shall provide the Project Sponsor with a Notice of Satisfaction of Obligations (the “**Notice of Satisfaction**”) that certifies that the In-Kind Improvements have been inspected and been determined to be ready for use by the public based on current City standards, and constitute the full satisfaction of the obligation to provide In-Kind Improvements in the form required hereunder, and that the City has received full payment in an amount equal to the difference between the In-Kind Value and the actual amount paid in respect of the In-Kind Improvements by the Project Sponsor. The Project Sponsor shall not receive final credit for the In-Kind Improvements until the Notice of Satisfaction is delivered, the Maintenance Declaration required by Article 8 is recorded, the City receives any additional payments as may be required under this Article 5, and all other obligations of the Project Sponsor under this Agreement have been satisfied (the “**Date of Satisfaction**”).

5.3.1 Notwithstanding the provisions of Article 7 of this Agreement, the notices given by the parties under this Section 5.3 may be in the written form and delivered in the manner mutually agreed upon by the parties. The City may, in its sole discretion, waive the requirement for its issuance of the Notice of Satisfaction described in this Section 5.3 by providing written notice to the Project Sponsor.

5.3.2 The Project Sponsor assumes all risk of loss during construction, and shall not receive final credit for the In-Kind Improvements until the Date of Satisfaction.

5.4 Security. If the Planning Director has not issued the Notice of Satisfaction (or waived the requirement for the Notice of Satisfaction) under Section 5.3 prior to issuance of the first certificate of occupancy for the Project, including any temporary certificate of occupancy, the Project Sponsor shall provide a letter of credit, surety bond, escrow account, or other security reasonably satisfactory to the Planning Director in the amount of one hundred percent (100%) of the Cost Documentation applicable to the uncompleted In-Kind Improvements (the “**Security**”) to be held by the City until issuance of the Notice of Satisfaction, at which date it shall be returned to the Project Sponsor. If the Project Sponsor is required to post a bond for the Project with the Department of Public Works under the Subdivision Map Act or as a street improvement bond and that security covers the In-Kind Improvements to be provided under this Agreement, the Subdivision Map Act bond or street improvement bond may be substituted for the Security required by this Section 5.4 and the Project Sponsor is not required to provide additional Security for the In-Kind Improvements.

5.5 Notwithstanding anything in this Agreement to the contrary:

5.5.1 On and after the Effective Date, for so long as this Agreement remains in effect and the Project Sponsor is not in breach of this Agreement, the City’s Planning Department shall not withhold the issuance of any additional building or other permits necessary for the Project solely due to the Project Sponsor’s payment of less than the full Project Fee amount in anticipation of the In Kind Improvements ultimately being accepted and credited against the Project Fee under the terms and conditions set forth in this Agreement.

5.5.2 The City's Planning Department shall not issue or renew any further certificates of occupancy for the Project until the City receives payment of the full Project Fee (in some combination of the payment of the Initial Amount, the acceptance of In-Kind Improvements having the value described under this Agreement, receipt of the Security, and/or the acceptance of other cash payments received by the City directly from Project Sponsor) before issuance of the first certificate of occupancy for the Project, including any temporary certificate of occupancy.

5.5.3 The City's issuance of a certificate of final completion or any other permit or approval for the Project shall not release the Project Sponsor of its obligation to pay the full Project Fee (with interest, if applicable), if such payment has not been made at the time the City issues such certificate of final completion.

5.5.4 If the In-Kind Improvements for any reason prove to be insufficient to provide payment for sums due from the Project Sponsor as and when required, and the Project Sponsor fails to pay such amount within thirty (30) days following notice by the City, DBI shall institute lien proceedings to recover the amount of the Project Fee due plus interest pursuant to Section 408 of the Planning Code and Section 107.13.15 of the Building Code

5.5.5 The Project Sponsor understands and agrees that any payments to be credited against the Project Fee shall be subject to the provisions set forth in San Francisco Administrative Code Sections 6.80-6.83 relating to false claims. Pursuant to San Francisco Administrative Code Sections 6.80-6.83, a party who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A party who submits a false claim shall also be liable to the City for the cost of a civil action brought to recover any of those penalties or damages and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A party will be deemed to have submitted a false claim to the City if the party: (a) knowingly presents or causes to be presented to any officer or employee of the City a false claim; (b) knowingly makes, uses or causes to be made or used a false record or statement to get a false claim approved by the City; (c) conspires to defraud the City by getting a false claim allowed by the City; (d) knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the City; or (e) is beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim. The Project Sponsor shall include this provision in all contracts and subcontracts relating to the In-Kind Improvements, and shall take all necessary and appropriate steps to verify the accuracy of all payments made to any such contractors and subcontractors.

ARTICLE 6 MAINTENANCE AND LIABILITY

6.1 **Maintenance and Liability Responsibility.** In consideration for the Project Fee waiver pursuant to this Agreement, Project Sponsor, on behalf of itself and all future fee owners of the Land, has agreed to assume full maintenance responsibility for the In-Kind Improvements contemplated in this Agreement and liability relating to construction and maintenance of the In-

Kind Improvements in perpetuity after the Date of Satisfaction and the shared public right of way improvements that Project Sponsor is constructing on the Daggett Street right of way pursuant to Street Improvement Permit No. 15IE-0628 issued to Project Sponsor by the City's DPW and a major street encroachment permit that Project Sponsor plans to obtain from City's DPW for such construction (the "**Right of Way Improvements**"). Project Sponsor acknowledges that the City shall bear no maintenance responsibility or liability for the construction or maintenance of such In-Kind Improvements or the Right of Way Improvements. Project Sponsor shall obtain all permits and approvals from other affected departments that are necessary to implement this proposal, and shall abide by any conditions associated with such permits including the posting and maintenance of insurance and security. The City would not be willing to enter into this Agreement without this provision and the Project Sponsor's acceptance of all maintenance responsibility and liability relating to construction and maintenance of the In-Kind Improvements in accordance with this Article is a condition of the Planning Commission's approval of the terms of this Agreement.

6.2 Contracts for Maintenance. The City and the Planning Commission acknowledge that the Project Sponsor may hire third parties to perform Project Sponsor's maintenance obligations with respect to the In-Kind Improvements or the Right of Way Improvements. Any such hiring is subject to the review and consent of the City departments with primary jurisdiction over the In-Kind Improvements and the Right of Way Improvements in consultation with the Planning Director. Such City review shall be timely and consent to the hiring shall not be unreasonably withheld; provided, however, that the City may condition such hiring in a manner that it deems reasonable. Notwithstanding Project Sponsor's use of third parties to perform such maintenance obligations, Project Sponsor shall have full responsibility at all times to perform such maintenance obligations to the standards required in the Maintenance Declaration and any agreements that Project Sponsor has with City for the entry on the Daggett Street right of way for the performance of such obligations.

ARTICLE 7 NOTICES

Except as provided in Section 4.7, or as may otherwise be mutually agreed upon by the parties in writing, all notices given under this Agreement shall be effective only if in writing and given by delivering the notice in person or by sending it first-class mail or certified mail with a return receipt requested or by overnight courier, return receipt requested, addressed as follows:

CITY:

Director of Planning
City and County of San Francisco
1660 Mission St.
San Francisco, CA 94103

with a copy to:

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Kate Stacy
Deputy City Attorney

and

City and County of San Francisco
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Director of Property
Re: Daggett Park

PROJECT SPONSOR:

Archstone Daggett Place LLC
c/o Equity Residential
333 Third Street, Suite 210
San Francisco, CA 94107
Attn: Jim Kelly

with a copy to:

Farella Braun + Martel LLP
235 Montgomery Street
San Francisco, CA 94104
Attn: Steven L. Vettel, Esq.

or to such other address as either party may from time to time specify in writing to the other party. Any notice shall be deemed given when actually delivered if such delivery is in person, two (2) days after deposit with the U.S. Postal Service if such delivery is by certified or registered mail, and the next business day after deposit with the U.S. Postal Service or with the commercial overnight courier service if such delivery is by overnight mail.

**ARTICLE 8
RUN WITH THE LAND**

The parties understand and agree that this Agreement shall run with the Project Sponsor's Land, and shall burden and benefit every successor owner of the Land. The City would not be willing to enter into this Agreement without this provision, and the parties agree to record a Memorandum of Amended Agreement in the form attached hereto as **Exhibit G** (the "Memorandum of Amended Agreement"). On the Date of Satisfaction or if this Agreement is terminated pursuant to Section 9.4, this Agreement shall terminate and the City shall execute and deliver to the Project Sponsor a release of the Memorandum of Amended Agreement, which the Project Sponsor may record.

ARTICLE 9 ADDITIONAL TERMS

9.1 This Agreement contemplates the acquisition of In-Kind Improvements as authorized under Article 4 of the Planning Code and is not intended to be a public works contract; provided, however, the Project Sponsor agrees to pay prevailing wages as set forth in Section 10.1 and otherwise comply with the requirements of applicable State law as to the In-Kind Improvements work only. By entering this Agreement, the Project Sponsor is not obligated to pay prevailing wages for the construction of the Project.

9.2 The City shall have the right, during normal business hours and upon reasonable notice, to review all books and records of the Project Sponsor pertaining to the costs and expenses of providing the In-Kind Improvements.

9.3 This instrument (including the exhibit(s) hereto) contains the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

9.4 This Agreement may be effectively amended, changed, modified, altered or terminated only by written instrument executed by the parties hereto except that the Project Sponsor may terminate this Agreement by written notice to the City at any time prior to issuance of the Project's First Construction Document, in which event the Project Sponsor shall have no obligations or liabilities under this Agreement and the City would have no obligation to issue the First Construction Document unless and until this Agreement is reinstated, another agreement is executed by the parties, or the Project Sponsor's obligations under Article 4 of the Planning Code are satisfied in another manner. Any material amendment shall require the approval of the City's Planning Commission, in its sole discretion.

9.5 No failure by the City to insist upon the strict performance of any obligation of Project Sponsor under this Agreement or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of payments during the continuance of any such breach, shall constitute a waiver of such breach or of the City's right to demand strict compliance with such term, covenant or condition. Any waiver must be in writing, and shall be limited to the terms or matters contained in such writing. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. In the event of any breach of this Agreement by the Project Sponsor, the City shall have all rights and remedies available at law or in equity.

9.6 This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of California.

9.7 The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. Time is of the essence in all matters relating to this Agreement.

9.8 This Agreement does not create a partnership or joint venture between the City and the Project Sponsor as to any activity conducted by the Project Sponsor relating to this Agreement or otherwise. The Project Sponsor is not a state or governmental actor with respect to any activity conducted by the Project Sponsor hereunder. This Agreement does not constitute authorization or approval by the City of any activity conducted by the Project Sponsor. This Agreement does not create any rights in or for any member of the public, and there are no third party beneficiaries.

9.9 Notwithstanding anything to the contrary contained in this Agreement, the Project Sponsor acknowledges and agrees that no officer or employee of the City has authority to commit the City to this Agreement unless and until the Planning Commission adopts a resolution approving this Agreement, and it has been duly executed by the Director of Planning and approved as to form by City Attorney.

9.10 The Project Sponsor, on behalf of itself and its successors, shall indemnify, defend, reimburse and hold the City harmless from and against any and all claims, demands, losses, liabilities, damages, injuries, penalties, lawsuits and other proceedings, judgments and awards and costs by or in favor of a third party, incurred in connection with or arising directly or indirectly, in whole or in part, out of: (a) any accident, injury to or death of a person, or loss of or damage to property occurring in, on or about the site of the In-Kind Improvements during their construction, provided that such accident, injury, death, loss or damage does not result from the gross negligence of the City; (b) any default by the Project Sponsor under this Agreement, the Maintenance Agreement and/or the Maintenance License, (d) the construction of the In-Kind Improvements and Right of Way Improvements constructed by or on behalf of the Project Sponsor; and (d) any acts, omissions or negligence of the Project Sponsor or its agents under this Agreement, the Maintenance Agreement and/or the Maintenance License. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigation. The Project Sponsor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the Project Sponsor by City and continues at all times thereafter. The Project Sponsor's obligations under this Section shall survive the expiration or sooner termination of this Agreement.

ARTICLE 10 CITY CONTRACTING PROVISIONS

10.1 The Project Sponsor agrees that any person performing labor in the construction of the In-Kind Improvements shall be paid not less than the highest prevailing rate of wages consistent with the requirements of Section 6.22(E) of the San Francisco Administrative Code,

and shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco County. The Project Sponsor shall include, in any contract for construction of such In-Kind Improvements, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. The Project Sponsor shall require any contractor to provide, and shall deliver to the City upon request, certified payroll reports with respect to all persons performing labor in the construction of the In-Kind Improvements. The Project Sponsor shall not be obligated to pay prevailing rates of wage to any person performing labor in the construction of the Project.

10.2 The Project Sponsor understands and agrees that under the City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the State Public Records Law (Gov't Code Section 6250 et seq.), this Agreement and any and all records, information, and materials submitted to the City hereunder are public records subject to public disclosure. The Project Sponsor hereby acknowledges that the City may disclose any records, information and materials submitted to the City in connection with this Agreement.

10.3 In the performance of this Agreement, the Project Sponsor covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee or any City employee working with or applicant for employment with the Project Sponsor, in any of the Project Sponsor's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Project Sponsor.

10.4 Through execution of this Agreement, the Project Sponsor acknowledges that it is familiar with the provisions of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provision and agrees that if it becomes aware of any such fact during the term, the Project Sponsor shall immediately notify the City.

10.5 Through execution of this Agreement, the Project Sponsor acknowledges that it is familiar with Section 1.126 of City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City, whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for the contract until three (3) months after the date the contract is approved by the City elective officer or the board on which that City elective officer serves. San Francisco Ethics Commission Regulation 1.126-1 provides that negotiations are commenced when a prospective contractor first communicates with a City officer or employee about the possibility of obtaining a specific contract. This communication may occur in person, by telephone or in writing, and may be initiated by the prospective contractor or a City officer or employee. Negotiations are completed when a contract is finalized and signed by the City and the contractor. Negotiations

are terminated when the City and/or the prospective contractor end the negotiation process before a final decision is made to award the contract.

10.6 The City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. The City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. The Project Sponsor acknowledges that it has read and understands the above statement of the City concerning doing business in Northern Ireland.

10.7 The City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product.

10.8 The In-Kind Improvements are subject to the San Francisco Local Hiring Policy for Construction set forth in San Francisco Administrative Code Section 6.22(G). The Project Sponsor shall comply with the requirements of Section 6.22(G) and execute a Local Hire Agreement with City's Office of Economic and Workforce Development ("OEWD"), is attached as **Exhibit H** to this Agreement. The Project Sponsor's failure to comply with its obligations under Section 6.22(G) and the requirements of the Local Hire Agreement shall constitute a material breach of this In-Kind Agreement and may subject the Project Sponsor and its contractors and subcontractors to the consequences of noncompliance specified in Section 6.22(G) and the Local Hire Agreement, including but not limited to penalties.

NOW THEREFORE, the parties hereto have executed this In-Kind Agreement as of the date set forth above.

CITY AND COUNTY OF SAN FRANCISCO,
acting by and through its Planning Commission

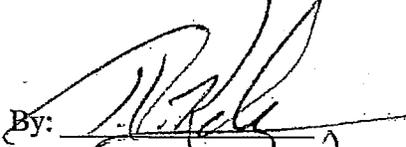
By: _____
Director of Planning

ARCHSTONE DAGGETT PLACE LLC,
a Delaware limited liability company

By: EQR-WARWICK, L.L.C., a
Delaware limited liability company, its
sole member

By: ERP Operating Limited
Partnership, an Illinois limited Partnership,
its managing member

By: Equity Residential, a Maryland real
estate investment trust, its general partner

By: 
Name: JAMES P. KELLY
Title: FIRST V.P.

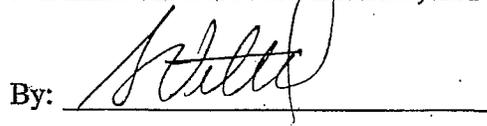
APPROVED:

DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

APPROVED AS TO FORM:

FARELLA BRAUN & MARTEL, LLP

By: 
Steven L. Vettel

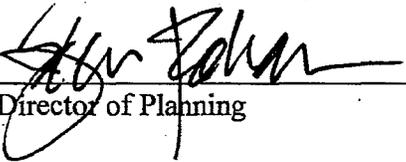
ACKNOWLEDGED:

Department of Building Inspection

By: _____
Authorized Representative

NOW THEREFORE, the parties hereto have executed this In-Kind Agreement as of the date set forth above.

CITY AND COUNTY OF SAN FRANCISCO,
acting by and through its Planning Commission

By: 
Director of Planning

ARCHSTONE DAGGETT PLACE LLC,
a Delaware limited liability company

By: EQR-WARWICK, L.L.C., a
Delaware limited liability company, its
sole member

By: ERP Operating Limited
Partnership, an Illinois limited Partnership,
its managing member

By: Equity Residential, a Maryland real
estate investment trust, its general partner

By: _____

Name:
Title:

APPROVED:

DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

APPROVED AS TO FORM:

FARELLA BRAUN & MARTEL, LLP

By: _____
Steven L. Vettel

ACKNOWLEDGED:

Department of Building Inspection

By: _____
Authorized Representative

ACKNOWLEDGED:

Department of Public Works

By: _____
Authorized Representative

Exhibit A

The Land

The Land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL A:

BEGINNING AT THE POINT FORMED BY THE INTERSECTION OF THE SOUTHWESTERLY LINE OF 7TH STREET WITH THE NORTHWESTERLY LINE OF DAGGETT STREET; RUNNING THENCE NORTHWESTERLY, ALONG SAID SOUTHWESTERLY LINE OF 7TH STREET, 146 FEET; THENCE AT A RIGHT ANGLE SOUTHWESTERLY 262 FEET; THENCE AT A RIGHT ANGLE SOUTHEASTERLY 146 FEET TO THE NORTHWESTERLY LINE OF DAGGETT STREET; THENCE NORTHEASTERLY, ALONG SAID NORTHWESTERLY LINE OF DAGGETT STREET, 262 FEET TO ITS INTERSECTION WITH THE SOUTHWESTERLY LINE OF 7TH STREET AND THE POINT OF BEGINNING. BEING A PORTION OF SOUTH BEACH BLOCK NO. 36

PARCEL B:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF DAGGETT STREET, DISTANT THEREON 262 FEET SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF 7TH STREET; RUNNING THENCE NORTHWESTERLY, AT A RIGHT ANGLE TO SAID LINE OF DAGGETT STREET, PARALLEL WITH SAID LINE OF 7TH STREET, 146 FEET; THENCE AT A RIGHT ANGLE SOUTHERLY, PARALLEL WITH SAID LINE OF DAGGETT STREET 267 FEET, 7-¼ INCHES TO THE NORTHERLY LINE OF 16TH STREET; THENCE EASTERLY, ALONG SAID LINE OF 16TH STREET, 224 FEET, 8-¼ INCHES TO THE NORTHWESTERLY LINE OF DAGGETT STREET; THENCE NORTHEASTERLY, ALONG SAID LINE OF DAGGETT STREET, 96 FEET, 9-¼ INCHES TO THE POINT OF BEGINNING. BEING A PORTION OF SOUTH BEACH BLOCK NO. 36

PARCEL C:

BEGINNING AT THE POINT FORMED BY THE INTERSECTION OF THE SOUTHEASTERLY LINE OF HUBBELL STREET WITH THE SOUTHWESTERLY LINE OF 7TH STREET; RUNNING THENCE SOUTHEASTERLY, ALONG SAID SOUTHWESTERLY LINE OF 7TH STREET, 94 FEET; THENCE AT A RIGHT ANGLE SOUTHWESTERLY 529 FEET, 7-¼ INCHES, MORE OR LESS, TO THE NORTHERLY LINE OF 16TH STREET; THENCE WESTERLY, ALONG SAID NORTHERLY LINE OF 16TH STREET, 144 FEET, 8-¼ INCHES, MORE OR LESS, TO THE SOUTHEASTERLY LINE OF HUBBELL STREET; THENCE NORTHEASTERLY, ALONG SAID SOUTHEASTERLY LINE OF HUBBELL STREET, 639 FEET, 6-7/8 INCHES, MORE OR LESS, TO THE SOUTHWESTERLY LINE OF 7TH STREET AND THE POINT OF BEGINNING. BEING A PORTION OF SOUTH BEACH BLOCK NO. 36

PARCEL D:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHWESTERLY LINE OF 7TH STREET AND THE SOUTHEASTERLY LINE OF DAGGETT STREET; RUNNING THENCE SOUTHEASTERLY, ALONG SAID LINE OF 7TH STREET, 170 FEET, 9-³/₄ INCHES TO THE NORTHERLY LINE OF 16TH STREET; THENCE WESTERLY, ALONG SAID NORTHERLY LINE OF 16TH STREET, 262 FEET, 10-¹/₂ INCHES TO THE SOUTHEASTERLY LINE OF DAGGETT STREET; THENCE NORTHEASTERLY, ALONG SAID SOUTHEASTERLY LINE OF DAGGETT STREET, 199 FEET, 9-⁷/₈ INCHES TO THE POINT OF BEGINNING. BEING SOUTH BEACH BLOCK NO. 35-¹/₂.

Assessor's Lot 001; Block 3833

Assessor's Lot 002; Block 3833

Assessor's Lot 003; Block 3833

Assessor's Lot 001; Block 3834

Exhibit B

In-Kind Improvements Description

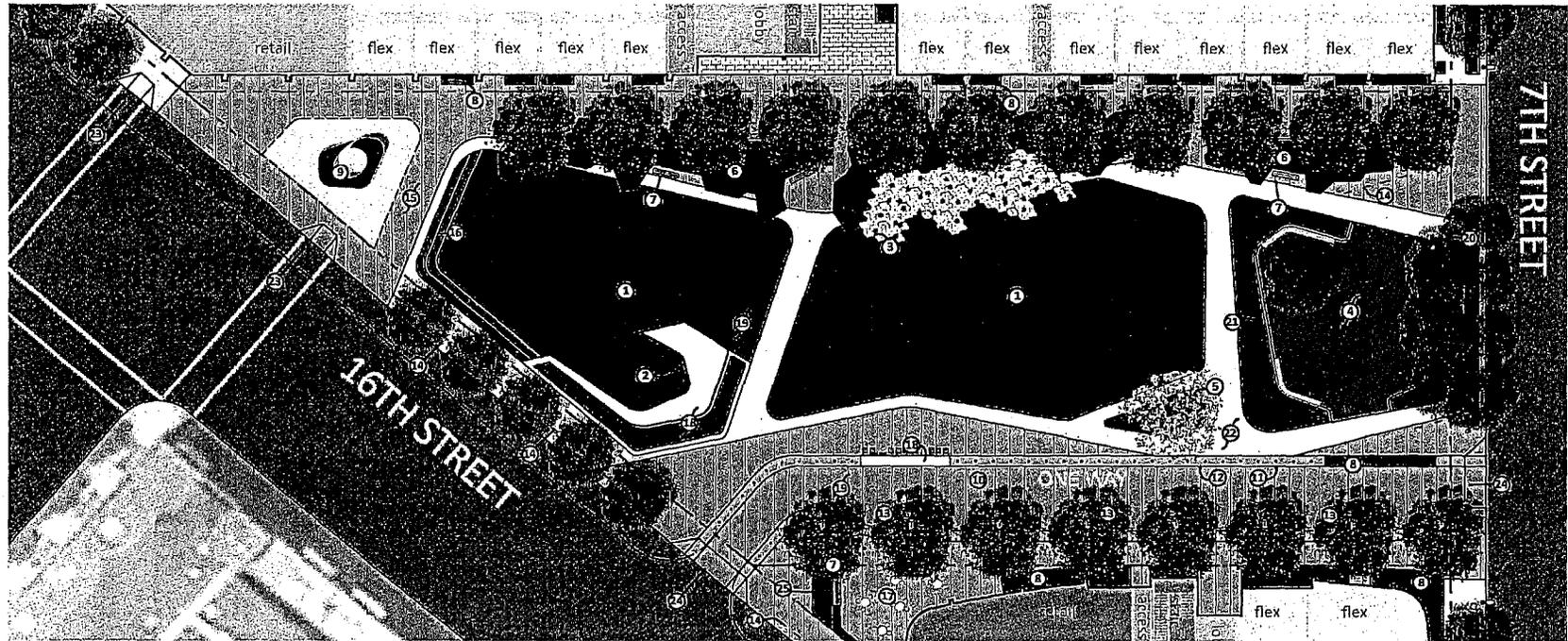
The proposed In-Kind Improvements include a 0.9-acre public park. The park would have a number of amenities and design features, including:

- Large, unprogrammed lawn areas for general recreation and gathering
- Ample seating opportunities dispersed throughout the park.
- Architectural features that double as play and sitting areas, such as the “Tilted Lawn” and the “Penta Step”
- Universal accessibility, per requirements of the Americans with Disability Act and the Mayor’s Office of Disability.
- A fenced-off dog run
- “Mission Marsh Bears”, a public art piece selected through a process facilitated by the San Francisco Arts Commission.
- Easy and welcoming access from both 16th and 7th Streets, including signage, to ensure that the area clearly reads as a public park.
- Multiple features to minimize stormwater runoff, such as permeable pavers and a stormwater garden.
- Drought-resistant trees and landscaping.

In addition to the park there would be a single lane, one-way “shared street” consistent with the San Francisco Better Streets Design Guidelines that would create a pedestrian-oriented environment while allowing vehicle access. The shared street is designed to minimize through traffic, the paving is consistent with pedestrian areas in the park rather than a typical street, and vehicular area is defined by detectable warning strips and bollards rather than a curb. The shared street is a requirement of the development project, and is not included in the costs for the in-kind agreement.

An image of the improvements is contained on the next page.

DESIGN DEVELOPMENT PLAN



- ① Lawn (Flexible Open Space)
- ② Tilted Lawn (C.I.P. Concrete)
- ③ "Penta-Step" Landscape Feature (Precast Conc. & Wood)
- ④ Dog Run (Synthetic Turf)
- ⑤ Stadium Bench & Specimen Tree
- ⑥ Garden Edge (Mixed Native Planting/Butterfly Garden)
- ⑦ Park Bench
- ⑧ Planter at Grade

- ⑨ Gateway Art Feature (Arts Commission Project)
- ⑩ One-Way Drive Lane (12' width, flush w/ park)
- ⑪ Detectable Warning Pavers
- ⑫ Bollards 36"-42" @ +/- 5' O.C.
- ⑬ (6) Parallel Parking Spaces
- ⑭ Bike Parking
- ⑮ Informal Community Stage
- ⑯ Lawn Steps (6"x24")

- ⑰ Cafe Seating Area
- ⑱ The Park Counter & Stools (Concrete & Steel)
- ⑲ C.I.P. Integral Color Conc. w/ Water Washed Finish or Unit Pavers, TBD
- ⑳ San Francisco Standard Park Entry Sign
- ㉑ 30" Conc. Wall w/42" Stainless Steel Picket Fence & Wood Bench
- ㉒ C.I.P. Integral Color Conc. w/Sandblast Finish
- ㉓ Driveway Curb Cut



㉔ Built in Bench w/36" Concrete Wall

DAGGETT PARK - ARCHSTONE POTRERO
 CIVIC DESIGN REVIEW - PHASE 2 DESIGN DEVELOPMENT - FEB 13 2012

*Note: The site is essentially flat and all paths within the Park will be accessible.

CMG ARCHSTONE
CONCRETE MASONRY GROUP
 1405 TRINITY DRIVE SUITE 210
 SAN FRANCISCO, CA 94109
 TELEPHONE: 415.441.0248
 FACSIMILE: 415.441.0248

Exhibit C

Calculation of Eastern Neighborhoods Infrastructure Impact Fee

Type of Space	Amount of Space	Fee Gross Per Square Foot	Total Fee
Residential	475,219 gross square feet	\$8.69	\$4,131,744
Non-residential	14,396 gross square feet	\$10.87	\$156,456
TOTAL			\$4,288,200

Exhibit D

Cost Documentation

The calculation of In-Kind Value for the proposed Daggett Park at 1000 16th Street has multiple components. These include:

- Determining the value of required improvements
- Determining the value of the proposed improvements
- Determining the specific improvements that would be provided via this In-Kind Agreement
- Determining the specific improvements that would need to be provided via a gift to the City

Determining the Value of Required Improvements

Fee waivers cannot be made for improvements that the Project Sponsor is already legally required to undertake. In this instance, the Project Sponsor is responsible for improving the entire Daggett Street right-of-way, given that their development is on both sides of this street. Such improvement would likely consist of transforming the unimproved areas into a new roadway, with sidewalk and landscaping. Working with the Department of Public Works, it was estimated in 2012 that such improvements would cost \$802,350. The costs of these required improvements in 2015 are estimated to total \$963,036, an increase of 20%.

Table 1 – Value of Required Improvements (2015 estimate)

	AMOUNT	UNIT	UNIT COST	TOTAL COST
Site remediation	1,048	Tons	\$174.00	\$182,352
Site engineering	43,400	Square Feet	\$0.48	\$20,832
Earthwork	43,400	Square Feet	\$2.40	\$104,160
Hydraulic engineering				\$90,000
Curb & gutter	654	Linear Feet	\$48.00	\$31,392
City Sidewalk	7,800	Square Feet	\$9.60	\$74,880
Ramps	8	Each	\$3,000.00	\$24,000
Paving material	34,100	Square Feet	\$4.80	\$163,680
Street trees	28	Each	\$3,918.00	\$109,704
Curbside planting	1,500	Square Feet	\$12.00	\$18,000
Traffic Striping	310	Linear Feet	3.60	\$1,116
Traffic Routing			18,000.00	\$18,000
Curbside Irrigation	1,500	Square Feet	12.00	\$18,000
Lighting	7	Each	9,600.00	\$67,200
Subtotal				\$923,316
City tax			0.12%	\$1,108
General Contractor insurance			0.35%	\$3,235
Fee			3.50%	\$32,468

Bonds				\$2,909
Total				\$963,036

Determining the Value of Proposed Improvements

To help determine the value of the proposed improvements, the Project Sponsor provided two cost estimates of the hard costs. The lower estimate was utilized by the Project Sponsor in calculating the overall value of the proposed improvements, including other costs such as design and engineering fees, site preparation, and hazardous remediation. This estimate concluded that the overall cost of the improvements was \$4,899,999.

Table 2 – Cost of Daggett Park Improvements

Design Costs	\$294,500
Public Art	\$300,000
Offsite work	\$296,510
Structures and Finishes	\$680,253
Underground Utilities and Grading of Dirt	\$1,713,218
Landscape, Hardscape and Furniture	\$1,210,159
Fees, bonds, permits, tax, insurance, overhead	\$405,059
TOTAL	\$4,899,999

Determining the Specific Improvements that Would be Provided via this In-Kind Agreement

The approval of this In-Kind Agreement would commit the Project Sponsor to creating a public park on the Daggett Street right-of-way, and not a typical city street. Therefore, the \$963,036 that the Project Sponsor would be required to contribute will instead be directed towards the construction of the park.

In addition, through this In-Kind Agreement the Project Sponsor would commit to \$2,369,144 in improvements in return for a reduction in its Eastern Neighborhoods Infrastructure Impact Fee of the same amount. Combined, that means that this In-Kind Agreement would enable \$3,332,180 towards the creation of a park along the Daggett Street right-of-way.

Determining the specific improvements that would need to be provided via a gift to the City

The cost of the proposed improvements to the Daggett Street right-of-way (\$4,899,999) exceed the Project Sponsors required contribution (\$963,036) and requested fee waiver (\$2,369,144) by \$1,567,819. The Project Sponsor is proposing to gift the City the value of these improvements, and to make a gift of maintaining Daggett Park in perpetuity. Such a gift would occur via a separate legal agreement with the City. Such a gift should include all of those items identified as proposed improvements by the Project Sponsor but that are not included in this In-Kind Agreement.

Exhibit E

Form of Maintenance Declaration

To Be Attached

Exhibit F

Form of Maintenance License

To Be Attached

Exhibit G

Memorandum of Amended Agreement

**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

**City and County of San Francisco
Department of Planning
1660 Mission St.
San Francisco, CA 94103
Attn: Director**

(Free Recording Requested Pursuant to
Government Code Section 27383)

Memorandum of Amended In-Kind Agreement

This Memorandum of Amended In-Kind Agreement (this "Memorandum"), is dated as of _____, and is by and between the City and County of San Francisco, a municipal corporation, acting and through the Planning Commission (the "City"), and Archstone Daggett Place LLC (the "Project Sponsor").

1. The property described in Exhibit A attached hereto (the "Land") and generally known as 1000 16th Street, San Francisco, California 94107, San Francisco, California is owned by Project Sponsor.

2. Under San Francisco Planning Code Section 423.3 ("Section"), the Project Sponsor must pay to the City a development impact fee (the "Fee") on or before the issuance of the First Construction Document for the Land; provided, however, the City can reduce such payment under Section 423.3(d) if the Project Sponsor enters into an agreement with the City to provide in-kind improvements.

3. In accordance with Section 423.3(d), the City and the Project Sponsor previously entered into an in-kind agreement dated November 29, 2012 (the "Original In-Kind Agreement"), which permitted the Project Sponsor to receive a waiver of part of the Fee documents with the satisfaction of certain conditions in return for the Project Sponsor's agreement to provide certain in-kind improvements under the terms and conditions set forth therein. The City and Project Sponsor have entered into an Amended and Restated In-Kind Agreement dated _____, 2015, which amends and restates the Original In-Kind Agreement in its entirety (the "Amended In-Kind Agreement") and sets forth revised conditions.

4. Upon the Project Sponsor's satisfaction of the terms of the Amended In-Kind Agreement, the Amended In-Kind Agreement shall terminate and the City will execute and deliver to the Project Sponsor a termination of this Memorandum in recordable form.

5. The Project Sponsor and the City have executed and recorded this Memorandum to give notice of the Amended In-Kind Agreement, and all of the terms and conditions of the Amended In-Kind Agreement are incorporated herein by reference as if they were fully set forth herein. Reference is made to the Amended In-Kind Agreement itself for a complete and definitive statement of the rights and obligations of the Project Sponsor and the City thereunder.

6. This Memorandum shall not be deemed to modify, alter or amend in any way the provisions of the Amended In-Kind Agreement. In the event any conflict exists between the terms of the Amended In-Kind Agreement and this Memorandum, the terms of the Amended In-Kind Agreement shall govern.

7. On the recordation of this Memorandum, the Memorandum of In-Kind Agreement recorded in the Official Records of San Francisco County as Document No. _____ (the "Original Memorandum") shall be deemed to be replaced in its entirety by this Memorandum, and the Original Memorandum shall have no further force or effect.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum as of the date first written above.

CITY AND COUNTY OF SAN FRANCISCO,
acting by and through its Planning Commission

By: _____
Director of Planning

ARCHSTONE DAGGETT PLACE LLC,
a Delaware limited liability company

By: EQR-WARWICK, L.L.C., a Delaware limited liability
company, its sole member

By: ERP Operating Limited Partnership, an Illinois limited
Partnership, its managing member

By: Equity Residential, a Maryland real estate
investment trust, its general partner

By: _____

Name: _____

Title: _____

CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____

On _____ before me,

(here insert name and title of the officer)
personally appeared

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____

On _____ before me,

(here insert name and title of the officer)
personally appeared

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

28691\4972509.1



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Motion No. 17864

HEARING DATE: April 16, 2009

Hearing Date: April 16, 2009
Case No.: 2003.0527E
Project Address: 1000 16th Street
Zoning: UMU (Urban Mixed-Use); PDR-1-G
(Production, Distribution, Repair, General)
68-X Height and Bulk District
Block/Lot: 3833/001, 002, 003; 3834/001
Project Sponsor: Daniel Murphy, Principal, UrbanGreen Devco, LLC.
As Agent for Cherokee Mission Bay, LLC (site owner)
San Francisco, CA
Staff Contact: Michael Jacinto – (415) 575-9033
michael.jacinto@sfgov.org

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED MIXED-USE PROJECT CONTAINING RESIDENTIAL, COMMERCIAL, PDR AND PUBLICLY-ACCESSIBLE OPEN SPACE USES AT 1000 16TH STREET IN SAN FRANCISCO'S SHOWPLACE SQUARE/POTRERO HILL AREA.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report identified as Case No. 2003.0527E, 1000 16th Street Mixed-Use Project (hereinafter "Project"), based upon the following findings:

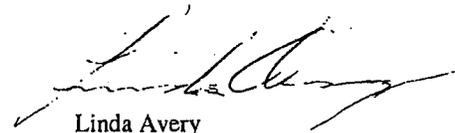
1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
 - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required, published in an Initial Study on November 6, 2004, and circulated in a Notice of Preparation to interested parties and provided public notice of that determination by publication in a newspaper of general circulation on March 20, 2004.
 - B. On January 26, 2008 the Department published the DEIR and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

- C. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department staff on January 26, 2008.
- D. On January 26, 2008, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.
- E. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on January 25, 2008.
2. The Commission held a duly advertised public hearing on said DEIR on February 21, 2008 at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on March 10, 2008.
3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Draft Comments and Responses document, published on March 2, 2009 distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at Department offices.
4. A Final Environmental Impact Report has been prepared by the Department, consisting of the Draft Environmental Impact Report, any consultations and comments received during the review process, any additional information that became available, and the Summary of Comments and Responses all as required by law.
5. Project Environmental Impact Report files have been made available for review by the Commission and the public. These files are available for public review at the Department offices at 1650 Mission Street, and are part of the record before the Commission.
6. On April 16, 2009, the Commission reviewed and considered the Final Environmental Impact Report and hereby does find that the contents of said report and the procedures through which the Final Environmental Impact Report was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
7. The Planning Commission hereby does find that the Final Environmental Impact Report concerning File No. 2003.0527E, 1000 16th Street Urban Mixed-Use Project reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said Final Environmental Impact Report in compliance with CEQA and the CEQA Guidelines.
8. The Commission, in certifying the completion of said Final Environmental Impact Report, hereby does find that the project described in the Environmental Impact Report will have no significant

unavoidable impacts at the project-specific level. At the cumulative level, the Project would result in two significant unavoidable impacts:

- A. **Land Use.** The project would contribute to the loss of production, distribution, and repair ("PDR") land supply in San Francisco as identified in the Eastern Neighborhoods Rezoning and Area Plans Project, of which the subject property at 1000 16th Street is a part.
- B. **Traffic.** Also at the cumulative level, the Project would result in a significant, unavoidable traffic impact at the unsignalized intersection of 16th/Arkansas/Hubbell Streets. The EIR determined that mitigation (signalization) for this intersection was infeasible due to the close proximity to Connecticut Street to the east and 8th and Wisconsin Streets to the west. Due to those nearby streets, there would not be sufficient space to locate traffic signals and provide queuing space, which would affect operations at other intersections.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of April 16, 2009.



Linda Avery
Commission Secretary

AYES: Antonini, Borden, Lee, Miguel, Moore, Olague, Sugaya
NOES: none
ABSENT: none
ADOPTED: April 16, 2009



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other (EN Impact Fee – Sec. 423)

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Planning Commission Motion No. 18419

HEARING DATE: JULY 28, 2011

Date: July 21, 2011
Case No.: 2003.0527EX
Project Address: 1000 16th Street
Zoning: UMU (Urban Mixed Use) Zoning District and
PDR-1-G (General Production, Distribution, and Repair) Zoning District
68-X Height and Bulk District
Block/Lots: 3833 / 001, 002 & 003
3834 / 001
Project Sponsor: Cherokee Mission Bay, LLC &
Archstone New Development Holdings LP
333 3rd Street, Suite 210
San Francisco, CA 94107
Staff Contact: Ben Fu – (415) 558-6613
ben.fu@sfgov.org

ADOPTING FINDINGS RELATING TO LARGE PROJECT AUTHORIZATION PURSUANT TO PLANNING CODE SECTION 329 TO ALLOW THE CONSTRUCTION OF TWO NEW SIX-STORY, 68-FOOT BUILDINGS CONSISTING OF UP TO 470 DWELLING UNITS, APPROXIMATELY 15,000 SQUARE FEET OF GROUND FLOOR RETAIL, APPROXIMATELY 8,000 SQUARE FEET OF PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) SPACE, PARKING FOR APPROXIMATELY 306 SPACES, TO ALLOW EXCEPTIONS FOR REAR YARD, DWELLING UNIT EXPOSURE, OFF-STREET LOADING, HORIZONTAL MASS REDUCTION AND GROUND FLOOR ACTIVE USES, AND TO ADOPT FINDINGS AND MITIGATION MONITORING AND REPORTING PROGRAM UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE SUBJECT PROPERTY IS LOCATED WITHIN THE UMU (URBAN MIXED USE) ZONING DISTRICT AND PDR-1-G ZONING DISTRICT WITHIN A 68-X HEIGHT AND BULK DESIGNATION.

PREAMBLE

On February 23, 2006, Cherokee Mission Bay, LLC filed an application and on May 4, 2011, Archstone New Development Holdings LP (Project Sponsor) filed an updated application with the Planning Department (hereinafter "Department") for Large Project Authorization under Planning Code Section 329 to allow construction of two new six-story, 68-foot buildings consisting of up to 470 dwelling units,

approximately 15,000 square feet of ground floor retail, approximately 8,000 square feet of Production, Distribution, and Repair (PDR) spaces, Small Enterprise Workspace (SEW), parking for approximately 306 spaces, and exceptions for rear yard, dwelling unit exposure, off-street loading, horizontal mass reduction and ground floor active uses, within the UMU (Urban Mixed Use) and PDR-1-G Zoning Districts and within a 68-X Height and Bulk Designation.

On April 16, 2009, the Planning Commission reviewed and considered the Final Environmental Impact Report (FEIR) in Planning Department File No. 2003.0527E consisting of the Draft EIR and the Comments and Responses document, and found that the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code and found further that the FEIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the Draft EIR, and certified the completion of said FEIR in compliance with CEQA and the CEQA Guidelines in its Motion No. 17864.

On July 20, 2011, the Planning Department issued a Memorandum determining that the Project would not result in new significant environmental effects not disclosed in the FEIR, and that no supplemental environmental review for the project is necessary.

The Commission has reviewed and considered the information contained in the FEIR, all written and oral information provided by the Planning Department, the public, relevant public agencies, and other experts and the administrative files for the Project and the EIR. The Project and EIR files have been made available for review by the Planning Commission and the public, and those files are part of the record before this Commission.

Planning Department staff prepared proposed findings, as required by CEQA, (CEQA Findings) and a proposed Mitigation, Monitoring and Reporting Program (MMRP), which material was made available to the public and the Commission for the Commission's review, consideration and action.

This Commission has reviewed and considered the FEIR and hereby adopts the CEQA Findings, including the statement of overriding considerations, attached hereto as Exhibit A and incorporated herein as part of this Resolution by this reference thereto, and adopts the MMRP attached to this Resolution as Attachment B and incorporated herein as part of this Resolution by this reference thereto.

On July 28, 2011, the Commission adopted findings pursuant to CEQA as set forth in Motion No. 18418, which findings are incorporated herein by this reference thereto as if fully set forth in this Motion.

The Planning Department, Linda Avery, is the custodian of records, located in the File for Case No. 2003.0527EX at 1650 Mission Street, Fourth Floor, San Francisco, California.

On July 28, 2011, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Large Project Authorization Application No. 2003.0527X.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Large Project Authorization requested in Application No. 2003.0527X, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.

Site Description and Present Use. The vacant project site consists of Lots 1, 2 and 3 on Assessor's Block 3833, Lot 1 on Assessor's Block 3834, and the Daggett Street right-of-way (ROW). The project is located on a triangular site bounded by Hubbell Street on the northwest, 7th Street on the northeast, and 16th Street to the south in San Francisco's Showplace Square/Potrero Hill area at the foot of the Potrero Hill neighborhood. The project site is located in an UMU (Urban Mixed Use) Zoning District and a PDR-1-G (Production, Distribution and Repair, General) Zoning District, and within a 68-X Height and Bulk District.

2. **Surrounding Properties and Neighborhood.** The immediate surroundings at present is primarily commercial, industrial and institutional with small scale live-work units, and residential structures (the 12-unit 49 Missouri Street and the 20-unit 999 16th Street) alongside warehouses. Land uses in the project vicinity are varied and include educational facilities (UCSF-Mission Bay, California College of the Arts), light industry, office space, a public park, residences, retail, storage, transportation and utility services fleet parking lots, warehouses, and wholesale interior-design-related establishments. The site is approximately two blocks north of the north-facing slope of Potrero Hill, where the land use is predominantly single- and multi-family residential. The site is across the Cal Train tracks and elevated I-280 Freeway from the UCSF campus in Mission Bay. The proposed development would shift the neighborhood toward decidedly denser residential uses in an area with relatively few residential units at present.

The broader context exemplifies uses that define the transition between two neighborhoods. The project site occupies a flat, low-lying area where the northern residential side of Potrero Hill slopes down to meet the historically industrial flatlands, an area also known as Showplace Square. The northern slope of Potrero Hill is mainly a mix of one-, two- and three-story cottage and row houses, along with multi-family homes, limited stretches of neighborhood-serving retail uses and open space at the two-block Jackson Playground. The buildings have been built over multiple decades and encompass diverse styles, such as Victorian, Art Deco, Modern and live/work. Showplace Square, which begins approximately to the north of 17th Street, is a predominantly industrial area as exemplified by the prevalence of low-rise to mid-rise buildings distributed amid work yards, parking lots, and storage facilities. While occupying relatively

large footprints, few of these industrial-use buildings are taller than two stories, though some showroom and office buildings in the western portion of Showplace Square exceed 65 feet in height. In general, the biggest buildings in the area tend to house multiple uses and tenants, ranging from office and retail space to warehouse distribution, which are visually characterized by loading docks and retractable doors.

3. **Project Description.** The project, a.k.a. Daggett Place, proposes the construction of two new six-story, 68-foot buildings consisting of up to 470 dwelling units, approximately 15,000 square feet of ground floor retail, approximately 8,000 square feet of Production, Distribution, and Repair (PDR) / Small Enterprise Workspace (SEW) spaces, parking for approximately 306 spaces, and Planning Code exceptions for rear yard, dwelling unit exposure, off-street loading, horizontal mass reduction and ground floor active uses. The project is seeking authorization under the Eastern Neighborhoods Controls.

The Northern Building would be located on the northwestern block of the site, constructed on a podium over at-grade parking and contain a mix of residential units, retail and SEW space. The Southern Building contains residential units and retail spaces, would be located at the southeastern corner of the site.

The existing Daggett Street, or the Daggett Right of Way, that is located between the two proposed buildings, has been planned for the development of a public park. On July 18, 2011, Eastern Neighborhoods Citizen Advisory Committee (CAC) voted in support of an in-kind agreement with the sponsor for a new park. The park is tentatively designed to include a lawn, play area, built-in seating, dog run, and ample landscaping.

4. **Public Comment.** The Department has received general inquiries and oppositions on the proposed project from Neighborhood Coalition to Save Potrero Hill and other members of the public. The oppositions are focused on parking, density, and the number of exceptions requested. The project has also received letters of support from the Potrero Boosters Neighborhood Association, Dogpatch Neighborhood Association, San Francisco Housing Action Coalition, Potrero Hill Association of Merchants and Businesses, and Bay Area Council.
5. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Zoning District.** The project site is located within Urban Mixed Use (UMU) District in the Potrero Hill neighborhood. The UMU District is intended to promote a vibrant mix of uses while maintaining the characteristics of this formerly industrially-zoned area. It is also intended to serve as a buffer between residential districts and PDR districts in the Eastern Neighborhoods. Within the UMU, allowed uses include production, distribution, and repair uses such as light manufacturing, home and business services, arts activities, warehouse, and wholesaling. Additional permitted uses include retail, educational facilities, and nighttime entertainment. Housing is also permitted, but is subject to higher affordability requirements. Family-sized dwelling units are encouraged. The project proposes retail, PDR, and

residential uses that include 40 percent two-bedroom unit, or family-sized units in the UMU Zoning District.

There is also a 32-foot deep band along the project site at Hubbell Street that is zoned PDR-1-G. The intention of this district is to retain and encourage existing production, distribution, and repair activities and promote new business formation. Thus, this district prohibits residential and office uses and limits retail and institutional uses. The project proposes PDR/SEW spaces, which are principally permitted uses under Planning Code Section 227(t).

- B. **Use.** Planning Code Section 843 identifies residential use and various nonresidential uses as principally permitted uses in the UMU Zoning District. In general, the principally permitted uses are industrial and business service, assembly and social service, retail, recreation and arts, and residential.

The proposed residential, retail, and PDR/SEW uses are compatible and consistent with the zoning designation. The exceptions sought after are necessary to allow maximum number of units and to provide a desirable design.

- C. **Residential Open Space.** Planning Code Section 135 requires that usable open space be located on the same lot as the dwelling units it serves. At least 80 square feet of usable open space per dwelling unit, or 54 square feet per dwelling unit of publicly accessible open space, is required. Up to 50 percent of the publicly accessible open space may be provided off-site. The Project has a residential open space requirement of up to 37,600 square feet of usable open space if private, or 25,380 square feet of publically accessible open space.

The Project includes court yards that meet the minimum open space requirements for a total of approximately 22,000 square feet. The Project also includes public accessible open space for a total of approximately 20,000 square feet. While additional inner court yards provide approximately 8,900 additional square feet, they do not meet the minimum dimensional requirements for useable open space.

Private open space provided at the North Building will provide 22,000 square feet of useable open space, enough for 275 units. The proposed publicly accessible corner park and open spaces at the North Building will provide 16,000 square feet of useable open space; the proposed publicly accessible open spaces at the South Building will provide an additional 4,000 square feet. The total proposed publicly accessible open spaces will provide enough open space for an additional 370 units. The open space provided by the project will satisfy up to 645 units; the project proposes a total of 470 units. Therefore, these open spaces combine to exceed the minimum useable open space required for the project.

- D. **Commercial Open Space.** Planning Code Section 135.3 requires usable open space for uses other than dwelling units. For retail use, one square foot per 250 square feet of occupied floor area of usable open space is required. In Eastern Neighborhoods Mixed Use Districts, this open space requirement may be satisfied through payment of a fee of \$76 for each square foot of usable square footage not provided pursuant to this Code section.

The Project is required to provide at least 104 square feet of commercial open space, and it will meet the requirement by establishing the publicly accessible open space at the South Building. After accounting for required residential open space, the park provides an additional 9,470 square feet, which exceeds the required 104 feet of commercial open space.

- E. **Streetscape and Pedestrian Improvements.** Planning Code Section 138.1 requires improvement of the public right-of-way associated with development projects. The owner or developer of a new building in this District must install street trees. Each street tree must be a minimum of 24-inch box for every 20 feet of frontage of the property along each street or public alley with any remaining fraction of 10 feet or more of frontage requiring an additional tree.

The Project is required to install 19 street trees along 7th Street, 22 along 16th Street and 32 along Hubbell Street, for a total of 73 trees. The project complies with this requirement by providing the required number of street trees.

- F. **Street Frontages.** Planning Code Section 145.1 requires the following for street frontages in Eastern Neighborhood Mixed Use Districts: (1) not more than 1/3 the width of the building facing the street may be devoted to ingress/egress to parking; (2) off-street parking at street grade must be set back at least 25 feet; (3) "active" use shall be provided within the first 25 feet of building depth at the ground floor; (4) ground floor non-residential uses in UMU zoning district shall have a floor-to-floor height of 17-feet; (5) frontages with active uses shall be fenestrated with transparent windows; and, (6) decorative railings or grillwork placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular views.

The project meets the requirements of Section 145.1, except for one area along 7th Street, as follows: (1) providing a 39-foot and a 40-foot wide garage openings, which total less than 1/3 the width of the approximately 640-foot wide building; (2) incorporating an approximately 26,000 square foot of active uses, including ground floor retail, PDR, and flex units within the first 25 feet of the building depth at ground floor; (3) providing a floor-to-floor ground floor height of 18 feet for the commercial frontage; and, (4) providing transparent windows at the ground floor active use. The required 25-foot off-street parking setback at the ground floor is met for the vast majority of the project. However, an approximately 110-foot section at the 7th Street frontage on the North Building is only five feet deep in order to permit acceptable vehicular maneuverability within the ground floor parking area. An exception for this area is detailed in 8C below.

- G. **Parking.** Planning Section 151.1 allows for provision of up to three parking space for each four dwelling units. Additionally, up to one parking space is permitted for each dwelling unit that is two or more bedrooms and at least 1,000 square feet of occupied floor area, subject to the requirements of Sections 151.1. No additional parking is permitted above these amounts.

Based on the proposed dwelling unit mix, the maximum parking rate permitted is .75 spaces per dwelling unit, or 352 spaces. The project proposes a parking rate of approximately .65 spaces per dwelling unit, or 306 spaces.

- H. **Bicycle parking.** Planning Code Section 155.4 requires commercial and industrial projects where the gross square footage of the floor area exceeds 25,000 square feet but is no greater than 50,000 feet, 3 bicycle spaces are required. Planning Code Section 155.5 requires projects over 50 dwelling units to provide 25 Class 1 spaces plus one Class 1 space for every 4 dwelling units over 50.

The project proposes an approximately 22,000 square feet of retail and industrial spaces, less than the square footage trigger of 25,000 square feet. The proposed total number of 470 dwelling units requires a total of 130 bicycle parking spaces. The project complies with this requirement by providing up to 378 bicycle parking spaces.

- I. **Car Share.** Planning Code Section 166 requires two spaces plus 1 for every 200 dwelling units over 200.

The project exceeds the minimum three-car car share requirement by providing four car share spaces.

- J. **Shadow.** Planning Code Section 147 requires reduction of substantial shadow impacts on public plazas and other publicly accessible spaces other than those protected under Planning Code Section 295. Section 295 restricts new shadow, cast by structures exceeding a height of 40 feet, upon property under the jurisdiction of the Recreation and Park Commission.

The Shadow Analysis conducted for the Project indicates that the Project will not cast shadow upon Public, Publicly Accessible or Publicly Financed or Subsidized Open Space.

- K. **Dwelling unit mix.** Planning Code Section 207.6 requires at least 40 percent of the total number of proposed dwelling units to contain two or more bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole number of dwelling units.

The Project will provide 40 percent of the dwelling units as 2-bedroom units or larger (188 units).

- L. **Height Limit.** Planning Code Section 260 requires that the height of buildings not exceed the limits specified in the Zoning Map and defines rules for the measurement of height. The Project Site is within a 68-foot Height District.

The Project complies. The height of roof is no higher than 68 feet.

- M. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements would apply to projects that consist of five or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 415.5 and 415.6, the Project is meeting the Inclusionary Affordable Housing Program requirement through the On-site Affordable

Housing Alternative by providing 20% of the proposed dwelling units as affordable, as this project is located within the Urban Mixed Use District within Eastern Neighborhoods.

The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6, and has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of through payment of the Affordable Housing Fee. In order for the Project Sponsor to be eligible for the On-Site Affordable Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the project or submit to the Department a contract demonstrating that the project's on- or off-site units are not subject to the Costa Hawkins Rental Housing Act, California Civil Code Section 1954.50 because, under Section 1954.52(b), the Project Sponsor has entered into an agreement with a public entity in consideration for a direct financial contribution or any other form of assistance specified in California Government Code Sections 65915 et seq. All such contracts entered into with the City and County of San Francisco must be reviewed and approved by the Mayor's Office Housing and the City Attorney's Office. The Project Sponsor has indicated an intent in writing to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions provided by the City and approved herein. The Project Sponsor submitted such Affidavit on July 14, 2011. The EE application was submitted on October 11, 2006. 94 units (40 two-bedroom, and 37 three-bedroom) of the 470 units provided will be affordable units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable. The Project must execute the agreement documenting the exception to Costa Hawkins within 60 days of Planning Commission approval or must revert to payment of the Affordable Housing Fee.

N. **Eastern Neighborhoods Public Benefit Fund.** The project shall comply with the provisions of Planning Code Section 423, including payment of the Eastern Neighborhoods Impact Fee, or execution of an In-Kind Agreement with the Planning Department prior to issuance of the first site or building permit.

6. **General Compliance with the Large Project Authorization in Eastern Neighborhoods Mixed Use District Objectives.** Planning Code Section 329(c) lists nine aspects of design review in which a project must comply; the Planning Commission finds that the project is compliant with these nine aspects as follows:

A. Overall building massing and scale;

The Project conforms to the applicable height and bulk requirements. The community in the vicinity of the Project is constantly evolving with development in the Potrero Hill region and the recent Eastern Neighborhoods Area Plans, and contains a range of building masses. The project, with residential, retail, and PDR uses, will be consistent with the existing and evolving character of the area. The Project massing will improve the character of the neighborhood and general pedestrian accessibility by providing a midblock mews that allows pedestrian access from Hubbell Street to the Daggett Right of

Way, breaking up the existing 640-foot continuous block layout that is not conducive to pedestrian walkability.

B. Architectural treatments, facade design and building materials;

The architecture of this Project responds to the site's location between the industrial nature of Showplace Square, and the contemporary architecture of the residential and lofts toward the bottom of Potrero Hill. The Project's facades all present fenestration patterns and scale similar to the expressed frame of residential and industrial uses common in the area. The exterior of the North Building is designed with modern materials including painted cement plaster, hardi trim, aluminum storefronts and windows, metal screens, railings and downspout, concrete, and aluminum sun shades. The aluminum punched window openings with cement plaster recesses on the aluminum framed building for the South Building provide a stimulating and visually interesting buffer between the I-280 Freeway and the Daggett Right of Way. The different facade expression of the two buildings is a dynamic expression of the synergy of the evolving distinct with various architectural styles. Variations in fenestration and treatment of the building facades allow the architecture to read as distinct pieces of a whole.

C. The design of lower floors, including building setback areas, commercial space, townhouses, entries, utilities, and the design and siting of rear yards, parking and loading access;

The ground floor character of the building is active with retail oriented and viable spaces along 16th Street, which interact and give way to the equally active industrial spaces with transparent storefront along Hubbell Street and the residential character along the Daggett Right of Way. There are exposed residential entries on every facade as indicated by the architecture of the building via recessed entries and landscaped metal screens. The Project's retail spaces are located near the corner of Hubbell and 16th Streets, 16th Street and the Daggett Right of Way, and 16th and 7th Streets. "Flexible-Occupancy" units are also proposed along 16th Street and the Daggett Right of Way. PDR, or SEW spaces are proposed at the Hubbell Street facade, in the portion of the property within the PDR-1-G Zoning District. The mid-block mews connects the Hubbell Street frontage with the Daggett Right of Way, which is tentatively proposed as a public park. A 6,600 square-foot public park is proposed at the corner of Hubbell and 16th Streets, providing public seating, shade, trees, and green space, and serves as a pedestrian connection between Hubbell and 16th Streets. The retail corners and facades are carved out at the ground floor, inviting pedestrians, and providing an opportunity for outdoor seating. Retail spaces have 17-foot clear ceiling heights at the ground floor. Curb cuts are minimized to three parking access points for entire project. Street trees along all street frontages are proposed per the Planning Code, in most cases below the prescribed 20' spacing, with the exception of building entries, corners and at the vehicular access point.

D. The provision of required open space, both on- and off-site. In the case of off-site publicly accessible open space, the design, location, access, size, and equivalence in quality with that otherwise required on-site;

The Project provides adequate open space, all on-site. The open spaces are provided in the form of private courts, roof deck, and publicly accessible parks and open space. The total open spaces provided exceed the total square footage required.

E. The provision of mid-block alleys and pathways on frontages as required by the criteria set forth in Section 270, and the design of mid-block alleys and pathways as required by and pursuant to the criteria set forth in Section 270.2, as follows;

1. Generally be located as close to the middle portion of the subject block face as possible, perpendicular to the subject frontage and connect to existing adjacent streets and alleys;

The proposed mid-block pathway is perpendicular to Hubbell Street and connects Hubbell Street with the Daggett Right of Way, which is tentatively proposed to be a public park. The proposed mews also provides visual connection to 16th Street. The location of the mews is as close to the middle portion of the subject block as possible.

2. Provide pedestrian access;

The proposed mid-block pathway will provide direct pedestrian access from Hubbell and the Daggett Right of Way / 16th Street, and will provide direct access to ground floor Flexible-Occupancy units. The flex units are units that can be residential or principally permitted non-residential uses such as retail, arts activities, trade shops, or catering services.

3. Provide no, limited or full vehicular access, as specific conditions warrant;

The proposed mid-block pathway will provide no vehicular access.

4. Have a minimum width of 20 feet from building face to building face, exclusive of those obstructions allowed pursuant to Section 136, and a minimum clearance height from grade of 15 feet at all points;

The proposed mid-block pathway has a width of 20 feet at the ground level along Hubbell Street. The pathway will increase up to a width of 30 feet for levels four to six. The pathway is completely open, with no obstructions pursuant to Section 136 or otherwise. The proposed private balconies do not extend into the pathway and are further setback from the pathway.

5. Have a minimum clear walking width of 10 feet free of any obstructions in the case of a pedestrian-only right-of-way, and dual sidewalks each of not less than 6 feet in width with not less than 4 feet minimum clear walking width in the case of an alley with vehicular access;

The proposed mid-block pathway will act as a park and include a cleared walking width in excess of 10 feet.

6. In the Eastern Neighborhoods Mixed Use Districts, be at least 60% open to the sky, including those encroachments permitted in front setbacks by Section 136 of this Code;

The proposed mid-block pathway will be approximately 70 percent open to the sky.

7. Provide such ingress and egress as will make the area easily accessible to the general public;

The proposed mid-block pathway will have a frontage of 30 feet along both Hubbell Street and Daggett Street Right of Way.

8. Be protected from uncomfortable wind, as called for elsewhere in this Code;

The proposed mid-block pathway will not be significantly impacted by uncomfortable wind.

9. Be ungated and publicly accessible 24 hours per day, as defined elsewhere in this Section;

The proposed mid-block pathway will not be gated and will be publicly accessible 24 hours per day.

10. Be provided with appropriate paving, furniture, and other amenities that encourage pedestrian use, and be landscaped to greatest extent feasible;

A line of trees will buffer the pathway. The pathway leads to a planned public park at the Daggett Right of Way.

11. Be provided with ample pedestrian lighting to ensure pedestrian comfort and safety;

The proposed mid-block pathway will have ample lighting to ensure pedestrians' and flex units' occupants' comfort and safety.

12. Be free of any changes in grade or steps not required by the underlying natural topography and average grade;

The proposed mid-block pathway includes no grade changes or steps.

13. Be fronted by active ground floor uses, as defined in Section 145.1, to the extent feasible;

The proposed mid-block pathway will be fronted by ground floor Flexible-Occupancy units.

14. New buildings abutting mid-block alleys provided pursuant to this Section 270.2 shall feature upper story setbacks according to the provisions of Section 261.1.

The proposed mid-block pathway is 20 feet wide. The top two stories have a 30-foot wide pathway, excluding private balconies. The Project effectively provides a nearly 10-foot setback.

- F. Streetscape and other public improvements, including tree planting, street furniture, and lighting;

The Project proposes the installation of street trees along all frontages, public parks and open spaces, sidewalk improvements, and a publicly accessible park connecting Hubbell Street and Daggett Right of Way, a planned public park.

G. Circulation, including streets, alleys and mid-block pedestrian pathways;

The Project provides two ingress/egress accesses on Hubbell Street and is not anticipated to create traffic problems. No ingress/egress is proposed on any other street frontages to prevent possible conflicts and congestion. Additionally, the proposed mid-block pedestrian pathway will improve circulation on a 640-foot block.

H. Bulk limits;

The Project site is located in an X Bulk District, which provides no bulk restrictions.

I. Other changes necessary to bring a project into conformance with any relevant design guidelines, Area Plan or Element of the General Plan.

The Project generally meets the Objectives and Policies of the General Plan.

7. Exceptions. Proposed Planning Code Section 329 allows exceptions for Large Projects in the Eastern Neighborhoods Mixed Use Districts.

A. Planning Code Section 134 requires a minimum rear yard equal to 25 percent of the total lot depth beginning at the lowest story containing a dwelling unit. The subject property is a triangular lot with three frontages and a mid-lot public right of way. Planning Code Section 329(d) allows an exception for the rear yard requirement pursuant to requirements of Planning Code Section 134(f).

1. Residential uses are included in the new or expanding development and a comparable amount of readily accessible usable open space is provided elsewhere on the lot:

The Project is occupied by residential uses, and ground floor retail, PDR/SEW spaces, flex units, and a comparable amount of readily accessible open space is proposed. Per the Planning Code, the required rear yard should equal 25 percent of the lot area, which is approximately 34,338 square feet for this property. The proposed mid-block pathway, roof deck, inner courtyards, public open spaces and parks combine to provide approximately 42,000 square feet. Additional private decks and open spaces that do not meet the dimensional requirements combine to provide an additional 8,900 square feet of usable open space.

2. The proposed new or expanding structure will not significantly impede the access to light and air from adjacent properties:

The Project will occupy an independent triangular lot bounded by Hubbell Street, 7th Street, and 16th Street, with a planned park in the Daggett Right of Way in the center. The upper floors of the building steps 32 feet back from the property line at Hubbell Street to maintain a buffer between the PDR district the UMU district. The 68-foot tall building is separated from the warehouses and lofts ranging 25 to 50 feet across the 80-foot wide 16th Street. The Project will result in no significant impediment on light and air to adjacent properties.

3. The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yards of adjacent properties:

The project is located on its own block with no adjacent buildings. Buildings across Hubbell Street are approximately 70 feet away and approximately 80 away on 16th Street. However, the Project includes an approximately 5-foot setback from the street frontages.

- B. Planning Code Section 140 requires dwelling units to have at least one window facing a street or alley, a Code-complying rear yard. Seven of the 470 proposed dwelling units would not meet the requirement.

Although the dwelling units enjoy ample light and air with the proposed open spaces, setbacks, and parks, dimensional requirements prohibit seven of the units to comply with the exposure requirement.

- C. Planning Code Section 145.1 requires that all ground floor parking be set back at least 25 feet from each street frontage. The proposal includes an approximately 110-foot portion of parking along 7th Street that is only set back five feet from the street.

This deviation is needed to ensure adequate vehicular maneuverability in the ground floor parking area. This exception will not be visible from the street, and the overall intent of the Section 145.1 will still be met.

- D. Planning Code Section 152.1 requires two off-street freight loading spaces for a residential use in UMU Districts when the gross floor area is between 200,001 and 500,000 square feet. The project proposes three loading spaces at curbside, with one on Hubbell Street and two on 7th Street, but none within the garage.

Providing interior loading areas would significantly alter the building configuration and coverage, resulting in larger or more curb cuts and reduce active ground floor uses. The on-street loading zones are in close proximity to building entrances and will likely be more utilized and provide easier access.

- E. Planning Code Section 270.1 requires any project with a frontage of more than 200 feet to incorporate one or more mass reduction breaks in the building that reduce the horizontal scale of the building into discrete sections not more than 200 feet in length. The minimum dimensions required for such a break are 30 feet of width and 60 feet of depth above 25 feet. The North Building frontages at 7th and 16th Streets do not meet the required separation. A mid-block pathway at Hubbell Street is proposed to connect with the Daggett Right of Way.

In granting an exception for horizontal mass reductions, the Planning Commission shall consider the following criteria per Planning Code Section 270.1(d).

1. No more than 50 percent of the required mass is reduced unless special circumstances are evident;

Although not proposed at the required location, the proposed mass reduction break at Hubbell Street represents 115 percent of required amount. The 16th Street façade has articulated notches that divide the building mass. The notches, although occurs often throughout the façade, do not

meet the dimensional requirements. The special circumstance for the Project is that the vast majority of developments large enough to trigger this requirement will include double-loading corridors to access its dwelling units, as it is the most efficient means of doing so. A mass reduction break that is 60 feet deep makes this extremely difficult, and would effectively reduce the Project into multiple smaller buildings. This in turn would result in approximately 30 fewer units, thus significantly impacting the creation and affordability of new units in the City. Additionally, providing building articulations and notches on a large frontage is an effective alternative in separating the building mass than one large break.

2. The depth of any mass reduction breaks provided is not less than 15 feet from the front facade, unless special circumstances are evident;

There are no proposed building breaks at 15 feet deep. Such reduction would still effectively result in approximately 30 fewer units, thus significantly impacting the creation and affordability of new units in the City. Additionally, the planned public park at the 211-foot wide Daggett Right of Way essentially breaks up the block and creates a larger than required reduction.

3. The proposed building envelope can be demonstrated to achieve a distinctly superior effect of reducing the apparent horizontal dimension of the building; and

As discussed above, providing building articulations and notches on a large frontage is an effective alternative to separate the building mass than one large break. The building design incorporates many setbacks and recesses that achieve the effect of horizontal dimension reduction.

4. The proposed building achieves unique and superior architectural design.

The building achieves unique and superior architectural design by including a 6,600 square foot publicly accessible park and a 20-foot wide, 208-foot deep pathway that separates the North Building into two masses. Additionally, the building proposes modular articulations and notches, as opposed to the code-required single break. Further, the building contains varied building materials, colors, and recesses at the façade to create a unique and vibrant architectural rhythm. The dynamic nature of the design of the Project is emphasized through the horizontal breakdown of the Hubbell Street façade, the depth and hierarchy of the design elements, the overlying organization of the frames, the recessed punched windows, and the corner elements with projecting balconies and setbacks.

8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING

Objectives and Policies – 2004 Housing Element

Housing Supply

OBJECTIVE 1:

PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.

Policy 1.1:

Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households.

Policy 1.3:

Identify opportunities for housing and mixed use districts near downtown and former industrial portions of the City.

Policy 1.4:

Locate in-fill housing on appropriate sites in established residential neighborhoods.

The Project is a high density mixed-use development in an underutilized, transitioning industrial area. The Project site is a large opportunity site that is currently only used as a surface parking lot, which significantly degrades the built and pedestrian environment that surrounds it. The area around the Project site was recently rezoned to UMU as part of a long range planning goal to create a cohesive, high density residential and mixed-use neighborhood.

Housing Choice

OBJECTIVE 8:

ENSURE EQUAL ACCESS TO HOUSING OPPORTUNITIES.

Policy 8.9:

Encourage the provision of new home ownership opportunities through new construction so that increased owner occupancy does not diminish the supply of rental housing.

The Project proposes 470 dwelling units with the opportunity for ownership.

Housing Density, Design and Quality of Life

Policy 11.2:

Ensure housing is provided with adequate public improvements, services and amenities.

Policy 11.3:

Encourage appropriate neighborhood-serving commercial activities in residential areas, without causing affordable housing displacement.

The Proposed Project will site 470 dwelling units on an in-fill site within an established mixed-use neighborhood, thereby meeting the goals of providing housing near employment, transportation, and commercial/retail locations. No affordable housing would be displaced by the project.

Regional and State Housing Needs

OBJECTIVE 12:

STRENGTHEN CITYWIDE AFFORDABLE HOUSING PROGRAMS THROUGH COORDINATED REGIONAL AND STATE EFFORTS.

Policy 12.2:

Support the production of well-planned housing region-wide that addresses regional housing needs and improve the overall quality of life in the Bay Area.

The Project will site 470 dwelling units on an in-fill site within an established mixed-use neighborhood, thereby meeting the goals of providing housing near employment, transportation, and commercial/retail locations.

Objectives and Policies – 2009 Housing Element

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1

Plan for the full range of housing needs in the city and county of San Francisco, especially affordable housing.

Policy 1.8

Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

The Project is a high density mixed-use development in an underutilized, transitioning industrial area. The Project site is a large opportunity site that is currently only used as a surface parking lot, which significantly degrades the built and pedestrian environment that surrounds it. The area around the Project site was recently rezoned to UMU as part of a long range planning goal to create a cohesive, high density residential and mixed-use neighborhood. The project includes 94 affordable housing units.

OBJECTIVE 11

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.1

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.4

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

Policy 11.5

Ensure densities in established residential areas promote compatibility with prevailing neighborhood character.

Policy 11.6

Foster a sense of community through architectural design, using features that promote community interaction.

Policy 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

The architecture of this Project responds to the site's location between the industrial nature of Showplace Square, and the contemporary architecture of the residential and lofts toward the bottom of Potrero Hill. The Project's facades all present fenestration patterns and scale similar to the expressed frame of residential and industrial uses common in the area. The exterior of the North Building is designed with modern materials including painted cement plaster, hardi trim, aluminum storefronts and windows, metal screens, railings and downspout, concrete, and aluminum sun shades. The aluminum punched window openings with cement plaster recesses on the aluminum framed building for the South Building provide a stimulating and visually interesting buffer between the I-280 Freeway and the Daggett Right of Way. The different façade expression of the two buildings is a dynamic expression of the synergy of the evolving distinct with various architectural styles. Variations in fenestration and treatment of the building facades allow the architecture to read as distinct pieces of a whole.

OBJECTIVE 12

BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.

Policy 12.2

Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units.

The Project provides adequate open space, all on-site. The open spaces are provided in the form of private courts, roof deck, and publicly accessible parks and open space. The existing Daggett Street Right of Way has been planned for a public park. The park is tentatively designed to include a lawn, play area, built-in seating, dog run, and ample landscaping.

RECREATION AND OPEN SPACE ELEMENT

Objectives and Policies

OBJECTIVE 4:

PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

Policy 4.5:

Require private usable outdoor open space in new residential development.

Policy 4.6:

Assure the provision of adequate public open space to serve new residential development.

The Project will create private and public outdoor open space areas in new residential mixed-use development through private balconies, roof deck, ground floor open spaces and parks. It will not cast shadows over any open spaces under the jurisdiction of the Recreation and Park Department. Additionally, a new pedestrian pathway will be created to connect Hubbell Street with the Daggett Right of Way, a planned public park, and 16th Street.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 24:

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

Policy 24.2:

Maintain and expand the planting of street trees and the infrastructure to support them.

Policy 24.3:

Install pedestrian-serving street furniture where appropriate.

Policy 24.4:

Preserve pedestrian-oriented building frontages.

The Project will install street trees at approximately 20 foot intervals all along the three frontages on Hubbell, 7th and 16th Streets. Frontages are designed with active spaces oriented at the pedestrian level. The proposed mid-block news also provides connection through the site.

OBJECTIVE 28:

PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

Policy 28.1:

Provide secure bicycle parking in new governmental, commercial, and residential developments.

Policy 28.3:

Provide parking facilities which are safe, secure, and convenient.

The Project includes 378 bicycle parking spaces in secure, convenient locations on the ground floor.

OBJECTIVE 34:

RELATE THE AMOUNT OF PARKING IN RESIDENTIAL AREAS AND NEIGHBORHOOD COMMERCIAL DISTRICTS TO THE CAPACITY OF THE CITY'S STREET SYSTEM AND LAND USE PATTERNS.

Policy 34.1:

Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

Policy 34.3:

Permit minimal or reduced off-street parking supply for new buildings in residential and commercial areas adjacent to transit centers and along transit preferential streets.

Policy 34.5:

Minimize the construction of new curb cuts in areas where on-street parking is in short supply and locate them in a manner such that they retain or minimally diminish the number of existing on-street parking spaces.

The Project has a parking to dwelling unit ratio of .65 spaces per unit. The 306 parking spaces are accessed by two ingress/egress points on Hubbell Street.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.7:

Recognize the natural boundaries of districts, and promote connections between districts.

OBJECTIVE 2:

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.6:

Respect the character of older development nearby in the design of new buildings.

The Project lies within the Showplace/Potrero neighborhood that is transitioning from industrial uses to a mid- to high-density residential mixed-use neighborhood. As such, the proposed building provides more intricate street façades that respond to the existing industrial built environment, while respecting the lofts influences of the buildings to the south.

OBJECTIVE 4:

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.5:

Design walkways and parking facilities to minimize danger to pedestrians.

Policy 4.13:

Improve pedestrian areas by providing human scale and interest.

While the triangular lot has a unique four-street frontage, it only provides two vehicular access points for the entire project, limiting conflicts with pedestrians and bicyclists. Numerous street trees will be planted on each façade, ample public and private open spaces, ground floor active uses, and ground floor flexible occupancy units directly accessing the street. The pedestrian experience along the Project site will be improved.

SHOWPLACE SQUARE/POTRERO AREA PLAN

Objectives and Policies

OBJECTIVE 1.1:

ENCOURAGE THE TRANSITION OF PORTIONS OF SHOWPLACE / POTRERO TO A MORE MIXED USE AND NEIGHBORHOOD-SERVING CHARACTER, WHILE PROTECTING THE CORE OF DESIGN-RELATED PDR USES.

Policy 1.1.2:

In the northern part of Showplace Square (around 8th and Brannan, east of the freeway and along 16th and 17th Streets) revise land use controls to create new mixed use areas, allowing mixed-income housing as a principal use, as well as limited amounts of retail, office, and research and development uses, while protecting against the wholesale displacement of PDR uses.

Policy 1.1.3:

Allow for active ground floor uses and a more neighborhood commercial character in newly designated mixed use areas within Showplace Square.

Policy 1.1.4:

Permit and encourage greater retail use on the ground floor on parcels that front 16th Street to take advantage of transit service and encourage more mixed uses, while protecting against the wholesale displacement of PDR uses.

The project is a mixed-use mixed-income development along 16th Street with active ground floor uses and a neighborhood commercial character that will not displace any existing PDR uses.

OBJECTIVE 1.2

IN AREAS OF SHOWPLACE/POTRERO WHERE HOUSING AND MIXED USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER

The project maximizes its development potential while remaining in keeping with the neighborhood character.

OBJECTIVE 1.7

RETAIN THE ROLE OF SHOWPLACE SQUARE AS AN IMPORTANT LOCATION FOR PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ACTIVITIES, FOCUSING IN PARTICULAR ON DESIGN RELATED ACTIVITIES.

Policy 1.7.3

Require development of flexible buildings with generous floor-to-ceiling heights, large floor plates, and other features that will allow the structure to support various businesses.

The Project includes nonresidential spaces on the ground floor with large ground floor ceiling heights and adequate area for a range of uses, including PDR.

OBJECTIVE 2.1

ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE SHOWPLACE / POTRERO IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES

Policy 2.1.1

Require developers in some formally industrial areas to contribute towards the City's very low, low, moderate and middle income needs as identified in the Housing Element of the General Plan.

The project includes 20% on-site lower income affordable units, and the remainder of the units are contemplated to be held as rental housing, which is generally more affordable to moderate and middle income households than ownership housing.

OBJECTIVE 2.3

REQUIRE THAT A SIGNIFICANT NUMBER OF UNITS IN NEW DEVELOPMENTS HAVE TWO OR MORE BEDROOMS EXCEPT SENIOR HOUSING AND SRO DEVELOPMENTS UNLESS ALL BELOW MARKET RATE UNITS ARE TWO OR MORE BEDROOM UNITS

Policy 2.3.3

Require that a significant number of units in new developments have two or more bedrooms, except Senior Housing and SRO developments.

The project contains 40% two-bedroom units.

OBJECTIVE 2.4

LOWER THE COST OF THE PRODUCTION OF HOUSING

Policy 2.4.1

Require developers to separate the cost of parking from the cost of housing in both for sale and rental developments.

Policy 2.4.2

Revise residential parking requirements so that structured or off-street parking is permitted up to specified maximum amounts in certain districts, but is not required.

The project has unbundled parking at a ratio of approximately 0.65 space per unit.

OBJECTIVE 3.2

PROMOTE AN URBAN FORM AND ARCHITECTURAL CHARACTER THAT SUPPORTS WALKING AND SUSTAINS A DIVERSE, ACTIVE AND SAFE PUBLIC REALM.

Policy 3.2.1

Require high quality design of street-facing building exteriors.

Policy 3.2.2

Make ground floor retail and PDR uses as tall, roomy and permeable as possible.

Policy 3.2.3

Minimize the visual impact of parking.

Policy 3.2.4

Strengthen the relationship between a building and its fronting sidewalk.

Policy 3.2.5

Building form should celebrate corner locations.

Policy 3.2.7

Strengthen the pedestrian network by extending alleyways to adjacent streets or alleyways wherever possible, or by providing new publicly accessible mid-block rights of way.

The Project's facades are of high quality materials. The ground floor will be tall enough to create attractive storefronts for pedestrians and viable space for a variety of uses, including PDR. The parking, although at

grade, are only accessible by two garage doors and are only visible through approximately 110-foot wide of a 240-foot wide frontage designed with metal screen and enclosed vegetated swale and board-formed concrete. The buildings also include appropriate modulation of the facades to break them into distinct sections.

OBJECTIVE 5.1

PROVIDE PUBLIC PARKS AND OPEN SPACES THAT MEET THE NEEDS OF RESIDENTS, WORKERS AND VISITORS

Policy 5.1.1

Identify opportunities to create new public parks and open spaces and provide at least one new public park or open space serving the Showplace / Potrero.

Policy 5.1.2

Require new residential development and commercial development to provide, or contribute to the creation of publicly accessible open space.

The project proposes a corner park at the intersection of 16th and Hubbell Streets, and is proposing to conversion of the Daggett Street Right-of-Way to a public park to serve the Showplace Square/Potrero neighborhood.

OBJECTIVE 5.2

ENSURE THAT NEW DEVELOPMENT INCLUDES HIGH QUALITY PRIVATE OPEN SPACE

Policy 5.2.1

Require new residential and mixed-use residential development to provide on-site private open space designed to meet the needs of residents.

Policy 5.2.2

Establish requirements for commercial development to provide on-site open space.

Policy 5.2.3

Encourage private open space to be provided as common spaces for residents and workers of the building wherever possible.

Policy 5.2.4

Encourage publicly accessible open space as part of new residential and commercial development.

The project includes high quality private and common open space in balconies, decks, courtyards, and a roofdeck, as well as publicly accessible open space.

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

There are no existing neighborhood-serving retail uses on the site. The Project will provide approximately 15,000 square feet of ground floor space adequate for various retail uses, including neighborhood serving retail, which will create opportunities for local resident employment and ownership opportunities.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

No housing exists on the project site. The project will provide up to 470 new dwelling units, significantly increasing the neighborhood housing stock. The design of the Project is compatible with the surrounding neighborhood. For these reasons, the proposed project would protect and preserve the cultural, economic and historic significance of the neighborhood.

- C. That the City's supply of affordable housing be preserved and enhanced.

The Project will not displace any affordable housing because there is currently no housing on the site. The Project will comply with the City's Inclusionary Housing Program, therefore increasing the stock of affordable housing units in the City.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The project site is well-served by public transportation. The majority of future residents are expected to use alternative methods of transportation other than private automobiles, and the small number of vehicle trips generated by this project would not impede MUNI transit service or overburden streets.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The Project does not include any commercial office development. The Project will increase the potential for future development of PDR uses on the site with the proposed PDR spaces. The proposal with dwelling units and retail spaces will increase the diversity of the City's housing supply, a top priority in the City, and will provide potential neighborhood-serving uses.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The project will be designed and will be constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The Project will not affect the City's parks or open space or their access to sunlight and vistas. A shadow study was completed and concluded that the Project will not cast shadows on any property under the jurisdiction of, or designated for acquisition by, the Recreation and Park Commission.

10. **First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Section 83.4(m) of the Administrative Code), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

The Project Sponsor executed a First Source Hiring Memorandum of Understanding and a First Source Hiring Agreement with the City's First Source Hiring Administration.

11. **Mitigation.** Pursuant to CEQA, the Commission has considered the mitigation measures as described in the FEIR and will include these measures and the mitigation monitoring program as conditions of Project approval.
12. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
13. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Large Project Authorization Application No. 2003.0527X** under Planning Code Section 329 to allow the proposed construction of two new six-story, 68-foot buildings consisting of up to 470 dwelling units, approximately 15,000 square feet of ground floor retail, approximately 11,100 square feet of Production, Distribution, and Repair (PDR) spaces, and parking for up to 306 spaces and exceptions for rear yard, dwelling unit exposure, off-street loading, horizontal mass reduction and ground floor active uses within the UMU (Urban Mixed Use) District with a 68-X Height and Bulk Designation. The project is subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated June 18, 2011, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The Planning Commission hereby adopts the MMRP attached hereto as Exhibit C and incorporated herein as part of this Resolution/Motion by this reference thereto. All required mitigation measures identified in the IS/MND and contained in the MMRP are included as conditions of approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Large Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion No. 18419. The effective date of this Motion shall be the date of this Motion if not appealed (After the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1650 Mission Street, Room 304, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on July 28, 2011.

Linda D. Avery
Commission Secretary

AYES: Commissioners Antonini, Miguel, Moore, Sugaya, and Olague

NAYS: None

ABSENT: Commissioners Borden and Fong

ADOPTED: July 28, 2011

EXHIBIT A

AUTHORIZATION

This authorization is to allow a Large Project Authorization and exceptions for rear yard, dwelling unit exposure, off-street loading, horizontal mass reduction and ground floor active uses for the proposed construction of two new six-story, 68-foot buildings consisting of up to 470 dwelling units, approximately 15,000 square feet of ground floor retail, approximately 8,000 square feet of Production, Distribution, and Repair (PDR) and Small Enterprise Workspace (SEW) spaces, and parking for approximately 306 spaces; in general conformance with plans, dated June 18, 2011, and stamped "EXHIBIT B" included in the docket for Case No. 2003.0527X and subject to conditions of approval reviewed and approved by the Commission on July 28, 2011, under Motion No 18419. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on July 28, 2011, under Motion No. 18419.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18419 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Large Project Authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Large Project Authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Large Project Authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved. *For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.*
2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s). *For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org*

DESIGN

3. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance. *For information about compliance, contact the Case Planner, Planning Department at 415-558-6613, www.sf-planning.org*
4. **Flexible-Occupancy Units.** The ground floor dwelling units in the North Building are designated as Flexible-Occupancy Units and are subject to the following conditions:
 - a. The units are considered dwelling units and are subject to the affordability controls of Planning Code Section 415. The total gross floor area of each unit is subject to the residential rate of Eastern Neighborhood Impact Fee per Planning Code Section 427.3.
 - b. The ground floor of these units may be occupied by the following non-residential uses:
 - i. All retail sales and services permitted as of right in the UMU Zoning District (Sec. 843.45);
 - ii. All arts activities permitted as of right in the UMU Zoning District (Sec. 843.55);
 - iii. Trade shops (Sec. 843.80); and

- iv. Catering services (Sec. 843.81).
 - v. Other uses not specified herein that are permitted as of right in the UMU Zoning District and deemed appropriate by the Zoning Administrator.
 - c. Changes of non-residential uses are subject to the notification requirements of Planning Code Section 312.
 - d. Permitted non-residential uses may occupy the ground floor only. Any conversion of residential space on the 2nd floor shall be tantamount to the removal of a dwelling unit and be subject to the controls of Planning Code Section 317.
 - e. Non-residential uses permitted on the ground floor are subject to all applicable requirements of the Building and Fire Codes.
5. **The Mid-block Pedestrian Pathway.** Planning Code Section 270.2, the project shall meet all design criteria of Subsection (e). It shall also meet the following criteria:
- a. **Maintenance.** The mid-block pedestrian pathway shall be maintained at no public expense. The owner of the property on which the alley is located shall maintain it by keeping the area clean and free of litter and by keeping it in an acceptable state of repair. Conditions intended to assure continued maintenance of the right-of-way for the actual lifetime of the building giving rise to the open space requirement may be imposed in accordance with the provisions of Section 329 for Eastern Neighborhoods Mixed Use Districts.
 - b. **Informational Plaque.** Prior to issuance of a permit of occupancy, a plaque shall be placed in a publicly conspicuous location for pedestrian viewing. The plaque shall state the right of the public to pass through the alley and stating the name and address of the owner or owner's agent responsible for maintenance. The plaque shall be of no less than 24 inches by 36 inches in size.
 - c. Property owners providing a pathway or alley under this section will hold harmless the City and County of San Francisco, its officers, agents and employees, from any damage or injury caused by the design, construction or maintenance of the right-of-way, and are solely liable for any damage or loss occasioned by any act or neglect in respect to the design, construction or maintenance of the right-of-way.
6. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings. *For information about compliance, contact the Case Planner, Planning Department at 415-558-6613, www.sf-planning.org*
7. **Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant impacts to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning

Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:

- A. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
- B. On-site, in a driveway, underground;
- C. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
- D. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding impacts on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
- E. Public right-of-way, underground; and based on Better Streets Plan guidelines;
- F. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
- G. On-site, in a ground floor façade (the least desirable location).

Unless otherwise specified by the Planning Department, Department of Public Works Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests. *For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>*

AFFORDABLE HOUSING

8. **Number of Required Units.** Pursuant to Planning Code Section 415.6, the Project is required to provide 20% of the proposed dwelling units as affordable to qualifying households. The Project contains 470 units; therefore, 94 affordable units are required. The Project Sponsor will fulfill this requirement by providing the X affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing ("MOH").

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, <http://sf-moh.org/index.aspx?page=321>

9. **Unit Mix.** The Project contains 30 flexible-occupancy, 50 studios, 202 one-bedroom, 188 two-bedroom, and 0 three-bedroom units; therefore, the required affordable unit mix is 6 flexible-occupancy, 10 studios, 40 one-bedroom, 38 two-bedroom, and 0 three-bedroom units. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOH.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, <http://sf-moh.org/index.aspx?page=321>

10. **Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, <http://sf-moh.org/index.aspx?page=321>.

11. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than twenty percent (20%) of the each phase's total number of dwelling units as on-site affordable units.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, <http://sf-moh.org/index.aspx?page=321>.

12. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, <http://sf-moh.org/index.aspx?page=321>.

13. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOH at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, <http://sf-moh.org/index.aspx?page=321>.

- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.

- b. If the units in the building are offered for sale, the affordable unit(s) shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average of one hundred (100) percent of the median income for the City and County of San Francisco as defined in the Inclusionary Affordable Housing Program, an amount that translates to ninety (90) percent of Area Median Income under the income table called "Maximum Income by Household Size" derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco. The initial sales price of such units shall be calculated according to the Procedures Manual. Limitations on (i) reselling; (ii) renting; (iii) recouping capital improvements; (iv) refinancing; and (v) procedures for inheritance apply and are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOH shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOH at least six months prior to the beginning of marketing for any unit in the building.
- d. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
- e. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOH or its successor.
- f. The Project Sponsor has demonstrated that it is eligible for the On-site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415 to the Planning Department stating the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions provided by the City provided herein. The Project must execute the Costa Hawkins agreement within 60 days of Planning Commission approval or must revert to payment of the Affordable Housing Fee.
- g. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.

- h. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOH and pay interest on the Affordable Housing Fee at a rate equal to the Development Fee Deferral Surcharge Rate in Section 107A.13.3.2 of the San Francisco Building Code and penalties, if applicable.

PARKING AND TRAFFIC

14. **Parking for Affordable Units.** All off-street parking spaces shall be made available to Project residents only as a separate "add-on" option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

15. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation impacts during construction of the Project.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

EASTERN NEIGHBORHOODS INFRASTRUCTURE IMPACT FEE

16. Impact Fees

The project shall comply with the provisions of Planning Code Section 423, including payment of the Eastern Neighborhoods Impact Fee, or execution of an In-Kind Agreement with the Planning Department prior to issuance of the first site or building permit. While recognizing that the Commission will review any use of the Eastern Neighborhoods Impact Fee in the future, the Commission urges the Project Sponsor to pursue the execution of an In-Kind Agreement pursuant to Planning Code Section 423.3(d) to authorize the project sponsor to provide in-kind improvements in the form of development of a public park in the Daggett Street Right of Way.

PROVISIONS

17. **First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project. *For information about compliance, contact the First Source Hiring Manager at 415-401-4960, www.onestopSF.org*

MONITORING

18. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction. *For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org*
19. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization. *For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org*

OPERATION

20. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. *For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>*
21. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor. *For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org*

22. Mitigation Measures

Mitigation measures described in the MMRP attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.



SAN FRANCISCO PLANNING DEPARTMENT

General Plan Referral

Date: July 6, 2015

Case 2015-007192GPR

Block/Lot No.: None [Daggett Street Right-of-Way – proposed to be Block 3833 Lot 005] and areas bordering the development site at Block 3833 Lots 1, 2, and 3 and Block 3834 Lot 001

Project Sponsor: Berhane Gaime
Department of Public Works
1155 Market Street
San Francisco, CA 94103

Staff Contact: Steve Wertheim – (415) 558-6612
steve.wertheim@sfgov.org

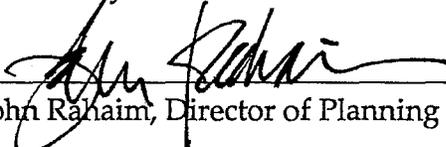
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CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Recommendation: Finding the proposed actions associated with the creation of the Daggett Park and affiliated development, on balance, in conformity with the General Plan.

Recommended
By: 
John Rahaim, Director of Planning

PROJECT DESCRIPTION

The City and County of San Francisco ("the City") is in the process of creating a public park and new road along an existing unimproved and unaccepted Daggett Street right-of-way, which runs between 16th Street and 7th Street. The park will be constructed by Archstone Daggett Place LLC ("the applicant"), in conjunction with their 453-unit residential development on either side of the right-of-way, through an In-Kind Agreement with the City. The applicant has proposed to maintain the 0.9 acre park and a shared "curbless" road in perpetuity as a gift to the City. The construction and maintenance of the park requires a street vacation and a change in use of the park portion of the public right-of-way from a street to a park. The project also involves a change in the street width, an eliminate of sidewalks along the remaining curbless road, the extension of the public sidewalk along 16th and 7th Street immediately adjacent to the

new park, and a Major Encroachment permit from the Department of Public Works to the applicant to maintain the curbsless road and new sidewalks along 16th and 7th Streets. Additionally, the applicant is proposing to dedicate to the City the westernmost and northernmost portions of Block 3833 Lot 003 (at the intersections of 16th and Hubell Streets and 7th and Hubbell Streets, respectively) and the easternmost portion of Block 3804 Lot 001 (at the intersection of 16th and 7th Streets) in such a fashion as to create rounded property lines, and to construct new sidewalks along this land. Collectively, these approvals and actions are referred to as the "Project Actions."

ENVIRONMENTAL REVIEW

The project and Project Actions were fully evaluated in the 1000 16th Street Final EIR, certified by the San Francisco Planning Commission on April 16, 2009, Case No. 2003.0527E.

GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

The Project Actions, including the proposed improvements to the Daggett Street Right-of-Way are, on balance, **in conformity** with the General Plan, as described in the body of this Report.

Note: General Plan Objectives are shown in **BOLD UPPER CASE** font; Policies are in **Bold** font; staff comments are in *italic* font.

RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 2

INCREASE RECREATION AND OPEN SPACE TO MEET THE LONG-TERM NEEDS OF THE CITY AND BAY REGION

Policy 2.1

Prioritize acquisition of open space in high needs areas.

Comment: The proposed park along the Daggett Street Right-of-Way serves a high need area (per the Eastern Neighborhoods Plan, as discussed below).

URBAN DESIGN ELEMENT

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.8

Maintain a strong presumption against the giving up of street areas for private ownership or use, or for construction of public buildings.

Street areas have a variety of public values in addition to the carrying of traffic. They are important, among other things, in the perception of the city pattern, in regulating the scale and organization of building development, in creating views, in affording neighborhood open space and landscaping, and in providing light and air and access to properties.

Like other public resources, streets are irreplaceable, and they should not be easily given up. Short-term gains in stimulating development, receipt of purchase money and additions to tax revenues will generally compare unfavorably with the long-term loss of public values. The same is true of most possible conversions of street space to other public uses, especially where construction of buildings might be proposed. A strong presumption should be maintained, therefore, against the giving up of street areas, a presumption that can be overcome only by extremely positive and far-reaching justification.

Comment: The proposed street vacation would be for a public park to be constructed, in part, through an in-kind agreement with the Planning Commission, not for private ownership or construction of public buildings. The project sponsor also is making a gift to the City of the excess cost of the park and its maintenance. The land is remaining in public ownership, and will serve as open space in an area of high need.

POLICY 2.9

Review proposals for the giving up of street areas in terms of all the public values that streets afford.

Every proposal for the giving up of public rights in street areas, through vacation, sale or lease of air rights, revocable permit or other means, shall be judged with the following criteria as the minimum basis for review:

- a. No release of a street area shall be recommended which would result in:
 1. Detriment to vehicular or pedestrian circulation;
 2. Interference with the rights of access to any private property;
 3. Inhibiting of access for fire protection or any other emergency purpose, or interference with utility lines or service without adequate reimbursement;
 4. Obstruction or diminishing of a significant view, or elimination of a viewpoint; industrial operations;

GENERAL PLAN REFERRAL

5. Elimination or reduction of open space which might feasibly be used for public recreation;
 6. Elimination of street space adjacent to a public facility, such as a park, where retention of the street might be of advantage to the public facility;
 7. Elimination of street space that has formed the basis for creation of any lot, or construction or occupancy of any building according to standards that would be violated by discontinuance of the street;
 8. Enlargement of a property that would result in (i) additional dwelling units in a multi-family area; (ii) excessive density for workers in a commercial area; or (iii) a building of excessive height or bulk;
 9. Reduction of street space in areas of high building intensity, without provision of new open space in the same area of equivalent amount and quality and reasonably accessible for public enjoyment;
 10. Removal of significant natural features, or detriment to the scale and character of surrounding development.
 11. Adverse effect upon any element of the General Plan or upon an area plan or other plan of the Department of City Planning; or
 12. Release of a street area in any situation in which the future development or use of such street area and any property of which it would become a part is unknown.
- b. Release of a street area may be considered favorably when it would not violate any of the above criteria and when it would be:
1. Necessary for a subdivision, redevelopment project or other project involving assembly of a large site, in which a new and improved pattern would be substituted for the existing street pattern;
 2. In furtherance of an industrial project where the existing street pattern would not fulfill the requirements of modern industrial operations;
 3. Necessary for a significant public or semi-public use, or public assembly use, where the nature of the use and the character of the development proposed present strong justifications for occupying the street area rather than some other site;
 4. For the purpose of permitting a small-scale pedestrian crossing consistent with the principles and policies of The Urban Design Element; or
 5. In furtherance of the public values and purposes of streets as expressed in The Urban Design Element and elsewhere in the General Plan.

Comment: The proposed street vacation would not result detriment to vehicular circulation, as this right-of-way has not functioned for that purpose for many years, and a new shared public road would be constructed on the remaining portion of the right-of-way. It would benefit pedestrian circulation, as this right-of-way has been heretofore inaccessible to pedestrians and its design is intended to enhance the pedestrian experience and minimize use of the street for private vehicular through traffic. All the buildings fronting this right-of-way are still accessible from other right-of-way frontages or will have

GENERAL PLAN REFERRAL

accommodations through notices of special restrictions, thereby maintaining fire and emergency access. It would provide for a significant public use (the new public park).

POLICY 2.10

Permit release of street areas, where such release is warranted, only in the least extensive and least permanent manner appropriate to each case.

In order to avoid the unnecessary permanent loss of streets as public assets, methods of release short of total vacation should be considered in cases in which some form of release is warranted. Such lesser methods of release permit later return of the street space to street purposes, and allow imposition of binding conditions as to development and use of the street area.

Mere closing of the street to traffic should be used when it will be an adequate method of release. Temporary use of the street should be authorized when permanent use is not necessary. A revocable permit should be granted in preference to street vacation. And sale or lease of air rights should be authorized where vacation of the City's whole interest is not necessary for the contemplated use. In any of these lesser transactions, street areas should be treated as precious assets which might be required for unanticipated public needs at some future time.

Comment: The proposed street vacation is necessary to create the public park under the jurisdiction of the City's Real Estate Division so that it can be established as a City Plaza that is incorporated into the City's Plaza Program under Administrative Code Chapter 94. The park would remain a public asset.

TRANSPORTATION ELEMENT**OBJECTIVE 1**

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

POLICY 1.2

Ensure the safety and comfort of pedestrians throughout the city.

Safety is a concern in the development and accommodation of any part of the transportation system, but safety for pedestrians (which includes disabled persons in wheelchairs and other ambulatory devices) should be given priority where conflicts exist with other modes of transportation. Even when the bulk of a trip is by transit, automobile or bicycle, at one point or another nearly every person traveling in San Francisco is a pedestrian.

Comment: The proposed project would improve the safety and comfort of pedestrians by creating a new, safe, convenient access along the Daggett Street right-of-way, as well as increasing the pedestrian

GENERAL PLAN REFERRAL

mobility and comfort at the intersections of 7th and Hubbell Streets, 7th and 16th Streets, and 16th and Hubbell Streets.

SHOWPLACE SQUARE/POTRERO HILL AREA PLAN**OBJECTIVE 5.1**

PROVIDE PUBLIC PARKS AND OPEN SPACES THAT MEET THE NEEDS OF RESIDENTS, WORKERS, AND VISITORS

Policy 5.1

Identify opportunities to create new public parks and open spaces and provide at least one new public park or open space serving the Showplace/Potrero.

Policy 5.2

Require new residential development and commercial development to provide, or contribute to the creation of publicly accessible open space.

Comment: The proposed improvements facilitate a new public park and shared public way that meet the needs of residents, workers, and visitors.

PROPOSITION M FINDINGS – PLANNING CODE SECTION 101.1

Planning Code Section 101.1 establishes Eight Priority Policies and requires review of discretionary approvals and permits for consistency with said policies. The proposed improvements to the Daggett Street right-of-way are found to be consistent with the Eight Priority Policies as set forth in Planning Code Section 101.1 for the following reasons:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The project would likely benefit neighborhood-serving retail, as the proposed Daggett Park and shared road would be places for the community to congregate, and therefore may improve opportunities for resident employment in and ownership of neighborhood-serving retail. The commercial space in the development is being designed in conjunction with the park and shared public way to enhance pedestrian experience and activate the space with new uses and activities.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The project would improve neighborhood character by providing a new public park.

3. That the City's supply of affordable housing be preserved and enhanced;

The project would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The project would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The project would not adversely affect our industrial and service sectors or future opportunities for resident employment and ownership in these sectors.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The project would not have an impact on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The project would not adversely affect the City's landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The project would help facilitate the creation of a new City park, and would not have an impact on other parks and open spaces and their access to sunlight and vistas.

RECOMMENDATION:

Finding the improvements to the existing Daggett Street Right-of-Way and other related public improvements, on balance, in-conformity with the General Plan



SAN FRANCISCO PLANNING DEPARTMENT

July 6, 2015

Ms. Angela Calvillo, Clerk
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Re: **Transmittal of Planning Case No. 2015-007030MAP**
Rezoning of a Portion of the Daggett Street Right-of-Way
Board File No. 150586
Planning Commission Recommendation: *Recommend Approval*

Dear Ms. Calvillo:

On July 2, 2015, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance;

The proposed Ordinance would amend the Zoning Map Sheet ZN08 and Height Map Sheet HT08 of the City and County of San Francisco to rezone the Daggett Street Right-of-Way from Urban Mixed Use (UMU)/68-X Height and Bulk to Public (P)/Open Space (OS).

The proposed Ordinance received California Environmental Quality Act ("CEQA") clearance under Planning Department Case No. 2003.0527E Daggett Place Final Environmental Impact Report.

At the July 2nd hearing, the Commission adopted Resolution Number 19406 with a recommendation of approval to the Board of Supervisors for the proposed rezoning of a portion of the Daggett Street right-of-way.

Please find attached documents relating to the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

John Rahaim
Director of Planning

cc: Supervisor Cohen

Attachments [one copy of each of the following]
Planning Commission Resolution Number 19406



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19406 HEARING DATE JULY 2, 2015

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name: Rezoning of Portion of the Daggett Street Right-of-Way to Public Use/Open Space Zoning
Case Number: 2015-007030MAP [Board File No. 150586]
Initiated by: Supervisor Cohen
Staff Contact: Steve Wertheim, Citywide Planning
steve.wertheim@sfgov.org, 415-558-6612
Reviewed by: Adam Varat, Senior Planner
adam.varat@sfgov.org, 415-558-6405
Recommendation: Recommend Approval of the Draft Ordinance

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE AMENDING THE PLANNING CODE AND ZONING MAP TO REZONE A PORTION OF DAGGETT STREET BETWEEN 16TH STREET AND 7TH STREET FROM URBAN MIXED USE/68-X HEIGHT AND BULK DISTRICT TO PUBLIC USE/OPEN SPACE AS PART OF THE ESTABLISHMENT OF THE DAGGETT PARK; AND MAKING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.

PREAMBLE

WHEREAS, on June 2, 2015 Supervisor Cohen (hereafter "legislative sponsor") introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 150586 that would amend the Zoning Map Sheet ZN08 and Height Map Sheet HT08 of the City and County of San Francisco to rezone the Daggett Street Right-of-Way from Urban Mixed Use (UMU)/68-X Height and Bulk to Public (P)/Open Space (OS); and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan, Planning Code Section 302 and the eight priority policies of Planning Code, Section 101.1; and

Whereas, on July 2, 2015, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance and recommended approval of the proposed Ordinance; and

Whereas, the Planning Department (hereinafter "Department") determined that the Project received California Environmental Quality Act (CEQA) clearance under Planning Department Case No. 2003.0527 Daggett Place Final Environmental Impact Report, and that no further environmental review is necessary; and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties; and

Whereas, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends approval of the proposed Ordinance and adopts the attached Draft Resolution to that effect.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. As San Francisco continues to grow and develop, the need increases for well-maintained public open spaces that meet the demands of existing and new residents, workers, and visitors. The Showplace Square/Potrero Hill Area Plan, a part of the Eastern Neighborhoods Area Plan, identifies the need for additional open space to enhance livability in the Plan Area.
2. The June 2010 Showplace Square Open Space Plan identified a significant opportunity for new open space on the approximately one-acre section of Daggett Street between 16th and 7th Streets, owned by the Port of San Francisco and subject to the public trust. The Eastern Neighborhoods Community Advisory Community (ENCAC), as well as various City agencies, recommended use of the Eastern Neighborhoods Infrastructure Impact Fee to support a new open space on this publicly-owned site.
3. In 2012, the Planning Commission and Archstone Daggett Place, LLC ("Project Sponsor"), which is developing a 453-unit rental development project, entered into an in-kind agreement on the properties abutting Daggett Street, to build a new open space and shared public way in this location in exchange for a waiver of a portion of its Eastern Neighborhoods Infrastructure Impact Fee. The Planning Commission and the Project Sponsor entered into the 1000 16th Street In-Kind Improvement Agreement dated as of November 29, 2012 (the "In-Kind Agreement"). Project Sponsor will provide the additional cost of construction of the initial park improvements and shared public way and maintenance of the open space as a gift to the City.
4. The rezoning of the Daggett Street right-of-way to Public/Open Space is an essential part of ensuring that this land remains a park in perpetuity.
5. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan

RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 2

INCREASE RECREATION AND OPEN SPACE TO MEET THE LONG-TERM NEEDS OF THE CITY AND BAY REGION

Policy 2.1

Prioritize acquisition of open space in high needs areas.

SHOWPLACE SQUARE/POTRERO HILL AREA PLAN

OBJECTIVE 5.1

PROVIDE PUBLIC PARKS AND OPEN SPACES THAT MEET THE NEEDS OF RESIDENTS, WORKERS, AND VISITORS

Policy 5.1

Identify opportunities to create new public parks and open spaces and provide at least one new public park or open space serving the Showplace/Potrero.

Policy 5.2

Require new residential development and commercial development to provide, or contribute to the creation of publicly accessible open space.

6. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would likely benefit neighborhood-serving retail, as the proposed Daggett Park would be a place for the community to congregate, and therefore may improve opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would improve neighborhood character by providing a new public park.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for

resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not adversely affect our industrial and service sectors or future opportunities for resident employment and ownership in these sectors.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an impact on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not adversely affect the City's landmarks and historic buildings.

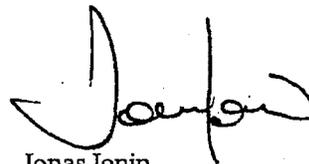
8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would help facilitate the creation of a new City park, and would not have an impact on other parks and open spaces and their access to sunlight and vistas.

8. **Planning Code Section 302 Findings.** The Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 2, 2015.



Jonas Ionin
Commission Secretary

AYES: Fong, Antonini, Hillis, Johnson, Richards, Wu

NOES:

ABSENT: Moore

ADOPTED: July 2, 2015

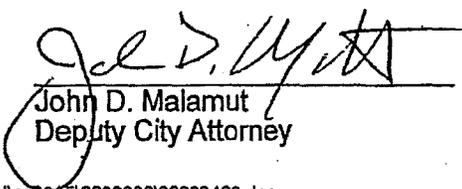
1 Daggett Street between
2 16th and 7th Streets as
3 shown in Public Works
4 SUR Map No. _____
5

6 Section 3. Effective and Operative Date. This ordinance shall become effective 30
7 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor
8 returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,
9 or the Board of Supervisors overrides the Mayor's veto of the ordinance. The zoning changes
10 set forth in this Ordinance shall be conditional and become operative only upon the effective
11 date of the street vacation of the northerly portion of Daggett Street between 16th and 7th
12 Streets in accordance with Public Works Code Section 787 and California Streets and
13 Highways Code Sections 8300 et seq.
14

15 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
16 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
17 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
18 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
19 additions, and Board amendment deletions in accordance with the "Note" that appears under
20 the official title of the ordinance.

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By:


24 John D. Malamut
25 Deputy City Attorney

n:\and\as2015\9690086\00983460.doc

CEQA clearance under Planning Department
Case No. 2003.0527E Daggett Place Final
Environmental Impact Report. No further
environmental review necessary.

Joy
Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning,
ou=Environmental Planning,
email=joy.navarrete@sfgov.org,
c=US
Date: 2015.06.23 15:17:20 -07'00'

2014 PORT COMMISSION RESOLUTIONS

No.	Date	Vote	Title
FYI Adams-out Murphy-out	1/14/14		Election of Port Commission Officers Leslie Katz – President Willie Adams – Vice President
FYI Kanya Dorland	1/14/14		Informational presentation on Flaming Lotus Girl's temporary public art installation at the Pier 14 Plaza between the Agriculture Building and Pier 14 on The Embarcadero adjacent to Mission Street
FYI Richard Berman	1/14/14		Informational presentation on the Port's Climate Action Plan and Efforts to Track and Reduce greenhouse Gas Emissions
14-01	1/14/14	3-0	Request approval of a Port Commission Travel Authorization and Reimbursement Policy. (Resolution No. 14-01)
14-02	1/14/14	3-0	Request approval of the Operations Agreement with Phillips 66 Company ("Phillips 66") granting Phillips 66 authority to operate its refinery site in Rodeo, California as a Foreign Trade Zone No. 3 subzone site for a term of five years, with three options to extend for five years each and outlining conditions for the operation of the subzone site (Resolution No. 14-02)
14-03	1/14/14	3-0	Request approval of the First Amendment to the Exclusive Negotiation Agreement between the Port and Forest City Development California, Inc. ("Forest City") for the Pier 70 Waterfront Site, bordered generally by 20th Street, Michigan Street, 22nd Street, and the San Francisco Bay (Resolution No. 14-03)
FYI Elaine Forbes	2/11/14		Informational presentation on Trends and Implications of the Port's Audited Financial Statements and Future Financial Projections.
FYI	2/11/14		Informational presentation on the Port's Fiscal Year 2014-15 and Fiscal Year 2015-16 Biennial Operating and Capital Budgets.
14-04 Adams – recused	2/11/14	4-0	Request approval of travel for a member of the San Francisco Port Commission to Shanghai, China to attend the Breakbulk China 2014 Conference and make marketing visits to Port shipping customers with members of Port staff.
14-05	2/11/14	5-0	Request authorization, subject to Board of Supervisors' approval, to accept and expend \$698,625 in 2013 Infrastructure Protection

Program Port Security Grant Program funds from the U.S. Department of Homeland Security for security improvements at the Port of San Francisco. (Resolution No. 14-05)

- 14-06 2/11/14 5-0 Request authorization to amend contract with Langan Engineering and Environmental Services, Inc. for consulting services related to the Pier 70 Master Plan Area to extend contract term by one year. (Resolution No. 14-06)
- 14-07 2/11/14 5-0 Request approval of a supplemental appropriation to reallocate \$1,089,250 of 2008 General Obligation Bond Funds within the Southern Waterfront from Bayfront Park and Blue-Greenway projects to Bayview Gateway and Tulare Park projects to allocate savings. (Resolution No. 14-07)
- 14-08 2/11/14 5-0 Request approval of the Port's Ten-Year Capital Plan for Fiscal Years 2015-2024. (Resolution 14-08)
- 14-09 2/11/14 5-0 Request approval of a Second Amendment to the Exclusive Negotiation Agreement with GSW Arena LLC, for the lease and development of Piers 30-32 bounded by the Embarcadero roadway and San Francisco Bay, and the sale or lease and development of SWL 330 bounded by the Embarcadero roadway, Beale and Bryant Streets. (Resolution No. 14-09)
- 14-10 2/11/14 5-0 Request authorization to award Lease Number L-15771 for the EcoCenter at Heron's Head Park and surrounding 6,058 square feet of non-exclusive license area, located near the intersection of Jennings Street and Cargo Way, to the Bay Institute Aquarium Foundation, a Not For Profit California Corporation for a five-year term with two two-year options. (Resolution No. 14-10)
- FYI 2/25/14
Susan Reynolds Informational presentation for a limited Request for Proposals (RFP) for a retail space located at Pier 33 North (33½), on the Embarcadero at the foot of Bay Street which would be issued competitively on a target basis to those small businesses currently working with San Francisco community-based organizations.
- 14-11 2/25/14 5-0 Request authorization to amend Foreign Trade Zone No. 3 Zone Schedule 1 (tariff) containing Rules, Regulations, Rates and Charges to conform to new Foreign-Trade Zones Board Regulations. (Resolution No. 14-11)
- 14-12 2/25/14 4-0 Request approval of the Port's Fiscal Year (FY) 2014-15 and FY 2015-16 Biennial Operating & Capital Budget. (Resolution No. 14-12)
Mel left at 4:30

- 14-13 2/25/14 4-0 Request approval of Lease No. L-15771 for the EcoCenter at Heron's Head Park and surrounding 6,058 square feet of non-exclusive license area, located near the intersection of Jennings Street and Cargo Way, with the Bay Institute Aquarium Foundation, a Not For Profit California Corporation for a five-year term with two two-year option. (Resolution No. 14-13)
- Mel left at 4:30
- FYI 3/11/14 Informational presentation on the Port-BCDC Planning Study Adams – China conf. associated with the approval of the James R. Herman Cruise Terminal and Northeast Wharf Plaza Projects.
- FYI 3/11/14 Informational presentation on the nomination of the Union Iron Works Historic District at Pier 70, a 66-acre waterfront property, generally bounded by Illinois and 22nd Streets on the west and south and the San Francisco Bay on the north and east, for listing on the National Register of Historic Places.
- 14-14 3/11/14 4-0 Request approval of Executive Director's nominations of Patrick Buscovich, Hilary Hubbard, Paul Switenki, Edward X. Qi and Todd Kohli for appointment to the five member Port Building Code Review Board. (Resolution No. 14-14)
- 14-15 3/11/14 4-0 Request authorization to advertise for competitive bids for Construction Contract No. 2765, Pier 35 Building and Roof Repair Project (Resolution No. 14-15)
- 14-16 3/11/14 4-0 Request approval of a Memorandum of Understanding between the Port and the San Francisco Mayor's Office of Housing and Community Development regarding development of affordable housing on Seawall Lot 322-1 (located at Broadway and Front Streets). (Resolution No. 14-16)
- FYI 3/25/14 Informational presentation on Pilot Transportation Improvement Projects identified as part of a Waterfront Transportation Assessment by the San Francisco Municipal Transportation Agency.
- FYI 3/25/14 Informational presentation regarding Forest City Development California, Inc.'s Waterfront Parks Concept Design for the Pier 70 Waterfront Site.
- 14-17 3/25/14 4-0 Request authorization to accept and expend \$97,578.41 in Coastal Doreen – travelling Impact Assistance Program funds from the U.S. Fish and Wildlife Service, via the California Resources Agency for repairs to Pier 31 North Apron. (Resolution No. 14-17)
- 14-18 3/25/14 4-0 Request approval of (1) the form of the Preliminary Official Statement relating to the Bonds and authorizing its distribution to

potential investors; and (2) the form of the Continuing Disclosure Certificate related to the Revenue Bonds. (Resolution No. 14-18)

14-19 3/25/14 4-0 Request approval of Lease Number L-15786 with California Sealift Terminals, Inc., a California corporation, for vessel berthing at Pier 50 and Pier 96 for a one-year term, with nine one-year extension options, and one six-month extension option with an annual rent of approximately \$323,025. (Resolution No. 14-19)

14-20 3/25/14 4-0 Request approval to amend contract with AECOM for additional services and added fee to: a) expand Task 2 - Schematic Design and Prepare a Revised Project Cost Estimate, from the \$238,672 previously approved to an amount not to exceed \$803,266; b) proceed with Task 3 - Detail Design, Construction Drawings/ Bid documents and prepare revised Cost Project Estimates for a fee of \$856,074; c) Task 4 - Construction Administration tasks for a fee not to exceed \$216,791; d) augment the contract contingency amount by an additional \$187,613 for a total contract amount not to exceed \$2,609,396 (including the already completed Task 1); and e) extend the duration of the contract from December 31, 2014 to December 31, 2017. (Resolution No. 14-20)

14-21 3/25/14 4-0 Request approval of a Revocable License Agreement for Special Events with Forest City Development California, Inc. for approximately 97,202 square feet of unimproved shed space located at Buildings 12/15/16 and 32 and approximately 170,305 square feet of paved land at the Pier 70 Waterfront Site. (This proposed action is the Approval Action as defined by S.F. Administrative Code Chapter 31.) (Resolution No. 14-21)

FYI 4/22/14
Meghan Wallace Informational presentation on the Port's Report on Contracting Activity for the first two quarters of FY 2013-14 (July 1, 2013 through Dec 31, 2013).

FYI 4/22/14
Phil Williamson Informational presentation on Orton Development Inc.'s proposed project for the lease and rehabilitation of the six 20th Street Historic Buildings on or near 20th and Illinois Streets at Pier 70.

14-22 4/22/14 5-0 Request approval to apply for, accept and expend one million dollars (\$1,000,000) Congestion Mitigation and Air Quality Improvement (CMAQ) funding from the Metropolitan Transportation Commission (MTC) and California Coastal Conservancy through the Priority Conservation Area (PCA) grant program for pedestrian and bicycle improvements within the Pier 70 Crane Cove Park project area and committing any necessary matching funds. (Resolution No. 14-22)

- 14-23 4/22/14 5-0 Request approval of the Use of Track Agreement with Union Pacific Railroad Company ("UP") granting Port the right to use the Quint Street Lead track jointly owned by UP and Burlington Northern Santa Fe Railway Company ("BNSF") for the purpose of reconstructing the track with grant funds provided to the Port by the Federal Railroad Administration. (This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.) (Resolution No. 14-23)
- 14-24 4/22/14 5-0 Request approval to issue a Request for Proposals (RFP) for a retail space located at Pier 33 North (33½) on the Embarcadero at the foot of Bay Street to San Francisco small businesses currently working with San Francisco community-based organizations. (Resolution No. 14-24)
- 14-25 4/22/14 5-0 Request approval of an option to extend the term for Five (5) Years for Lease No. L-14705, as amended, for a Construction Materials Recycling Center at Seawall Lot 352 at Amador Street, between the Port and Recology San Francisco, Inc. (formerly, Sustainable Crushing Ventures, LLC). (Resolution No. 14-25)
- FYI 5/13/14
John Doll Informational presentation on the Cruise Terminal Management Agreement with Pacific Cruise Ship Terminals, LLC and Passenger Fee Increase for the James R. Herman Cruise Terminal at Pier 27, Pier 35 and Piers 30-32 at the Embarcadero and Lombard, Bay and Bryant Streets, respectively.
- 14-26 5/13/14 5-0 Request approval of a resolution urging the Board of Supervisors to amend the San Francisco Public Works Code to authorize the Port to impose penalties to enforce the Port's Construction Site Stormwater Runoff Control Program (Port Building Code Section 106A.3.2.5). (Resolution No. 14-26)
- 14-27 5/13/14 5-0 Request approval of a Memorandum of Understanding between the Port of San Francisco and the San Francisco Board of Appeals to facilitate the transfer of permit appeal-related duties for Port Entertainment Permits from the Port Commission to the Board of Appeals. (Resolution No. 14-27)
- 14-28 5/13/14 5-0 Request authorization to execute an amendment to the Construction Manager/General Contractor contract with Turner Construction Company ("Turner") to increase the total authorized contract amount from \$100,107,601 to an amount not to exceed \$101,250,601 to fund additional construction scope for the Pier 27 James R. Herman Cruise Terminal and Northeast Wharf Plaza

Project ("Project"), and to extend the term expiration date from December 31, 2014 to April 30, 2015. (Resolution No. 14-28)

- 14-29 5/13/14 5-0 Request authorization to execute an amendment to the Architectural and Engineering contract with the joint venture of Kaplan, McLaughlin, Diaz Architects and Pfau Long Architecture in association with Bermello Ajamil and Partners ("Design Team") to increase the total authorized contract amount from \$11,491,708 to an amount not-to-exceed \$11,741,708, for additional construction administration services for the Project, and to extend the term expiration date from December 31, 2014 to April 30, 2015. (Resolution No. 14-29)
- 14-30 5/13/14 5-0 Request authorization to execute an amendment to the Memorandum of Understanding (MOU) between the Port and the San Francisco Department of Public Works ("DPW") to provide additional Project Management services and to extend the term expiration date from December 31, 2014 to April 30, 2015. (Resolution No. 14-30)
- 14-31 5/13/14 Request approval of Second Amendment to Lease No. L-14282 with the San Francisco Bar Pilots Benevolent and Protective Association for space located at Pier 9 located on The Embarcadero at the foot of Vallejo Street to reduce the size of the Premises, change the security deposit instrument type, specify future rent adjustments and to make other changes. (Resolution No. 14-31) – **DEFERRED, NOT APPROVED**
- 14-32 5/13/14 5-0 Request approval of the Second Amendment to Exclusive Negotiation Agreement with Orton Development, Inc., a California corporation, to extend the term of the ENA until December 31, 2014, in connection with the rehabilitation and redevelopment of the six 20th Street Historic Buildings (located on or near 20th and Illinois Streets at Pier 70). (Resolution No. 14-32)
- 14-33 5/13/14 5-0 Request Adoption of California Environmental Quality Act Findings and a Mitigation Monitoring and Reporting Program and Approval of the: (1) Lease Disposition and Development Agreement; and (2) Lease No. L-15814 for a term of 66 years, both with Orton Development, Inc. or its affiliate, Historic Pier 70, LLC, a California limited liability company; and (3) Schematic Drawings, all in connection with the lease, rehabilitation and redevelopment of the six 20th Street Historic Buildings (located on or near 20th and Illinois Streets at Pier 70). (This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.) (Resolution No. 14-33)

- 14-34 5/13/14 5-0 Request approval of a Special Event in excess of 90-days at Port property at Seawall Lot 337 pursuant to Lease No. L-14980 between Port and China Basin Ballpark Company, LLC (Resolution No. 14-34)
- 14-35 5/13/14 5-0 Request approval of Revocable License No. 15810 for Port property at Terry A. Francois Blvd. between the Port and China Basin Ballpark Company, LLC to be used as a parklet for public benefit. (Resolution No. 14-35), both activities to be co-terminous with Lease No. L-14980. (This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.)
- 14-36 5/13/14 Request approval of Memorandum of Understanding (MOU) M-15747 between the Port of San Francisco and the San Francisco Municipal Transportation Agency (SFMTA) for use of a portion of Seawall Lot 354 (also known as 1399 Marin Street) for general office, general warehouse, storage, related parking of SFMTA staff vehicles, maintenance and repair of SFMTA buses including fueling and washing of same, and for incidental directly related uses and for no other purpose for a term of seven years and a waiver of the security deposit. (Resolution No. 14-36) – **NOT APPROVED, DEFERRED TO THE NEXT MEETING**
- FYI 5/27/14 Informational presentation on the Port's Strategy to remove
David Beaupre deteriorated and non-functional creosote treated and other piles, piers and wharves along its Southern Waterfront.
- FYI 5/27/14 Informational presentation regarding the Fiscal Year 2014-15
Nate Cruz Monthly Rental Rate Schedule, Monthly Parking Stall Rates, and
Jeff Bauer Special Event and Filming Rates.
- 14-36 5/27/14 4-0 Request approval of Memorandum of Understanding (MOU) M-
Willie Adams - 15747 between the Port of San Francisco and the San Francisco
business trip Municipal Transportation Agency (SFMTA) for use of a portion of Seawall Lot 354 (also known as 1399 Marin Street) for general office, general warehouse, storage, related parking of SFMTA staff vehicles, maintenance and repair of SFMTA buses including fueling and washing of same, and for incidental directly related uses and for no other purpose for a term of seven years and a waiver of the security deposit. (Resolution No. 14-36)
- 14-37 5/27/14 4-0 Request approval of a fee waiver for a revocable license which allows the Flaming Lotus Girls to temporarily install public art near Mission Street on the east side of The Embarcadero, on a plaza between the Agriculture Building and Pier 14 for a term of 13 months. (Resolution No. 14-37)

- 14-38 5/27/14 4-0 Request approval of the Cruise Terminal Management Agreement and License with Pacific Cruise Ship Terminals, LLC for the James R. Herman Cruise Terminal at Pier 27, Pier 35 and Piers 30-32 at the Embarcadero and Lombard, Bay and Bryant Streets, respectively. (Resolution No. 14-38)
- 14-39 6/10/14 3-0 Request approval: (1) to accept a gift from the James R. Herman Katz & Murphy on Vacation Committee known as the James R. Herman Tribute and associated installation costs, subject to Board of Supervisors' approval; and (2) of display of gift at the James R. Herman Cruise Terminal at Pier 27. (Resolution No. 14-39)
- 14-40 6/10/14 3-0 Request approval of contract terms and authorize staff to execute a contract with Dockwise USA, LLC in an amount not to exceed \$2.97 million for transfer of title and transport of Drydock #1, plus \$270,000 in potential demurrage incurred at loading, subject to Board of Supervisors' approval of waiver of competitive contract bidding and other standard City contracting requirements. (Resolution No. 14-40)
- 14-41 6/10/14 3-0 Request approval of Second Amendment to Lease No. L-14282 with the San Francisco Bar Pilots Benevolent and Protective Association for space located at Pier 9 located on The Embarcadero at the foot of Vallejo Street to reduce the size of the Premises, change the security deposit instrument type, specify future rent adjustments and make other changes. (Resolution 14-41)
- 14-42 6/10/14 3-0 Request approval of the Fiscal Year 2014-15 Monthly Rental Rate Schedule, Monthly Parking Stall Rates, and Special Event and Filming Rates. (Resolution No. 14-42)
- 14-43 6/10/14 3-0 Request approval of License 15762 with Pacific, Gas and Electric Company for the ZA-1 Embarcadero-Potrero 230kV Transmission Project for approximately (i) 435,600 square feet of submerged land between Pier 28½ and the foot of 23rd Street, (ii) 52,272 square feet of underground access for horizontal directional drilling and (iii) 21,120 square feet of land along 23rd Street for a 40 year term, with a 26 year option, subject to approval by the Board of Supervisors. (Resolution No. 14-43)
- FYI 07/08/14 Informational presentation on the City & County of San Francisco's Lauren Eisele Draft Guidance for Incorporating Sea Level Rise into Capital Planning in San Francisco: Assessing Vulnerability, Risk, and Adaptation (Draft SLR Guidance)
- FYI 07/08/14 San Francisco Municipal Transportation Agency informational Diane Oshima presentation on The Embarcadero Enhancement Project to

- Darby Watson, MTA
Patrick Golier, MTA improve bicycle access on The Embarcadero, from Fisherman's Wharf to AT&T Ballpark.
- FYI 07/08/14
Mark Lozovoy Informational presentation regarding the Request for Proposals (RFP) for a Retail Leasing Opportunity at the Pier 29 Bulkhead Building, located at Chestnut Street and The Embarcadero.
- 14-44 07/08/14 5-0 Request approval to issue a Request for Proposals (RFP) for an Engineering Services Contract to complete an Earthquake Vulnerability Assessment and Retrofit Alternatives Study of the Port's Seawall. (Resolution No. 14-44)
- 14-45 07/08/14 5-0 Request authorization to issue a Request for Proposals for up to two Youth Employment Services Organizations to administer the Port's Youth Employment Program, with maximum term of four years in the amount of \$265,000 annually, and a total amount not to exceed \$1,060,000. (Resolution No. 14-45)
- 14-46 07/08/14 5-0 Request to Award Contracts to two firms: Eagle Environmental Construction and Environmental Logistics for Hazardous Waste Disposal Services, each in the amount of \$187,500, with an initial term of three years and the Port's option to extend the term an additional year at an additional amount of \$75,000 for each contract, each contract will have a maximum amount of \$262,500, totaling \$525,000 for both contracts. (Resolution No. 14-46)
- 14-47 07/08/14 5-0 Request authorization to award Construction Contract 2758R, Bayview Gateway Park Project, to Bauman Landscape & Construction, Inc., in the amount of \$3,667,925, and authorization for a contract contingency fund of 10% of the contract amount (or \$366,793) for unanticipated contingencies, for a total authorization not to exceed \$4,034,718. (Resolution No. 14-47)
- FYI 8/12/14
Willie Adams &
Mel Murphy - vacation Informational presentation on the Seventeen-Year Review of the Waterfront Land Use Plan, 1997-2014
- FYI 8/12/14 Informational presentation by the San Francisco Bay Conservation and Development Commission regarding interagency coordination with the Port of San Francisco for waterfront planning and urban design.
- FYI 8/12/14 Informational presentation on Water Taxi Landing Opportunities in San Francisco.
- FYI 8/12/14 Informational presentation regarding Estimated Substructure Repair Costs for Piers 30-32 in its As-Is condition and impacts to such costs from alternative uses at Piers 30-32.

- 14-48 8/12/14 3-0 Request authorization to award Construction Contract No. 2765, Pier 35 Building & Roof Repair Project, to Roebuck Construction, Inc. in the amount of \$2,041,010, and authorization for a contract contingency fund of 10% of the contract amount (or \$204,101) for unanticipated contingencies, for a total authorization not to exceed \$2,245,111. (Resolution No. 14-48)
- 14-49 8/12/14 3-0 Request authorization to advertise for Competitive Bids for Construction Contract No. 2769, Port Security Fences Project, Phase IV. (Resolution No. 14-49)
- 14-50 8/12/14 3-0 Request authorization to issue a Request for Qualifications to establish a pre-qualified pool for multiple contracts to implement an Emergency Preparedness Training Program at the Port. (Resolution No. 14-50)
- FYI 9/09/14
John Rahaim Informational presentation by the San Francisco Planning Department Director regarding interagency coordination with the Port of San Francisco for waterfront planning and urban design.
- FYI 9/09/14 Joint Presentation by John Englander and Will Travis on Sea Level Rise.
- FYI 9/09/14
Elaine Forbes Informational presentation on the Port's Year-End Report on Contracting Activity for the Fiscal Year 2013-14 (July 1, 2013 through June 30, 2014).
- 14-51 9/09/14 5-0 Request approval of changes to Port Tariff No. 5, Section 8 – Fisherman's Wharf, conducting non-sport fishing trips, and Section 10 – Passenger Fees. (Resolution No. 14- 51)
- FYI 9/23/14
Elaine Forbes Informational presentation on business opportunities at the Port of San Francisco
- FYI 9/23/14
Kanya, Brad, Jim M Informational Presentation on Piers 80-96 Maritime and Eco-Industrial Improvement Plan.
- FYI 9/23/14
David B Informational Presentation on the status of the Port's Blue Greenway Projects.
- FYI 9/23
Brad Benson Informational Presentation on City and County of San Francisco Civil Grand Jury 2013-2014 report Port of San Francisco Caught between Public Trust and Private Dollars and Port response thereto.
- 14-52 9/23/14 4-0
Brandon – recused Resolution declaring that a bronze plaque honoring Dr. Mimi Silbert, Co-Founder, President & CEO of the Delancey Street Foundation, is installed at the Brannan Street Wharf and that a

pathway at the entrance of the park is named in her honor.
(Resolution No. 14-52)

- FYI 10/14/14
Elaine Forbes Informational presentation on the Port's year-end report on Contracting Activity for the Fiscal Year 2013-14 (July 1, 2013 through June 30, 2014).
- FYI 10/14/14
Ricky Tijani Informational presentation on proposed relocation of Teatro Zinzanni complex to Seawall Lots 323 and 324, at the corner of Broadway and the Embarcadero and sponsor's request to Board of Supervisors for a sole source waiver to competitive bidding requirements.
- 14-53 10/14/14 3-0
Brandon – Travel
Adams – recused Request approval for Port Commission Vice President Willie Adams and Maritime Marketing Manager Michael Nerney to attend the Cruise Line International Association's Annual Leadership Forum in Miami, Florida on November 11-14, 2014. (Resolution No. 14-53)
- 14-54 10/14/14 4-0 Request by Bay Area Air Quality Management District for waiver of annual license fees related to five bay area bike share stations on Port Property, (Resolution No. 14-54)
- 14-55 10/28/14 5-0 Request authorization to accept and expend a \$67,500 grant from the California Department of Parks and Recreation, Division of Boating & Waterways, Surrendered and Abandoned Vessel Exchange Program to allow for removal, storage and disposal of eligible surrendered and abandoned vessels within the Port of San Francisco. (Resolution No. 14-55)
- 14-56 10/28/14 5-0 Request authorization to award Professional Services Contract RPT1415-01, Earthquake Vulnerability Study of the Northern Waterfront Seawall, to GHD/GTC JV, a joint venture, in the amount of \$425,000, and to authorize staff to increase the contract amount, if needed for unanticipated contingencies, by up to an additional \$42,500 (10% of \$425,000) for a total of \$467,500. (Resolution No. 14-56)
- 14-57 10/28/14 5-0 Request authorization to seek California State Lands Commission approval to terminate the Public Trust over Daggett Street pursuant to SB 815 (Senator Migden; 2007). (Resolution No. 14-57)
- 14-58 10/28/14 5-0 Request authorization to submit to the Board of Supervisors Teatro Zinzanni's request for a waiver of the competitive bidding policy set forth in Administrative Code Section 2.6-1. (Resolution No. 14-58)

- 14-59 11/18/14 5-0 Request approval to conduct an informal solicitation from a qualified pool for financial advisory service for a term of three years with an option to extend for two years, with a not-to-exceed amount of \$140,000 annually, or \$420,000 for the life of the contract term. (Resolution No. 14-59)
- FYI 11/18/14 Informational presentation regarding Lease No. L-15875 with BAE Systems San Francisco Ship Repair, Inc., a California corporation, located at Piers 68 and 70 and Seawall Lot 349 near 20th and Illinois Street, for approximately 14.4 acres of land improved with 19 buildings, 17.4 acres of submerged land and Port-owned Equipment, including Drydock #2, the Drydock Eureka and the Shoreside Power System (the "Shipyard"), for a term of 20 years with two (2) five (5) year extension options.
- FYI 11/18/14 Informational presentation on Lease No. L-15892 between the Port of San Francisco and TMG Pier 38 Partners, a California Limited Liability company for premise located at Pier 38 in the Central Waterfront on The Embarcadero at Delancey Street with an initial term of 25 years plus two (2) five (5) year extension options granted at the sole discretion of the Port.
- 14-60 11/18/14 Request approval of an Amended and Restated Exclusive
Adams – union nego Negotiation Agreement between the Port of San Francisco and Seawall Lot 337 Associates, LLC for the lease and development of Seawall Lot 337 and Pier 48 bounded by China Basin Channel, Third Street, Mission Rock Street, and San Francisco Bay and adjacent to AT&T Park. (Resolution No. 14-60)
- 14-61 11/18/14 4-0 Request approval of Fiscal Year 2014-15 Executive Director Salary. (Resolution No. 14-61)
- FYI 12/16/14 Informational presentation on Pier 80 Cargo Update and Marketing
Jim Maloney Initiatives in conjunction with Metro Ports and the International Longshore and Warehouse Union.
- FYI 12/16/14 Transmittal of Public Comments received on the Report on the
Diane Oshima Waterfront Land Use Plan Review, 1997-2014.
- 14-62 12/16/14 3-0 Request authorization to terminate the Public Trust over Daggett
Adams – union nego Street pursuant to SB 815 (Senator Migden; 2007) and adopting
Murphy – off findings pursuant to the California Environmental Quality Act related to the proposed transfer. (Resolution No. 14-62)
- 14-63 12/16/14 3-0 Request authorization to advertise for competitive bids for
construction Contract No. 2772, Pier 49 Wharf J1 Under-Pier
Sewer Pipes Replacement Project. (Resolution No. 14-63)

14-64 12/16/14 3-0 Request authorization to award Construction Contract No. 2769, Port Security Fences Project, Phase IV, to Golden Bay Fence Plus Iron Works, Inc. in the amount of \$406,131, and authorization for a contract contingency fund of 10% of the contract amount (or \$40,613) for unanticipated contingencies, for a total authorization not to exceed \$446,744. (This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.) (Resolution No. 14-64)

 ORIGINAL

CITY AND COUNTY OF SAN FRANCISCO.

EDWIN M. LEE, MAYOR

MEMORANDUM OF UNDERSTANDING

NO. M-15780

BY AND BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO

THROUGH THE SAN FRANCISCO PORT COMMISSION

AND

THE CITY AND COUNTY OF SAN FRANCISCO

THROUGH THE REAL ESTATE DIVISION

SAN FRANCISCO PORT COMMISSION

**Monique Moyer
Executive Director**

**Leslie Katz, President
Willie Adams, Vice President
Kimberly Brandon, Commissioner
Doreen Woo Ho, Commissioner**

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (herein "Agreement") dated for reference purposes only as of August 31, 2015, is made by and between the San Francisco Real Estate Division ("RED"), a department of the City and County of San Francisco acting on behalf of the City ("City") and the San Francisco Port Commission ("Port"), an agency of the City and County of San Francisco.

Port and City enter into this Agreement on the basis of the following facts, intentions, and understandings:

RECITALS

A. Daggett Street is a City-owned property under the jurisdiction of the Port and located between 16th Street and 7th Street (the "Property").

B. The City's Office of Economic and Workforce Development ("OEWD") is facilitating the development of the Property with a public recreational and open space area (the "Daggett Open Space") and a shared public right of way ("Daggett Right of Way"), with a jurisdictional transfer of the Daggett Open Space free of the public trust to RED and the Daggett Right of Way to DPW.

C. To accommodate such development, the State of California removed the public trust from the Property on May 12, 2015, and authorized the jurisdictional transfer of the Property from the Port if the Port is paid the appraised fair market value of the Property, and City's Board of Supervisors approved of such jurisdictional transfer under Ordinance No. _____, adopted by the Board of Supervisors on _____ (the "Transfer Ordinance").

NOW, THEREFORE, IN CONSIDERATION of the foregoing, Port and City hereby agree to the following:

AGREEMENT

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

2. **Property.** The Property consists of approximately 38,253 square feet of real property that diagonally crosses between blocks 3833 and 3834 and intersects the north side of 16th Street and the west side of 7th Street, commonly known as Daggett Street, all as more particularly shown on Exhibit A, attached hereto.

3. **Payment of Transfer Fee and Effective Date of Transfer.** The transfer of jurisdiction shall be effective upon the date (the "Transfer Date") that each of the following has occurred: (A) the First Installment is paid in the manner set forth below; (B) this Agreement is approved; and (C) the Transfer Ordinance becomes effective. The Port shall receive One Million, Six Hundred Seventy Five Thousand and No/100 Dollars (\$1,675,000.00) ("Transfer Fee"), which represents the appraised fair market value of the Property, in exchange for the transfer of jurisdiction to the Property. The Port shall be paid \$1,600,000.00 (the "First Installment") within the thirty (30) day period immediately following the effective date of the Transfer Ordinance. The Port shall be paid the remaining \$75,000.00 of the Transfer Fee within the ninety (90) day period immediately following the effective date of the Transfer Ordinance. Once the Transfer Date occurs, RED shall expeditiously mark the jurisdictional transfer of the

Property in the manner specified in the Transfer Ordinance in its official records for City property.

4. **Condition of Property.** City acknowledges that Port has made no representations or warranties concerning the Property, including without limitation, the seismological or environmental conditions thereof. By taking jurisdiction of the Daggett Open Space, City shall be deemed to have inspected and accepted it in an "As-Is" condition and as being suitable for the conduct of City's proposed use.

5. **Official Records.** The Director of Property shall record the jurisdictional transfer of the Property in the City's property records in the manner specified in the Transfer Ordinance.

6. **Termination.** This Agreement shall terminate upon; (i) payment in full of the Transfer Fee to the Port and (ii) the transfer of the Property from Port jurisdiction in the manner specified in the Transfer Ordinance.

7. **Notices.** Any notice given under this Agreement shall be in writing and given by delivering the notice in person, by commercial courier or by sending it by regular mail, with postage prepaid, to the mailing address listed below or any other address notice of which is given. For the convenience of the parties, copies of notices may also be given by telefacsimile or by email to the numbers and addresses provided from time to time.

Address for Port: Deputy Director, Real Estate
Port of San Francisco
Pier 1
San Francisco, CA 94111
FAX No: (415) 274-0578
Telephone No: (415) 274-0501

Address for RED: Director of Property
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Re: Daggett Open Space
FAX No: (415) 552-9216
Telephone No: (415) 552-9860

8. **Miscellaneous Provisions.**

a. **California Law.** This Agreement shall be construed and interpreted in accordance with the Laws of the State of California and the City's Charter and Municipal Codes.

b. **Entire Agreement.** This Agreement contains all of the representations and the entire agreement between the parties with respect to the subject matter of the Agreement. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to such subject matter are superseded in total by this Agreement. No prior drafts of this Agreement or changes from those drafts to the executed version of the Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts as in interpreting this Agreement.

c. **Amendments.** No amendment of this Agreement or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.

d. **Further Assurances.** The parties hereto agree to execute and acknowledge such other and further documents as may be necessary or reasonably required to carry out the mutual intent of the parties as expressed in this Agreement.

e. **Incorporation of Exhibits.** All exhibits to this Agreement are incorporated herein by this reference and made a part hereof as set forth in full.

11. **Effective Date.** This Agreement shall not be effective unless approved by the San Francisco Port Commission and the San Francisco Board of Supervisors, each in its sole and absolute discretion. This Agreement shall be effective as of the last date of the last signatory as indicated below.

IN WITNESS WHEREOF, PORT and City execute this Memorandum of Understanding No. M-15780 at San Francisco, California, as of the last date set forth below.

CITY AND COUNTY OF
SAN FRANCISCO, a municipal
corporation operating by and through
THE SAN FRANCISCO PORT
COMMISSION

By: Monique Moyer
MONIQUE MOYER
Executive Director.

Date: September 1, 2015

Port Resolution No. 14-62

REVIEWED BY:
DENNIS J. HERRERA

By: Rona H. Sandler
Rona H. Sandler
Deputy City Attorney

CITY AND COUNTY OF
SAN FRANCISCO, a municipal
corporation operating by and through
THE REAL ESTATE DIVISION

By: _____
JOHN UPDIKE
Director of Real Estate

Date: _____

LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, BEING A PORTION OF DAGGETT STREET 137.50 FEET IN WIDTH. SAID PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS;
 ALL, OF DAGGETT STREET, LYING BETWEEN THE WESTERLY RIGHT-OF-WAY LINE OF SEVENTH STREET (82.50 FEET WIDE) AND THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SIXTEENTH STREET (80.00 FEET WIDE), CONTAINING 38,253 Sq Ft / 0.878 ACRE



Bruce R. Storrs
 5/9/14

 SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING				APPROVED _____ DATE _____				
IN CHARGE OF	MADE BY	DRAWN BY	CHKD. BY	DATE	SCALE	DRAWING NO.	SHEET NO.	OF

PARCENAS11P

CALENDAR ITEM

C68

A 17

12/17/14

G 11-01

S 11

R. Boggiano

S. Scheiber

CONSIDER THE TERMINATION OF THE STATE'S SOVEREIGN PROPERTY INTERESTS IN DAGGETT STREET AND TRANSFER OF DAGGETT STREET TO THE CITY AND COUNTY OF SAN FRANCISCO FREE OF ANY PUBLIC TRUST INTEREST, LOCATED WITHIN LEGISLATIVELY GRANTED SOVEREIGN LAND IN THE CITY AND COUNTY OF SAN FRANCISCO

The City and County of San Francisco (City), through the San Francisco Port Commission (Port), is a trustee of sovereign tide and submerged lands granted to it by the Legislature pursuant to Chapter 1333, Statutes of 1969, as amended (Burton Act). The City, acting through its Port Commission, holds this land in trust for the people of California.

Pursuant to Section 8 of Chapter 660, Statutes of 2007 (Chapter 660); the Port has requested that the California State Lands Commission (Commission) make certain findings to terminate the State's interest in Daggett Street, which is a paper street¹. A paper street is a road or street that appears on maps but does not exist in reality. Daggett Street is a portion of sovereign land reserved to the State solely for street purposes. The Street lies between the easterly prolongation of the northerly line of Sixteenth Street and the southwesterly line of Seventh Street, as shown on Exhibit A.

BACKGROUND:

Beginning in the 1850's, much of the San Francisco waterfront was filled and reclaimed to create a functional harbor pursuant to a series of state statutes. Portions of the filled and reclaimed lands were cut off from the water as a result of these harbor improvements and were conveyed into private ownership pursuant to legislative authorization. Certain portions of these lands, including Daggett Street, were designated as streets and were reserved to the state solely for street purposes. In 1969, pursuant to the Burton Act, the State conveyed certain state tidelands to the Port, including these paper streets and other filled tidelands, to hold in trust for Public Trust and Burton Act trust purposes.

¹ A paper street is defined as any or all of those areas of real property, located in San Francisco, consisting of certain portions of lands designated as streets on the Burton Act Map. (Chapter 660, Statutes of 2007, § 1, subd. (p).) Daggett Street is specifically listed in Chapter 660, Statutes of 2007, section 1, subdivision (p)(1).

CALENDAR ITEM NO. C68 (CONT'D)

Presently, none of the paper streets identified in Chapter 660, including Daggett Street, are used, suitable, or necessary for navigation or any other Public Trust purpose other than revenue generation. The paper streets are fragments that have been cut off from direct access to the waters of San Francisco Bay by past filling of intervening property and do not provide and are not needed for public access to the waterfront. The lands adjoining the paper streets have been freed of the trust and have been or are proposed to be developed for non-trust uses. The majority of the paper streets were either never constructed as streets or have ceased to be used for street purposes.

The Port proposes to sell Daggett Street to the City acting as a municipality. Daggett Street is trapezoidal in shape and contains approximately 37,949 square feet of land. The parcel diagonally crosses between Blocks 3833 and 3834 and intersects the north side of 16th Street and the west side of 7th Street. Daggett Street does not currently have any improvements but, pending the sale, is proposed to be improved with limited park amenities. The adjacent property that abuts the two parallel sideline boundaries is proposed to be improved with two multi-story buildings consisting of up to 470 dwelling units, 15,000 square feet of retail, approximately 11,100 square feet of PDR² uses, and parking for up to 306 spaces. The developer of the adjacent proposed project would be obligated to construct and maintain the proposed park in-lieu of paying a portion of the development fees.

STAFF ANALYSIS:

Under section 3 of article X of the California Constitution, the state may sell tidelands that were reserved to the state solely for street purposes subject to such conditions the Legislature determines to be necessary to protect the public interest. These tidelands may only be sold if the Legislature finds and declares that they are not used or necessary for navigation purposes.

In Chapter 660 and in accordance with section 3 of article X of the California Constitution, the Legislature found that the paper streets were reserved to the state solely for street purposes and that the paper streets are no longer used or necessary for navigation purposes. The Legislature authorized the City, consistent with the Constitution, to lease, sell, or otherwise transfer all or any portion of the paper streets, or any interest therein, to any person free of the Public Trust, the Burton Act trust and any additional restrictions on use or alienability created by the Burton Act transfer agreement. Prior to any transfer, the Commission is required to make certain findings at a regular public meeting, with the proposed transfer as a properly scheduled agenda item.

² San Francisco uses the term PDR (Production, Distribution, and Repair) instead of the term "industrial" to avoid any negative connotation of the word (*Industrial Land in San Francisco: Understanding Production, Distribution, and Repair*, San Francisco Planning Department, July 2002).

CALENDAR ITEM NO. C68 (CONT'D)

These findings include that the land is sold at fair market value, that the paper street has been filled and reclaimed, is cut off from access to the waters of San Francisco Bay, is no longer needed or required for the promotion of the Public Trust, and that no substantial interference with the public trust uses and purposes will ensue as a result of the transfer. The Commission is also required to declare that the transfer is consistent with the findings of Section 2 of Chapter 660 and is in the best interests of the state.

Daggett Street is filled and reclaimed, located more than 3,000 feet from San Francisco Bay, and cut off from access to the San Francisco Bay by the Mission Bay development area and Highway I-280. Although open space or park use would be consistent with the Public Trust, because the parcel is removed and cut off from the waterfront, the park use would provide mostly private or local benefits, as opposed to statewide benefits. Because of these circumstances, as well as its location, dimensions, and the proposed use of the surrounding private area, Daggett Street is no longer needed or required for the promotion of the Public Trust. Because Daggett Street benefits the Public Trust only through revenue generation, no substantial interference with Public Trust uses and purposes will occur due to a transfer of the property.

The appraised and proposed sale value of Daggett Street is one million six hundred seventy five thousand dollars (\$1,675,000). Commission staff has reviewed this appraisal and believes \$1,675,000 to be the fair market value of the parcel. Minerals for the property would be reserved to the state, pursuant to the rights and obligations in Section 9 of Chapter 660. The revenue from the sale of the paper street must be placed in a separate account in the Port's harbor fund and must be expended solely for purposes of implementing the Port's capital plan, consistent with the Burton Act and the Public Trust.

The Legislature has declared that the sale of Daggett Street and subsequent termination of the State's interest, pursuant to Chapter 660, is a matter of statewide importance. Based on all of the information provided above, staff recommends the Commission find that the proposed sale of Daggett Street to the City, acting, as a municipality, is consistent with Chapter 660 and is in the best interest of the state.

OTHER PERTINENT INFORMATION:

1. Daggett Street is a paper street (defined in Chapter 660, Statutes of 2007) and was granted to the City and County to hold in trust. The Port plans to sell Daggett Street to the City, acting as a municipality, after the trust use restrictions are removed. The City plans to use the land as a park to benefit the surrounding proposed development project. An Environmental Impact Report (EIR), State Clearinghouse (SCH) No. 2004112037, was prepared by the City, acting as a municipality, for the overall 1000 16th Street Urban Mixed-Use Project (Project), which includes converting Daggett Street into a park. However, the EIR does not refer to the termination of the common law

CALENDAR ITEM NO. C68 (CONT'D)

Public Trust Doctrine on Daggett Street, nor the sale of Daggett Street from the Port to the City. Pursuant to the Commission's delegation of authority and the State California Environmental Quality Act (CEQA) Guidelines (Cal. Code Regs., tit. 14, § 15025), the Commission staff has prepared an Addendum to analyze the environmental impacts from termination of the Public Trust and the transfer of the property from the Port to the City, including the Commission's involvement (collectively, the Transfer). Such Addendum was prepared pursuant to the provisions of CEQA and is contained in Exhibit C.

2. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by California Code of Regulations, Title 2, section 2954 is not applicable.

EXHIBITS:

- A. Site Map
- B. Legal Description
- C. Addendum

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDINGS:

Find that an EIR, SCH No. 2004112037, was prepared for this project by the City and certified on July 28, 2011, and that the Commission has reviewed and considered the information contained therein and in the Addendum as contained in Exhibit C prepared by Commission staff.

Find that in its independent judgment, none of the events specified in Public Resources Code section 21166 or State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impacts has occurred, and therefore, no additional CEQA analysis is required.

AUTHORIZATION:

1. Find that the appraised and proposed sale value of one million six hundred seventy five thousand dollars (\$1,675,000) for the sale of Daggett Street is the fair market value for the land sold;

CALENDAR ITEM NO. C68 (CONT'D)

2. Find that Daggett Street has been filled and reclaimed, is cut off from access to the waters of San Francisco Bay, is no longer needed or required for the promotion of the Public Trust and no substantial interference with the public trust uses and purposes will ensue by virtue of the transfer;
3. Declare that the sale of Daggett Street is consistent with the findings and declarations made by the California Legislature in section 2 of Chapter 660, Statutes of 2007;
4. Declare that, as a result of the paper street not being suitable for any public trust purpose other than revenue generation, the sale of Daggett Street is in the best interests of the state;
5. Find and declare that mineral rights for Daggett Street are reserved to the State, as required pursuant to section 9 of Chapter 660, Statutes of 2007;
6. Approve the transfer of Daggett Street by patent from the State of California, acting by and through the California State Lands Commission, to the City and County of San Francisco, acting as a municipality, pursuant to Chapter 660, Statutes of 2007 and section 3 of article X of the California Constitution;
7. Find and declare that upon recordation of the patent, Daggett Street will be free from the Public Trust, the Burton Act trust, and any additional restrictions on use or alienability created by the Burton Act Transfer Agreement;
8. Approve and authorize the execution, acknowledgment, and recordation of the patent and associated deeds and acceptances by the Commission's Executive Officer on behalf of the California State Lands Commission, in substantially the form of the copy of such agreements on file in the Sacramento Office of the Commission;
9. Declare that all revenue from the transfer will be deposited in a separate account in the harbor fund and will be expended solely for purposes of implementing the Port's capital plan, consistent with the Burton Act and the Public Trust;
10. Authorize and direct the staff of the Commission and/or the California Attorney General to take all necessary or appropriate action on behalf of the California State Lands Commission, including the execution, acknowledgement, acceptance, and recordation of all documents as may be necessary or convenient to carry out the transfer of the patent and deeds to the City and County of San Francisco; and to appear on behalf of the Commission in any legal proceeding relating to this matter.

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:

STATE OF CALIFORNIA
California State Lands Commission
Attn: Title Unit
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

STATE OF CALIFORNIA
OFFICIAL BUSINESS
Document entitled to free recordation pursuant
to government Code Section 27383



San Francisco Assessor-Recorder
Carmen Chu, Assessor-Recorder
DOC- 2015-K093791-00

Acct 25-NO CHARGE DOCUMENT

Tuesday, JUL 21, 2015 15:56:14

Ttl Pd \$0.00 Rpt # 0005188348

oma/MA/1-6

SPACE ABOVE THIS LINE FOR RECORDER'S USE

QUITCLAIM DEED
(City to State)

This QUITCLAIM DEED is made this 15th day of January, 2015, by the City and County of San Francisco, a municipal corporation ("City"), acting by and through the San Francisco Port Commission ("Port Commission") in favor of the State of California ("State"), acting by and through the California State Lands Commission ("Commission"), with reference to the following facts:

RECITALS

WHEREAS, the City, acting by and through the Port Commission, currently holds title to certain land particularly described in Exhibit 1, attached hereto ("Daggett Street"), pursuant to a grant from the State in Chapter 1333, Statutes of 1968, as amended ("Burton Act") in trust for purposes of commerce, navigation, and fisheries on behalf of the State of California; and

WHEREAS, the Burton Act as amended by Chapter 660, Statutes of 2007 ("Burton Act Amendment"), and Section 3, Article X of the California Constitution authorize the State, acting by and through the Commission, if certain findings are made, to convey Daggett Street to the Port Commission by patent free of all sovereign interests including the public trust for commerce, navigation and fisheries, the Burton Act, and any additional restrictions on use or alienability created by a Transfer Agreement recorded between the City and the State in 1969 ("1969 Transfer Agreement"); and

WHEREAS, Section 9 of the Burton Act Amendment requires the State to reserve all mineral rights in tidelands conveyed pursuant to the Burton Act Amendment;

WHEREAS, on December 17, 2014 by Calendar Item 68, the Commission made the requisite findings pursuant to Section 8 of the Burton Act Amendment to allow the State to patent to the Port Commission the lands described in Exhibit 1, subject to the reservation of all mineral rights,

but free of all other sovereign interests including the public trust for commerce, navigation, and fisheries, the Burton Act, and any additional restrictions on use or alienability created by the 1969 Transfer Agreement; and

WHEREAS, it is the intent of the Port Commission to relinquish any right, title and interest it currently has in Daggett Street pursuant to the Burton Act, in order to allow the State to subsequently convey Daggett Street, subject to the reservation of all mineral rights, but free of all other sovereign interests including the public trust for commerce, navigation and fisheries, Burton Act and any additional restrictions on use or alienability created by the 1969 Transfer Agreement to the Port Commission;

QUITCLAIM

NOW, THEREFORE, for and in consideration of the foregoing premises as valuable consideration, the CITY AND COUNTY OF SAN FRANCISCO, acting by and through the San Francisco Port Commission, hereby CONVEYS, REMISES, RELEASES AND FOREVER QUITCLAIMS to the STATE OF CALIFORNIA, acting by and through the California State Lands Commission, all of the City's right title and interest in Daggett Street as described in Exhibit 1.

Date: *Jan. 15, 2015*

CITY AND COUNTY OF SAN FRANCISCO

Monique Moyer

Monique Moyer
Port Executive Director

Approved as to form:

Eileen Malley

Eileen Malley
Port General Counsel

EXHIBIT 1 AND 2 AND ACKNOWLEDGMENTS OF SIGNATURES TO BE ATTACHED

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

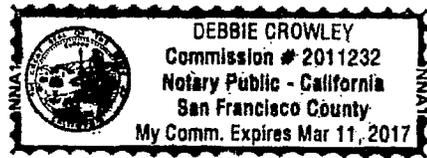
STATE OF CALIFORNIA)
)
COUNTY OF San Francisco) ss

On January 15, 2015 before me, Debbie Crowley, Notary Public,
personally appeared Monique Moyer,
who proved to me on the basis of satisfactory evidence to be the person(s), whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the Laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Debbie Crowley
Notary Public



(Seal)

DEBBIE CHOWLY
Commission # 2011232
Notary Public - California
San Francisco County
My Comm. Expires Mar 11 2017



LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, BEING A PORTION OF DAGGETT STREET 137.50 FEET IN WIDTH, SAID PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS;

ALL OF DAGGETT STREET, LYING BETWEEN THE WESTERLY RIGHT-OF-WAY LINE OF SEVENTH STREET (82.50 FEET WIDE) AND THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SIXTEENTH STREET (80.00 FEET WIDE), CONTAINING 38,253 Sq Ft / 0.878 ACRE



Bruce R. Storrs
5/9/14

EXHIBIT 1

 SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING						APPROVED _____ DATE _____
IN CHARGE OF	MADE BY	TRACED BY	CHECKED BY	DATE	SCALE	DRAWING NO. SHEET NO. OF



MISSOURI STREET

VON LEICHT'S PUEBLO LINE OF 1883

AB 3950

AB 3833 LOT 2

AB 3821

HUBBELL STREET
(70.0 ft wide)

AB 3949

SIXTEENTH STREET
(80.0 ft wide)

DAGGETT STREET
(137.5 ft wide)
AREA = 38,253 Sq Ft
= 0.878 Acre

AB 3833 LOT 1

MONUMENT LINE

593

MISSISSIPPI STREET

AB 3834 LOT 1



130°31'00"

SEVENTH STREET
(82.5 ft wide)

MONUMENT LINE

PROPERTY LINE

REFERENCE:
SFDPW MON MAP No.312

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

DAGGETT STREET

DRAWN BY: ECG	DATE: MAY 6, 2014
CHECKED BY:	SCALE: 1" = 100'
PLACE CODE NO.	SHEET NO.
4055-00	OF SHEETS

EXHIBIT 2

CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING
(Government Code 27281)

This is to certify that the STATE OF CALIFORNIA ("State"), acting by and through the CALIFORNIA STATE LANDS COMMISSION ("Commission"), an agency of the State, voted by resolution on December 17, 2014, Calendar Item No. 68, to accept and hereby accepts from the City and County of San Francisco, a municipal corporation, acting by and through its Port Commission (the "Port") a QUITCLAIM DEED dated JANUARY 15, 2015, of which a true and correct copy is attached hereto as Exhibit 1, of all of the Port's right, title, and interest in real property described therein; and hereby consents to the recordation of this conveyance in the Office of the Recorder for the City and County of San Francisco.

STATE OF CALIFORNIA
CALIFORNIA STATE LANDS
COMMISSION

Dated: January 26, 2015

By: Jennifer Lucchesi
JENNIFER LUCCHESI
Executive Officer

RECEIVED AUG 03 2015



San Francisco Assessor-Recorder
Carmen Chu, Assessor-Recorder
DOC- 2015-K093792-00

Acct 25-NO CHARGE DOCUMENT
Tuesday, JUL 21, 2015 15:57:13
Ttl Pd \$0.00 Rcpt # 0005188349
oma/MA/1-4

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:

CITY AND COUNTY OF SAN FRANCISCO
San Francisco Port Commission
Pier 1, The Embarcadero
San Francisco, CA 94111
Attn: Legal Division

**STATE OF CALIFORNIA
OFFICIAL BUSINESS**

Document entitled to free recordation pursuant
to government Code Section 27383

SPACE ABOVE THIS LINE FOR RECORDER'S
USE

**STATE OF CALIFORNIA
PATENT AND TRUST TERMINATION
(State to City)**

This PATENT IN THE FORM OF A QUITCLAIM DEED is made this 12th day of May, 2015, by the State of California (State), acting by and through the California State Lands Commission (Commission) in favor of the City and County of San Francisco, a municipal corporation (City), acting by and through the San Francisco Port Commission (Port Commission) with reference to the following:

RECITALS

WHEREAS, the State, acting by and through the Commission, at its public meeting in Sacramento, California on December 17, 2014, approved Calendar Item No. 68, adopting a resolution and findings that approved the conveyance of certain lands particularly described in Exhibit 1, attached hereto (Daggett Street), by patent from the State, acting by and through the Commission, to the City, pursuant to Section 8, Chapter 660 of the statutes of 2007 (Burton Act Amendment), and Section 3, Article X of the California Constitution; and

WHEREAS, the City, acting by and through the Port Commission, previously held title to Daggett Street pursuant to a grant from the State in Chapter 1333, Statutes of 1968, as amended (Burton Act) in trust for purposes of commerce, navigation, and fisheries on behalf of the State of California;

WHEREAS, the City, acting by and through the Port Commission, has conveyed remised, released, and forever quitclaimed to the State, all of the City's right, title, and interest in Daggett Street;

WHEREAS, the State, acting by and through the Commission, pursuant to Calendar Item No. 68, on December 17, 21014, has accepted the City's quitclaim of Daggett Street;

NOW, THEREFORE, for and in consideration of the foregoing premises and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the STATE OF CALIFORNIA, acting by and through the CALIFORNIA STATE LANDS COMMISSION, hereby CONVEYS, REMISES, RELEASES, AND FOREVER QUITCLAIMS to the CITY AND COUNTY OF SAN FRANCISCO, acting by and through the SAN FRANCISCO PORT COMMISSION, all of the State's right, title, and interest in Daggett Street as described in Exhibit 1, free of the public trust for commerce, navigation, and fisheries, the Burton Act trust, and any additional restrictions on use or alienability created by the Burton Act Transfer Agreement; subject to the reservation of all minerals and all mineral rights of every kind and character now known to exist or hereafter discovered, including, but not limited to, oil and gas and rights thereto, together with the sole, exclusive, and perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to the state, its successors, or assignees, except that this reservation shall not include the right, in connection with any mineral exploration, removal or disposal activities to: (1) enter upon, use, or damage the surface of Daggett Street or interfere with the use of the surface by the City or its successors or assignees, and (2) conduct mining activities of any nature whatsoever about a plane located 500 feet below the surface of the lands without the prior written permission of the City, its successors, or assignees.

IN APPROVAL WHEREOF, I, EDMUND G. BROWN JR., Governor of the State of California, have set my hand and caused the seal of the State of California to be hereunto affixed pursuant to Section 7730 of the Public Resources Code of the State of California. Given under my hand at the City of Sacramento this 12 day of May, two thousand and Fifteen.



EDMUND G. BROWN JR.
Governor, State of California

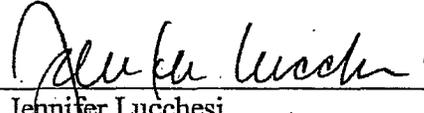
Attest:



Alex Padilla
Secretary of State



Countersigned:



Jennifer Lucchesi
Executive Officer
California State Lands Commission

EXHIBIT 1 AND ACKNOWLEDGEMENT ATTACHED

EXHIBIT 1

G11-01

LAND DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, BEING A PORTION OF DAGGETT STREET 137.50 FEET IN WIDTH. SAID PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS;

ALL OF DAGGETT STREET, LYING BETWEEN THE WESTERLY RIGHT-OF-WAY LINE OF SEVENTH STREET (82.50 FEET WIDE) AND THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SIXTEENTH STREET (80.00 FEET WIDE), CONTAINING 38,253 Sq Ft / 0.878 ACRE



Bruce R. Storrs
5/9/14

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:

STATE OF CALIFORNIA
State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202
Attn: Legal Division

STATE OF CALIFORNIA
OFFICIAL BUSINESS
Document entitled to free recordation
pursuant to Government Code Section 27383



San Francisco Assessor-Recorder
Carmen Chu, Assessor-Recorder
DOC- 2015-K093793-00
Acct 25-NO CHARGE DOCUMENT
Tuesday, JUL 21, 2015 15:57:59
Ttl Pd \$0.00 Rpt # 0005188350
oma/MA/1-3

SPACE ABOVE THIS LINE FOR RECORDER'S USE

S.L.C. AD 645/G11-01

CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING
Government Code Section 27281

This is to certify that the CITY AND COUNTY OF SAN FRANCISCO, a municipality, in the STATE OF CALIFORNIA, hereby accepts from the STATE OF CALIFORNIA, acting by and through the CALIFORNIA STATE LANDS COMMISSION, an agency of the STATE OF CALIFORNIA, a Quitclaim Deed dated May 12, 2015, of which a true and correct copy is attached hereto, of all of the STATE OF CALIFORNIA's right, title and interest in real property, freed of all incidents of sovereignty including the Public Trust for fishing, navigation and commerce, described therein as Daggett Street.

The CITY AND COUNTY OF SAN FRANCISCO, a municipality, in the STATE OF CALIFORNIA, hereby consents to the recordation of this conveyance in the Office of the Recorder for the City and County of San Francisco.

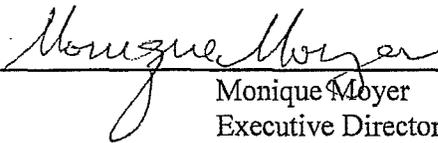
The said interests in real property are accepted by the CITY AND COUNTY OF SAN FRANCISCO, a municipality, in its proprietary capacity freed of all incidents of sovereignty including the Public Trust for fishing, navigation and commerce. By the recordation of this document, this land will no longer have the legal character of tidelands and submerged lands.

[Remainder of page intentionally left blank]

Certificate of Acceptance
Daggett Street
AD 645/G11-01

This acceptance and consent to recording is executed by and on behalf of the CITY AND COUNTY OF SAN FRANCISCO, a municipality, acting by and through the San Francisco Port Commission pursuant to law and as approved by Port Commission Resolutions 14-57 and 14-62 adopted at its public meetings in San Francisco, California on on October 28, 2014 and December 16, 2014 respectively, by its duly authorized undersigned officer.

CITY AND COUNTY OF SAN FRANCISCO

Dated: June 26, 2015 By: 
Monique Moyer
Executive Director
San Francisco Port Commission

ACKNOWLEDGMENT OF SIGNATURE TO BE ATTACHED

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

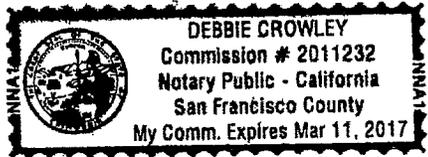
STATE OF CALIFORNIA)
)
COUNTY OF San Francisco) ss

On June 26, 2015 before me, Debbie Crowley, Notary Public,
personally appeared Monique Moya,
who proved to me on the basis of satisfactory evidence to be the person(s), whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the Laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Debbie Crowley
Notary Public



(Seal)

DEBBIE CROWLEY
Commissioner & SD1232
Notary Public - California
San Francisco County
My Comm. Expires Mar 1, 2013



Item heard. No action taken.

9. Committee members' questions and comments.

Item heard. No Action taken.

10. Public Comment:

Item heard. No Action taken.

Adjournment: 8:45 PM.

**Citizens Advisory Committee of the
Eastern Neighborhoods Plan,
City and County of San Francisco**

DRAFT Meeting Minutes

1650 Mission Street, 4th Floor, Room 431

Monday, June 15, 2015

6:00 PM

Regular Meeting

Committee Members Present:

Walker Bass, Chris Block, Joe Boss, Don Bragg, Keith Goldstein, Henry Karnilowitz,
Kristian Ongoco, Arthur Reis, Maureen Sedonaen, Kate Sofis

Committee Members Absent:

Oscar Grande, Bruce Kin Huie, Toby Levy, Robert Lopez, Fernando Marti, Alisa Shen

Staff Present:

Mat Snyder, Steve Wertheim, Robin Abad, Planning Department

1. Announcements and Review of Agenda.

2. Review and Approve Minutes from the May 18, 2015 CAC Meeting.

ACTION: To approve the minutes from May 18, 2015.
MOTION: Goldstein SECOND: Sofis
AYES: Bass, Block, Boss, Bragg, Goldstein, Karnilowitz, Ongoco,
Reis, Sedonaen, Sofis
NOES: [none]
ABSENT: Grande, Huie Levy, Lopez, Marti, Shen

3. The Mission District and Affordable Housing. Update from the staff on ongoing efforts by the City to address the Mission Districts affordable housing needs, followed discussion.
Item heard. No action taken.

- 4. Initial Impact Fee Revenue Projections for FY 16 through 21. Presentation by staff on the initial fee projections for the next five fiscal years, followed by discussion and potential action.
Item heard. No action taken.
- 5. Daggett Triangle Park In-Kind Agreement. Presentation by staff and EQR Residential on the Daggett Park and a proposal to amend the in-kind agreement increasing the fee-waiver amount to cover additional costs in constructing the park, followed by discussion and action.

ACTION: To approve the increase of value of the in-kind agreement from 1,880,000 by \$489,144 for a total of \$2,369,144.

MOTION: Boss SECOND: Karnilowitz

AYES: Bass, Block, Boss, Bragg, Goldstein, Karnilowitz, Ongoco, Reis, Sedonaen, Sofis

NOES: [none]

ABSENT: Grande, Huie Levy, Lopez, Marti, Shen

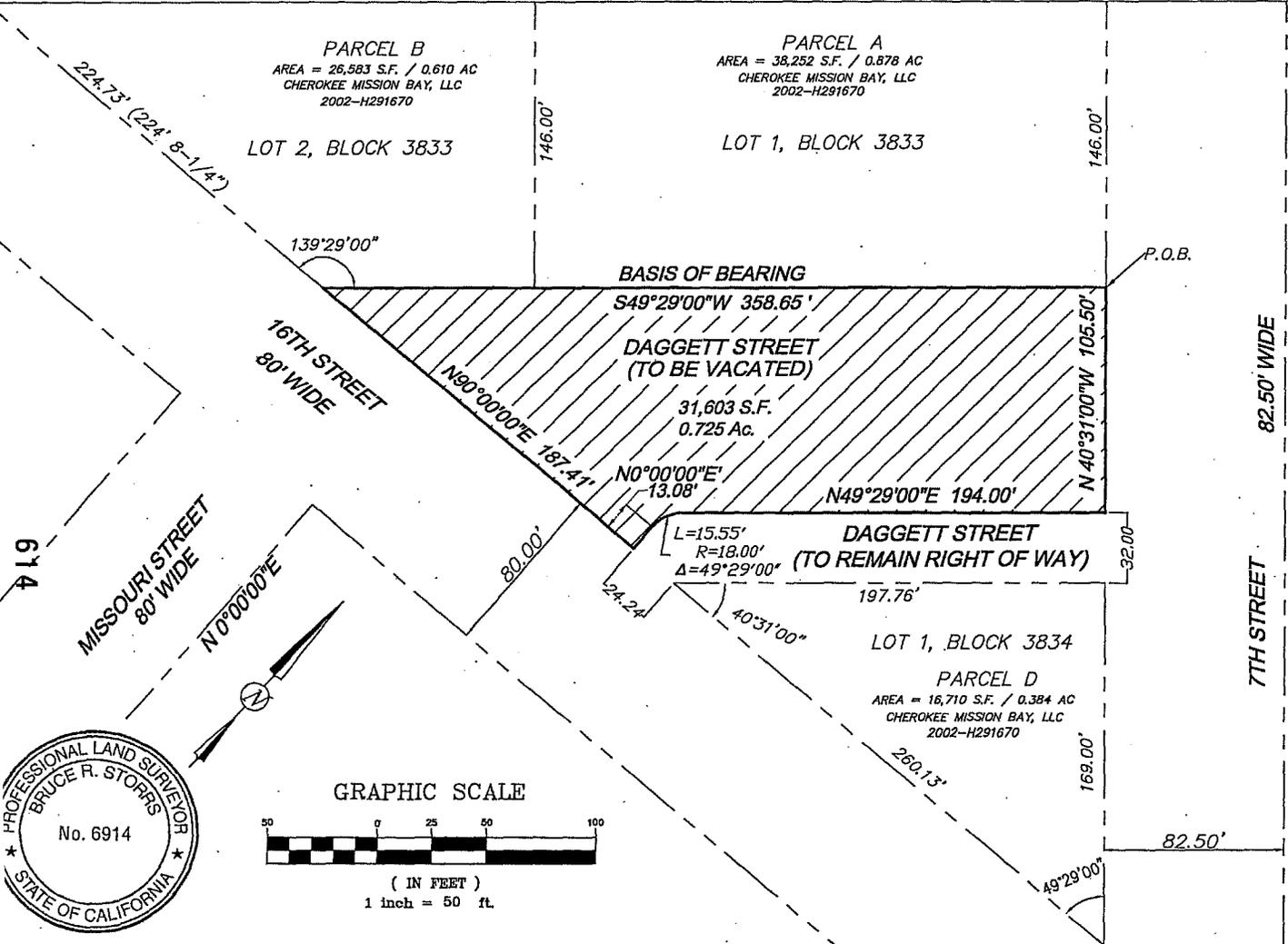
MOTION NO.: 2015-06-05

- 6. Central Waterfront /Dogpatch Public Realm Plan. Presentation by staff on the creation of the forthcoming Central Waterfront / Dogpatch Public Realm Plan, followed by discussion and potential action.
Item heard. No action. Staff will provide periodic updates on the creation of the Plan.
- 7. The Eastern Neighborhoods Five-Year Monitoring Report. Presentation on the current City Code requirements for the Eastern Neighborhoods Five-Year Monitoring Report and some of the five Area Plans' objective and policies that could also inform the contents of the Report. The CAC will discuss other potential questions and metrics to be pursued in the Report's analysis, followed by comment and potential action.
Item Heard. The Chair will convene a working group to further discuss and scope out the Monitoring Report along with a potential scope-of-work for a potential consultant. The Working Group will report back for the full committee of discussion.
- 8. Cancellation of Summer Meeting. Discussion of possible cancellation of one of the summer meetings followed by potential action.
Action: To cancel the regular July meeting.
MOTION: SECOND:
AYES: Bass, Block, Boss, Bragg, Goldstein, Karnilowitz, Ongoco, Reis, Sedonaen, Sofis
NOES: Goldstein
MOTION NO: 2015-06-08

ABSENT: Grande, Huie Levy, Lopez, Marti, Shen

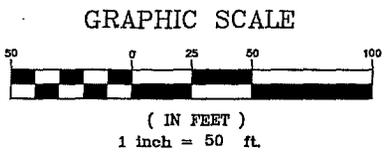
9. Public Comment.
Public comment provided.

Adjourn.



BASIS OF BEARINGS:
 THE BASIS OF BEARINGS FOR THIS DRAWING IS THE NORTHWESTERLY LINE OF DAGGETT STREET ASSUMED TO BE SOUTH 49°20'00" WEST

NOTE:
 1. ALL ANGLES SHOWN ARE 90° UNLESS OTHERWISE NOTED.
 2. ALL DISTANCES SHOWN ARE MEASURED IN FEET AND DECIMALS THEREOF.



REFERENCES:

APPROVED:
Bruce R. Storrs
 BRUCE R. STORRS, P.L.S. 6914
 CITY & COUNTY SURVEYOR

g/27/15
 DATE

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS

STREET VACATION OF A PORTION OF DAGGETT STREET BETWEEN 16TH STREET AND 7TH STREET.

FILE: SUR 2015-002 SHEET 1 OF 1 SCALE: 1:50 CHANGE

EXHIBIT A

Legal Description
For
Street Vacation purposes

All of that certain real property situate in the City and County of San Francisco, State of California, being a portion of Daggett Street (137.5 feet wide) located between the southwesterly right of way line of 7th Street (82.5 feet wide), and the north right of way line of 16th Street (80.0 feet wide), said property more particularly described as follows:

Beginning at the intersection of the southwesterly line of 7th Street with the northwesterly line of Daggett Street; thence,

along said northwesterly line of Daggett Street South 49°29'00" West 358.65 feet to said northerly line of 16th Street; thence,

along said northerly line of 16th Street North 90°00'00" East 187.41 feet; thence,

leaving said northerly line North 0°00'00" East 13.08 feet to the beginning of a curve concave to the southeast having a radius of 18.00 feet; thence,

along said curve northeasterly 15.55 feet through a central angle of 49°29'00"; thence,

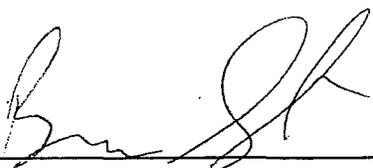
North 49°29'00" East 194.00 feet to a point on said southwesterly line of 7th Street; thence,

along said southwesterly line of 7th Street North 40°31'00" West 105.50 feet to the point of beginning of this description.

Containing 31,603 Square feet/ 0.725 acres.

The basis of bearings for this description is the northwesterly line of Daggett Street assumed to be South 49°20'00" West for the purposes of this description.

All as shown on Exhibit B attached herewith and made a part hereof.



Bruce R. Storrs P.L.S. 6914
City and County Surveyor
City and County of San Francisco

9/3/15

Date



HUBBELL STREET
70' WIDE

BASIS OF BEARINGS:
THE BASIS OF BEARINGS FOR THIS
DRAWING IS THE NORTHWESTERLY
LINE OF DAGGETT STREET ASSUMED
TO BE SOUTH 49°20'00" WEST

NOTE:
1. ALL ANGLES SHOW ARE 90° UNLESS
OTHERWISE NOTED.

2. ALL DISTANCES SHOWN ARE MEASURED
IN FEET AND DECIMALS THEREOF.

639.49' (639' 6-7/8")

PARCEL C

AREA = 54,943 S.F. / 1.261 AC
CHEROKEE MISSION BAY, LLC
LOT 3, BLOCK 3833
2002-H291670

529.50' (529' 7-1/4")

267.50' (267' 7-1/4")

262.00'

PARCEL B

AREA = 26,583 S.F. / 0.610 AC
CHEROKEE MISSION BAY, LLC
2002-H291670

LOT 2, BLOCK 3833

PARCEL A

AREA = 38,252 S.F. / 0.878 AC
CHEROKEE MISSION BAY, LLC
2002-H291670

LOT 1, BLOCK 3833

224.73' (224' 8-1/4")

146.00'

94.00'

146.00'

139°29'00"

BASIS OF BEARING

S49°29'00"W 358.65'

DAGGETT STREET
(TO BE VACATED)

31,603 S.F.
0.725 Ac.

N90°00'00"E 187.41'

N0°00'00"E
13.08'

N49°29'00"E 194.00'

P.O.B.

16TH STREET
80' WIDE

MISSOURI STREET
80' WIDE

82.50' WIDE

7TH STREET

L=15.55'
R=18.00'
Δ=49°29'00"

DAGGETT STREET
(TO REMAIN RIGHT OF WAY)

197.76'

LOT 1, BLOCK 3834

PARCEL D
AREA = 16,710 S.F. / 0.384 AC
CHEROKEE MISSION BAY, LLC
2002-H291670

80.00'

24.24'

40°31'00"

260.13'

169.00'

82.50'

49°29'00"



EXHIBIT B
PLAN TO ACCOMPANY LEGAL DESCRIPTION AB'

PREPARED BY:
BUREAU OF STREET USE AND MAPPING
DEPARTMENT OF PUBLIC WORKS
CITY AND COUNTY OF SAN FRANCISCO
PHONE: 415.554.5827 FAX: 415.554.5324

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME OR
UNDER MY DIRECTION IN CONFORMANCE WITH THE LAND SURVEYORS
ACT.

Signature

Date

Bruce R. Storrs
9/3/15



Edwin M. Lee, Mayor
Mohammed Nuru, Director

San Francisco Public Works
Office of the Deputy Director & City Engineer, Fuad Sweiss
Bureau of Street-Use & Mapping
1155 Market Street, 3rd Floor
San Francisco Ca 94103
(415) 554-5810 ■ www.sfdpw.org



Bruce R. Storrs, City and County Surveyor

DPW Order No: 183968

Re: Determination to summarily vacate a portion of Daggett Street bounded by Assessor's Block 3833, 7th Street, Assessor's Block 3834, and 16th Street, pursuant to California Streets and Highways Code Sections 8300 *et seq.* and Section 787 of the San Francisco Public Works Code.

WHEREAS, This portion of Daggett Street is undeveloped public right-of-way bounded by Assessor's Block 3833, 7th Street, Assessor's Block 3834, and 16th Street (the "Vacation Area"); and

WHEREAS, The Vacation Area is specifically shown on SUR Map 2015-002, dated August 27, 2015; and

WHEREAS, In a letter dated July 6, 2015, the Department of City Planning found that the proposed Vacation is on balance in conformity with the General Plan and Planning Code Section 101.1; and

WHEREAS, On October 28, 2014, at a duly noticed public hearing, the San Francisco Port Commission, in Resolution No. 14-57, authorized Port staff to seek termination of the public trust on Daggett Street from State Lands Commission. On December 16, 2014, at a duly noticed public hearing, the San Francisco Port Commission, in Resolution No. 14-62, authorized a memorandum of understanding (MOU) regarding the removal of the public trust from Daggett Street and jurisdictional transfer to Real Estate Division (RED); and

WHEREAS, On December 17, 2014, at a duly noticed public hearing, the State Lands Commission, in Calendar Item C68, authorized termination of the State's public trust interest in Daggett Street, in accordance with California State Legislative Session 2007's Chapter No. 660. As part of this action, the State Lands Commission authorized transfer of Daggett Street to the City and County of San Francisco for \$1,675,000.00 free of any public trust interest; and

WHEREAS, The Department sent notice of the proposed street vacation, draft SUR drawing and a DPW referral letter to the Department of Technology, Municipal Transportation Agency, Department of Public Health, Fire Department, Water Department, Bureau of Light, Heat and Power, Infrastructure Design and Construction, Operations, Public Utility Commission, Pacific Gas and Electric, AboveNet Communications, Astound Broadband, American Telegraph & Telephone, Bay Area Rapid Transit, Caltrans, Comcast Cable Company, ExNet Systems Inc., Global Crossing, Level 3 Communications, NRG Energy Center, Point2Point Inc., Qwest Communications, Sprint/Nextel, Time Warner Telecom, Verizon (MCI), and XO Communications. No utility company or agency objected to the proposed vacation; and



WHEREAS, Based on written correspondences from the SF Public Utilities Commission dated June 8, 2015, and August 25, 2015, the SFPUC supports the proposed vacation subject to the relocation of its existing sanitary sewer line within the area of Daggett Street to be vacated to that portion of the Daggett Street that will remain public right of way, subject to terms satisfactory to the SFPUC; and

WHEREAS, The project sponsor is owner of the properties adjacent to the Vacation Area and consents to the proposed vacation; and

WHEREAS, The Director of Public Works for the City and County of San Francisco has determined the following:

1. The vacation is being carried out pursuant to the California Streets and Highways Code sections 8300 et seq., and in particular, Sections 8330 et seq. concerning summary street vacations and San Francisco Public Works Code Section 787.
2. The Vacation Area has been impassable for vehicular travel for over five years and is excess right-of-way that can be summarily vacated under California Streets and Highways Code Sections 8331 and 8334(a), respectively. In addition, with the relocation of the sanitary sewer line under the jurisdiction of the San Francisco Public Utility Commission as part of the open space design, there are no functioning in-place public or private utility facilities that would be affected by the vacation of the Vacation Area, which allows the City to proceed with a summary street vacation under Streets and Highways Code Section 8334.5
3. The Vacation Area is unnecessary for the City's present or prospective public street, sidewalk, and service easement purposes.
4. The public interest, convenience, and necessity do not require any easements or other rights be reserved for any public or private utility facilities that are in place in the Vacation Area and that any rights based upon any such public or private utility facilities should be extinguished automatically upon the effectiveness of the vacation; provided, however, that a declaration of restrictions be recorded on the Vacation Area that an approximately 12-foot wide area on northerly side of the Vacation Area be permanently set aside for open space use
5. The Vacation Area to be vacated is shown on the SUR Map No. 2015-002
6. Pursuant to the Streets and Highways Code Section 892, the Department finds that the Vacation Area is not necessary for a non-motorized transportation facility because bicycle commuters can continue to use the Daggett Street shared public way that will retain its public right-of-way status.
7. The street vacation should be conditioned upon the project sponsor's completion of park improvements on the Vacation Area and completion of the shared public way to be constructed on the remaining portion of the Daggett Street public right-of-way. The City Engineer shall issue a determination of completion when each of these separate improvements are complete and ready for their intended use. Concurrent with the effectiveness of the street vacation, the Vacation Area should be transferred via interdepartmental transfer to the City's Real Estate Division for purposes of establishing a City Plaza under Administrative Code Chapter 94.

NOW THEREFORE BE IT ORDERED THAT,



The Director approves all of the following documents either attached hereto or referenced herein:

1. Ordinance to summarily vacate the Vacation Area, a portion of Daggett Street bounded by Assessor's Block 3833, 7th Street, Assessor's Block 3834, and 16th Street, pursuant to California Streets and Highways Code Sections 8300 *et seq.* and Section 787 of the San Francisco Public Works Code;
2. Vacation Area SUR Map No. 2015 -002

The Director recommends the Board of Supervisors approve the legislation to vacate said portion of Daggett Street.

The Director recommends the Board of Supervisors approve all actions set forth herein and heretofore taken by the Officers of the City with respect to this vacation. The Director further recommends the Board of Supervisors authorize the Mayor, Clerk of the Board, Director of Property, County Surveyor, and Director of Public Works to take any and all actions which they or the City Attorney may deem necessary or advisable in order to effectuate the purpose and intent of this Ordinance.

Attachments:

1. SUR Map No. 2015-002, dated August 27, 2015.
2. Street Vacation Description dated (Exhibit A)
3. Street Vacation Plat dated September 1, 2015. (Exhibit B)

9/1/2015

9/1/2015

X Bruce R. Storrs

Storrs, Bruce
City & County Surveyor
Signed by: Storrs, Bruce

X *F. Sweiss*

Sweiss, Fuad
Deputy Director & City Engineer
Signed by: Sweiss, Fuad

9/1/2015

X Mohammed Nuru

Nuru, Mohammed
Director
Signed by: Nuru, Mohammed



RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

CITY AND COUNTY OF SAN
FRANCISCO,

REAL ESTATE DIVISION

25 VAN NESS, SUITE 400

SAN FRANCISCO, CA 94102

ATTN: DIRECTOR OF PROPERTY

Free Recording Requested Pursuant to
Government Code Section 27383

(Space above this line reserved for Recorder's use only)

DECLARATION OF RESTRICTIONS

Dated as of _____

DECLARATION OF RESTRICTIONS

THIS DECLARATION of RESTRICTIONS (“**Declaration**”) is dated as of _____, by THE CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**City**”), acting by and through the Real Estate Division of the Office of the City Administrator (“**Declarant**”), and is acknowledged and consented to by ARCHSTONE DAGGETT PLACE LLC, Delaware limited liability company (“**Owner**”).

RECITALS

A. Declarant is the owner of certain real property located in the City and County of San Francisco, California, known as Block _____, Lot _____ and commonly identified as Daggett Plaza, as more particularly described and depicted in Exhibit A to this Declaration (the “**Burdened Parcel**”).

B. The purpose of this Declaration is to benefit certain real property that is owned by Owner and abuts the Burdened Parcel, known as Block _____, Lot _____, commonly identified as 1000 16th Street, San Francisco, California, and more particularly described and depicted in Exhibit B attached to this Declaration (the “**Benefitted Parcel**”).

C. Under Motion 18419, the City’s Planning Commission issued an entitlement for Archstone Daggett Place LLC to build a building on the Benefitted Parcel (the “**Proposed Building**”). In order for the Proposed Building to abut the boundary between the Burdened Parcel and the Benefitted Parcel and satisfy requirements of the San Francisco Building Code (including the San Francisco Building Code, the California Building Code, the Mechanical Code, the Electrical Code, and the Plumbing Code, and including any amendments thereto, collectively referred to herein as the “**Code**”) in effect as of the date hereof, Declarant, acting in City’s proprietary capacity, has agreed to impose certain additional open space restrictions on the Burdened Parcel for the benefit of the Benefitted Parcel.

D. Declarant intends the written consent of the City’s Director of Property, acting in City’s proprietary capacity, and the Director of City’s Department of Building Inspection (“**DBI**”), acting in City’s regulatory capacity, shall be both required to modify, revoke, or terminate the restrictions imposed in this Declaration.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Declarant does hereby declare with respect to the Burdened Parcel and the Benefitted Parcel that the Burdened Parcel is to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, conditions and covenants, all of which are imposed as equitable servitudes upon the Burdened Parcel. All of the limitations, restrictions, reservations, rights, conditions and covenants in this Declaration shall run with and burden the Burdened Parcel and run with and benefit the Benefitted Parcel, any portion of them and any interest in them, and all persons having or acquiring any rights, title or interest in the Burdened Parcel and the Benefitted Parcel, any portion of them and any interest in them, and their successors, heirs and assigns.

1. No-Build Zone Area. Declarant hereby establishes a “**No-Build Zone Area**” on the Burdened Parcel, as depicted on Exhibit C to this Declaration. For as long as this Declaration

continues in effect, no new permanent structure or other permanent improvement shall be constructed or maintained on the No-Build Zone Area, except as approved by DBI if such approval is required under the provisions of the Code. However, this Declaration shall not prohibit the maintenance, construction and installation of minor encroachments of building systems, light facilities, utility facilities, pavers, landscaping, fences and similar facilities, including any items installed or to be installed in the No-Build Zone Area under Street Improvement Permit No. 15IE-0628, issued by the City's Department of Public Works to Roberts-Obayashi Corporation (the "**Street Improvement Permit**"), nor prohibit the temporary installation of scaffolding or other equipment to be used for the Burdened Parcel maintenance activities in the No-Build Zone Area, as long as such improvements have been approved in writing by the Director of Property and by DBI if such approval is required by the Code. With respect to any future building installation on the Burdened Parcel and exterior alterations to the wall of any building located on the Burdened Parcel facing the No-Build Zone Area, for purposes of Code compliance only, including compliance with Code requirements relating to building setbacks, yards, courts, exit courts, property line protection, opening protection, parapets, and all other relevant Code provisions, the assumed property line between the Burdened Parcel and the Benefitted Parcel shall be the southern boundary [to be confirmed] of the No-Build Zone Area, as depicted on Exhibit C to this Declaration.

2. Maintenance and Repair. Declarant shall at all times cause the No-Build Zone Area described herein to be maintained in a condition adequate for purposes granted hereunder, except as may otherwise be permitted under Section 1 hereof.

3. Special Restrictions. With respect to the Burdened Parcel, Declarant and its successors-in-interest shall submit a copy of this Declaration as part of any building permit applications that are submitted to DBI on or after the effective date of this Declaration.

4. Duration. The restrictions contained in this Declaration shall remain in effect until (i) the Proposed Building is demolished or set back from the actual boundary of the Burdened Parcel and the Benefitted Parcel in a manner that meets the building setbacks, yards, courts, exit courts, property line protection, parapets, and all other relevant provisions of the Codes in effect at the time of such alteration, or (ii) this Declaration is revoked or terminated pursuant to Section 5 below.

5. Modification, Revocation or Termination. This Declaration has been recorded in order to satisfy the requirements of the Code as to the Proposed Building in effect as of the date of this Declaration and to obtain the regulatory approval by the City of Code equivalency for certain existing and proposed new openings in the wall of the Proposed Building that faces the No-Build Zone Area, and shall automatically terminate at any time that the Proposed Building is removed. This Declaration may not be modified, revoked or terminated except through a written amendment to this Declaration that is duly executed by City's Director of Property, the Director of DBI, and the owner of the Benefitted Parcel, or their respective successor(s)-in-interest, and no such amendment shall be effective unless such amendment is recorded in the Official Records of San Francisco County; provided, however, that if a certificate of occupancy for the Proposed Building is not issued by City, acting in its regulatory capacity, on or before the _____ [to be confirmed] anniversary of the date this Declaration is recorded in the Official Records of San Francisco

County, this Declaration shall automatically terminate without the need for any such written amendment or any other act by City.

6. Limitation of Liability. The City shall have no liability whatsoever hereunder with respect to the condition of the Benefitted Parcel or the Proposed Building, and City's Department of Building Inspections shall have no liability whatsoever hereunder with respect to the condition of the No-Build Zone Area.

7. No Public Dedication. Nothing contained herein shall be deemed to be a gift or dedication to the general public or for any public purposes whatsoever, it being the intention that this Declaration be strictly limited to and for the purposes expressed.

8. Recitals. Each of the Recitals to this Declaration is incorporated by reference as if fully set forth herein.

IN WITNESS WHEREOF, Declarant executed this instrument effective as of the day and year first above written.

DECLARANT, as owner of the Burdened Parcel:
THE CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
John Updike, Director of Property
[To be completed and signed at time jurisdictional transfer of Burdened Parcel to RED becomes effective]

APPROVED
THE CITY AND COUNTY OF SAN FRANCISCO,
acting by and through the Department of Building Inspection

By: _____

Its: _____

APPROVED AS TO FORM
Dennis J. Herrera, City Attorney

By: _____

John Malamut
Deputy City Attorney

[ACKNOWLEDGMENT AND CONSENT ON FOLLOWING PAGE]

ACKNOWLEDGEMENT AND CONSENT

To receive the benefit of this Declaration, Owner acknowledges that it and each future owner and tenant of the Benefitted Parcel will submit a copy of this Declaration with any building permit applications related to exterior alterations to the Benefitted Parcel facing on the No-Build Zone Area that are submitted to DBI on or after the date of this Declaration. By accepting title to any portion of the Benefitted Parcel, each future owner shall be deemed to have accepted this obligation. Owner authorizes City to record this Declaration against record title of the Benefitted Parcel in the Official Records of San Francisco County.

ARCHSTONE DAGGETT PLACE LLC,
a Delaware limited liability company

By: EQR-WARWICK, L.L.C.,
a Delaware limited liability company,
its sole member

By: ERP Operating Limited Partnership,
an Illinois limited partnership,
its managing member

By: Equity Residential, a Maryland
real estate investment trust, its general partner

By: _____
Name: _____
Its: _____

Date: _____

EXHIBIT A

Legal Description and Depiction of Burdened Parcel

EXHIBIT B

Legal Description and Depiction of Benefited Parcel

Real property in the City of San Francisco, County of San Francisco, State of California,
described as follows:

EXHIBIT C

Diagram of No-Build Zone Area



Edwin M. Lee, Mayor
Mohammed Nuru, Director

San Francisco Public Works
Office of the Deputy Director & City Engineer, Fuad Sweiss
Bureau of Street-Use & Mapping
1155 Market Street, 3rd Floor
San Francisco Ca 94103
(415) 554-5810 ■ www.sfdpw.org



Bruce R. Storrs, City and County Surveyor

DPW Order No: 183969

Re: Transmitting to the Board of Supervisors legislation to: (1) change the official sidewalk widths of: a) the southeasterly side of Daggett Street between 16th Street and 7th Street; b) the north side of 16th Street, and the southwesterly side of 7th Street fronting the area of Daggett Street, that is to be vacated (per Department of Public Works Drawing SUR 2015-02) as shown on Department of Public Works drawings Q-20-776; and (2) showing the new alignment and grades of Daggett Street between 16th Street and 7th Street per Public Works drawing A-17-174.

Archstone Daggett Place, LLC ("Project Sponsor"), which plans to develop a 453-unit rental development project on the properties abutting Daggett Street approached the Department of Public Works to construct various public improvements on Daggett Street between 16th Street and 7th Street. In connection with the completion of these public improvements, the northwesterly portion of the of Daggett Street will be vacated, which would eliminate the sidewalk on that side of the street. The southeasterly portion of Daggett Street will retain its status as a public right-of-way. In this area the Project Sponsor will construct a shared public way, which is a curbless, pedestrian-focused street with no specifically delineated separation between the sidewalk and the vehicular travelway. Consequently, the Department of Public Works recommends the elimination of the official sidewalk width on the southeasterly portion of Daggett Street as shown on Department of Public Works drawing Q-20-776. The Project Sponsor will maintain the shared public way in accordance with the Street Encroachment Permit that is the subject of a separate but related DPW Order. be a substandard, unaccepted, public right of way. Furthermore, it is recommend that the official sidewalks be extended along 16th Street and 7th Street, along the vacated area, as shown on drawing Q-20-776.

Official DPW Map A-17-174 shows the new alignment and official grade of Daggett Street; however, as a result of the shared public way improvements and its associated Street Encroachment Permit, this street segment will remain unaccepted public right-of-way

In a letter dated July 6, 2015, the Department of City Planning found that the proposed project is on balance in conformity with the General Plan and Planning Code Section 101.1.

On October 28, 2014, at a duly noticed public hearing, the San Francisco Port Commission, in Resolution No. 14-57, authorized Port staff to seek termination of the public trust on Daggett Street from State Lands Commission. On December 16, 2014, at a duly noticed public hearing, the San Francisco Port Commission, in Resolution No. 14-62, authorized a memorandum of understanding (MOU) regarding the removal of the public trust from Daggett Street and jurisdictional transfer to the City.



On December 17, 2014, at a duly noticed public hearing, the State Lands Commission, in Calendar Item C68, authorized termination of the State's public trust interest in Daggett Street, in accordance with California State Legislative Session 2007's Chapter No. 660. As part of this action, the State Lands Commission authorized transfer of Daggett Street to the City and County of San Francisco for \$1,675,000.00 free of any public trust interest.

The following have been approved by the Department of Public Works and are hereby transmitted to the Board of Supervisors:

1. The proposed Ordinance to changing the official sidewalk along Daggett Street, 16th Street, and 7th Street.
2. Department of Public Works drawing Q-20-776, showing the new official sidewalks
3. Department of Public Works Map A-17-174, showing the new alignment of Daggett Street between 16th Street and 7th Street and the new street grade.

The Director further recommends the Board of Supervisors approve the legislation to change the official sidewalks along said portions of Daggett Street, 16th Street, and 7th Street.

9/1/2015

X Bruce R. Storrs

Storrs, Bruce
City & County Surveyor
Signed by: Storrs, Bruce

9/1/2015

X Mohammed Nuru

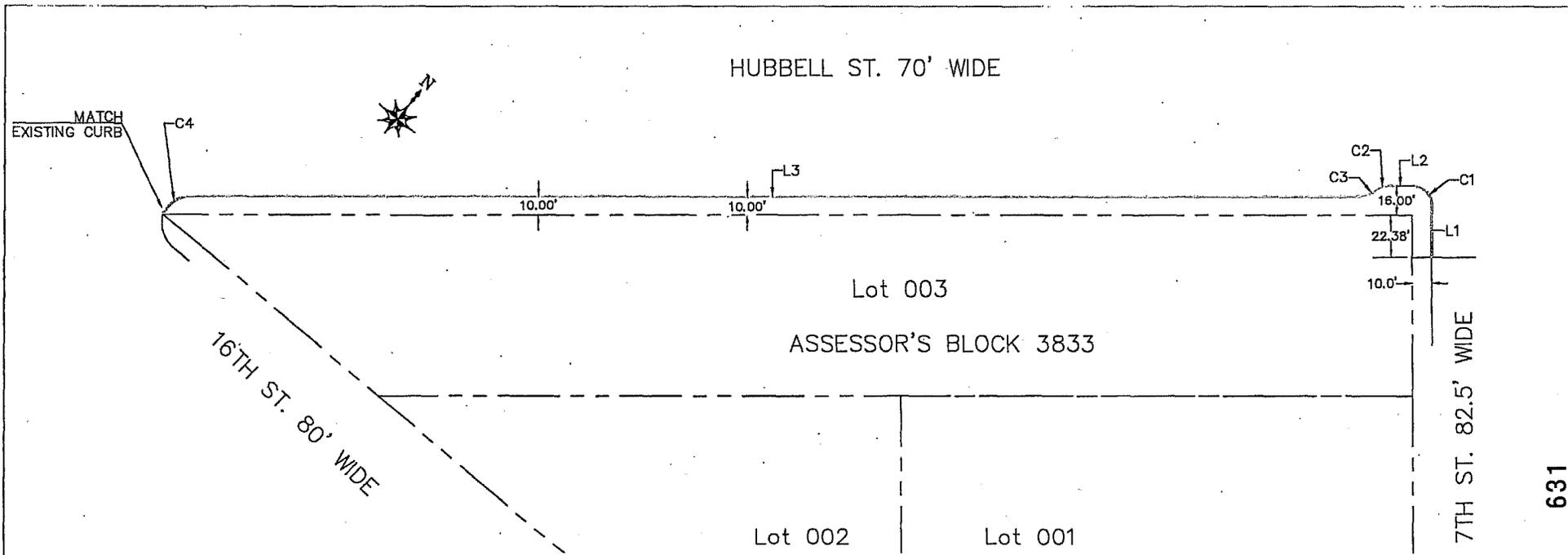
Nuru, Mohammed
Director
Signed by: Nuru, Mohammed

9/1/2015

X *F. Sweiss*

Sweiss, Fuad
Deputy Director & City Engineer
Signed by: Sweiss, Fuad





631

- - - - - PROPOSED CURB LINE
 - - - - - PROPERTY LINE
 - - - - - EXISTING CURB LINE TO REMAIN IN PLACE

Line Table		Curve Table			
Line #	Length	Curve #	Length	Radius	Delta
L1	28.38	C1	15.71	10.00	90°00'00"
L2	11.82	C2	6.44	10.00	36°52'12"
L3	596.13	C3	12.87	20.00	36°52'12"
		C4	18.46	15.00	70°31'44"

REFERENCES:	APPROVED:	BY	DATE	CITY AND COUNTY OF SAN FRANCISCO DEPARTMENT OF PUBLIC WORKS			
	 BRUCE R. STORRS CITY & COUNTY SURVEYOR	DRW		OFFICIAL SIDEWALK CHANGE OF THE SOUTHEASTERLY SIDE OF HUBBELL ST. BETWEEN 16TH ST. & 7TH ST.			
		CK		DATE	FILE:	SHEET	SCALE:
		APP		Q-20-718	1 OF 1	1:50	

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City and County of San Francisco
Director of Property
25 Van Ness Avenue, Suite 400
San Francisco CA 94102

**IRREVOCABLE OFFER OF
OPEN SPACE IMPROVEMENTS AND
MAINTENANCE THEREOF**

Archstone Daggett Place LLC, a Delaware limited liability company ("Archstone") does hereby irrevocably offer to the City and County of San Francisco, a municipal corporation ("City"), and its successors and assigns, a gift of a fee title interest: (i) in certain open space improvements to be constructed by Archstone on Daggett Street right-of-way, an unaccepted street situated between Assessor's Block 3833 and Block 3834, and further between 16th and 7th Streets, as fully described and depicted in the attached Exhibit A ("Daggett Street"), pursuant to the terms of the 1000 16th Street In-Kind Agreement, approved by the City's Planning Commission on November 29, 2012, and as amended thereafter pursuant to an approval of an Amended and Restated In-Kind Agreement by the City's Planning Commission on July 9, 2015 (collectively hereinafter as the "In-Kind Agreement"), having a value of \$1,567,819, an amount equal to the cost of constructing the said open space improvements that is in excess of a fee waiver made by the City in the In-Kind Agreement ("Open Space Improvements"), and (ii) to the permanent maintenance of the Open Space Improvements by Archstone pursuant to the terms stated in a declaration of maintenance covenants and obligations to be executed by and between Archstone and the City and recorded against Daggett Street and the properties adjacent to Daggett Street commonly known as Assessor's Block 3833, Lots 001, 002 and 003, and Block 3834, Lots 001 ("Declaration of Maintenance Covenants").

It is understood that the rights and obligations of Archstone, and its successors and assigns, with respect to the maintenance of the Open Space Improvements is provided for in the Declaration of Maintenance Covenants and in the maintenance license agreement to be executed by and between Archstone and the City ("Maintenance License Agreement").

With respect to this offer of open space improvements and maintenance thereof, it is understood and agreed that: (i) upon acceptance of this offer, the City shall own and be responsible for the offered improvements, except as is otherwise expressly provided for in the Declaration of Maintenance Covenants, and (ii) the City and its successors and assigns shall incur no liability or obligation whatsoever hereunder with respect to

the offered improvements unless and until such offer has been accepted by the City's Board of Supervisors.

The provisions hereof shall inure to the benefit of and be binding upon the heirs, successors, assigns and personal representatives of the respective parties hereto.

IN WITNESS WHEREOF, the undersigned has executed this instrument this ___ day of _____, 2015.

ARCHSTONE DAGGETT PLACE, LLC,
a Delaware limited liability company

By: [other],
a [xx] [corporation], its Manager

By: _____
[name]
President

CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGEMENT

State of California
County of _____

On _____ before me,

(here insert name and title of the officer)
personally appeared

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

EXHIBIT A

Legal Description of City owned Daggett Street

Free Recording Requested Pursuant to
Government Code Section 27383

Recording requested by and
when recorded mail to:

City and County of San Francisco
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Director of Property

(Space above this line reserved for Recorder's use only)

DECLARATION OF MAINTENANCE COVENANTS AND OBLIGATIONS

This Declaration of Maintenance Covenants and Obligations ("**Declaration**") is made as of _____, 201__, by ARCHSTONE DAGGETT PLACE LLC, Delaware limited liability company ("**Owner**"), in favor of CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), with reference to the following facts:

RECITALS

A. Owner constructed a mixed use development on that certain real property in San Francisco commonly known as Block 3833, Lots 001, 002, and 003, and Block 3834, Lot 001, as fully described on the attached Exhibit A ("**Owner Property**"), which development is fully described in Motion No. 18419 (Case 2003.0527), adopted by the City's Planning Commission on July 21, 2011 (the "**Development**").

B. The Development would have triggered an impact fee under Sections 423-423.5 of the San Francisco Planning Code (the "**Impact Fee**"), but pursuant to an Amended and Restated In Kind Agreement between Owner and City, dated as of _____ (the "**In Kind Agreement**"), Owner constructed certain open space improvements (the "**Open Space Improvements**") on the unimproved City property adjacent to a portion of the Owner Property and fully described and depicted on the attached Exhibit B (the "**City Open Space Property**"), and agreed to maintain the City Open Space Property, as an alternative to paying a portion of the Impact Fee.

C. Owner wished to develop the unimproved City property between the City Open Space Property and a portion of the Owner Property, which is fully described and depicted on the attached Exhibit C (the "**Shared Public Way**"), as a shared public right of way with specialized right of way improvements (the "**Right of Way Improvements**") that enhanced the Development, and City agreed to permit the Right of Way Improvements if Owner agreed to comply with Owner's obligations under Major Encroachment Permit No. _____, which was issued by City's Department of Public Works to Owner for the Right of Way Improvements (as may be amended from time, the "**Encroachment Permit**"), and under the Street Encroachment Agreement issued

by City for the Shared Public Way and executed by Owner on _____ (as may be amended from time, the "**Street Agreement**").

D. Owner has installed and gifted to City, and City has accepted, the Open Space Improvements at the City Open Space Property and, pursuant to the Encroachment Permit and Street Agreement, City is permitting Owner to have the Right of Way Improvements at the Shared Public Way, and Owner accordingly agrees to provide for the maintenance of the City Open Space Property, including the Open Space Improvements, and the Shared Public Way, including the Right of Way Improvements, on the terms and conditions specified below.

AGREEMENT

NOW, THEREFORE, Owner hereby declares that the Owner Property is held and will be held, transferred, encumbered, developed, improved, used, sold, conveyed, leased, and occupied subject to the following covenants, conditions, agreements and restrictions, for the benefit of City, which covenants, conditions, agreements and restrictions shall run with the land and be binding and enforceable by City at any time at City's sole discretion.

1. Maintenance of Open Space Improvements.

(a) Owner shall perform the maintenance work described in the attached Exhibit C (as may be mutually modified by City and Owner, the "**Maintenance Work**") at the City Open Space Property in compliance with the terms and conditions of the Maintenance License Agreement between City and Owner, dated as of _____, 20__, a copy of which is attached as Exhibit D (as may be amended from time to time pursuant to a written agreement executed by City and Owner, the "**Maintenance License**"). Owner acknowledges and agrees that City and Owner may mutually modify the scope of the Maintenance Work at any time through a written amendment to this Declaration, which City and Owner each shall have the right to record in the Official Records of San Francisco County. Owner further acknowledges and agrees that City and Owner may mutually amend the Maintenance License at any time in a writing executed by City and Owner, and no such amendment needs to be recorded in the Official Records of San Francisco County to be effective or to bind any future successors in interest to all or any portion of the Owner Property.

(b) The Maintenance License provides Owner with a license to enter the City Open Space Property for the purpose of performing the Maintenance Work, and may be revoked or suspended by City at any time in its sole and absolute discretion. If City revokes or suspends the Maintenance License, Owner's obligations to perform the Maintenance Work pursuant to this Declaration shall automatically be suspended; provided, however, that if there is a Performance Termination (defined as follows), Owner shall make an annual payment to City (each, a "**Open Space Maintenance Payment**") to offset City's costs to maintain the City Open Space Property until City elects, in its sole and absolute discretion, to no longer maintain the City Open Space Property as a public open space. A "**Performance Termination**" shall mean either (i) City's revocation or suspension of the Maintenance License due to Owner's failure to timely cure any default by Owner under the Maintenance License, or (ii) an Uncured Default (as defined in subsection (e) below).

The initial Open Space Maintenance Payment shall be paid by Owner to City within the thirty (30) day period immediately following the Performance Termination, and thereafter, Owner shall pay City an Open Space Maintenance Payment on each anniversary of the payment of the initial Open Space Maintenance Payment. The twelve (12) month period between each Open Space Maintenance Payment shall be referred to as a "**Open Space Maintenance Period**". During any Open Space Maintenance Period for which Owner has paid the Open Space Maintenance Payment, Owner shall have no obligation to perform the Maintenance Work.

The initial Open Space Maintenance Payment shall be one hundred seventy-five hundred percent (175%) of Owner's cost for the Maintenance Work in the calendar year immediately preceding the Performance Termination (the "**Baseline Open Space Cost**"); provided, however, that if any of the tasks that comprise the Maintenance Work was not performed during such calendar year, the Baseline Open Space Cost shall be increased to include the commercially reasonable costs Owner would have incurred for the performance of such tasks. Within fifteen (15) days of the Performance Termination, Owner shall provide City with a detailed written summary of Owner's cost for the Maintenance Work in the calendar year immediately preceding the Performance Termination, the commercially reasonable costs Owner would have incurred for the performance of any Maintenance Work that was not performed during such calendar year, and reasonable supporting evidence of all costs detailed in such summary. Following the initial Open Space Maintenance Payment, the amount of each Open Space Maintenance Payment for an Open Space Maintenance Period shall be equal to the greater of (i) the Open Space Maintenance Payment payable for the preceding Open Space Maintenance Period, and (ii) the Open Space Maintenance Payment payable for the previous Open Space Maintenance Period, multiplied by the Open Space CPI Fraction (defined as follows).

The "**Open Space CPI Fraction**" shall mean a fraction with the Consumer Price Index Urban Wage Earners and Clerical Workers (base years 1982-1984 = 100) for San Francisco-Oakland-San Jose area published by the United States Department of Labor, Bureau of Labor Statistics ("**Index**") published most immediately preceding the date an Open Space Maintenance Payment is due as the numerator, and the Index published twelve (12) months before such date as the denominator. If the Index is discontinued or revised during the term of this Declaration, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

(c) If Owner timely terminates the Maintenance License pursuant to Section 24 of the Maintenance License, Owner's obligations to perform the Maintenance Work pursuant to this Declaration shall terminate on the termination of the Maintenance License; provided, however, that Owner shall thereafter make an annual Maintenance Conversion Payment (as defined in the immediately following paragraph) to City to pay for City's costs to perform the Maintenance Work until City elects, in its sole and absolute discretion, to no longer maintain the City Open Space Property as a public open space. The "**Maintenance Commencement Date**" shall mean the date that City commences the Maintenance Work, and a "**Maintenance Conversion Period**" shall mean the twelve (12) month period that immediately follows the Maintenance Commencement Date and or any anniversary of the Maintenance Commencement Date. City shall perform all of the Maintenance Work for each Maintenance Conversion Period in which Owner pays the

applicable Maintenance Conversion Payment, provided that City may reasonably modify the scope of the Maintenance Work to reflect commercial maintenance standards for similar spaces. If the Maintenance Conversion Payment for any Maintenance Conversion Period is less than City's actual costs to perform the Maintenance Work, Owner shall reimburse City for such excess costs within thirty (30) days of receiving City's invoice, together with reasonable supporting information, of such excess costs.

A "**Maintenance Conversion Payment**" shall mean an amount equal to City's actual cost to perform the Maintenance Work during the first Maintenance Conversion Period; provided, however, that following the first Maintenance Conversion Period, the amount of each Maintenance Conversion Payment for a Maintenance Conversion Period shall be equal to the greater of (i) the Maintenance Conversion Payment payable for the preceding Maintenance Conversion Period, and (ii) the Maintenance Conversion Payment payable for the previous Maintenance Conversion Period, multiplied by a fraction with the Index published most immediately preceding the date an Maintenance Conversion Payment is due as the numerator, and the Index published twelve (12) months before such date as the denominator (the "**Maintenance Conversion CPI Fraction**"). If the Index is discontinued or revised during the term of this Declaration, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

For the payment of the first Maintenance Conversion Payment, within sixty (60) days following the Maintenance Commencement Date, City shall deliver a budget that details the Maintenance Commencement Date and City's estimated, reasonable costs for performing the Maintenance Work during the first Maintenance Conversion Period (the "**Estimated Costs**"). Owner shall deliver a payment equal to the Estimated Costs to City within thirty (30) days of receiving such budget, which City shall only use to pay for the Maintenance Work. Within sixty (60) days following the termination of the First Maintenance Conversion Period, City shall deliver a final budget, together with reasonable supporting information, detailing its actual costs to perform the Maintenance Work during the first Maintenance Conversion Period (the "**Final Costs**"). If the Final Costs are higher than the Estimated Costs, Owner shall deliver the second Maintenance Conversion Payment and the amount equal to the difference between the Final Costs and the Estimated Costs to City within thirty (30) days of receiving the Final Costs. If the Final Costs are lower than the Estimated Costs, Owner shall deliver the second Maintenance Conversion Payment, reduced by any amount equal to the difference between the Final Costs and the Estimated Costs, to City within thirty (30) days of receiving the Final Costs. The second Maintenance Conversion Payment shall be equal to the greater of (i) the Final Costs, and (ii) the Final Costs multiplied by the Maintenance Conversion CPI Fraction. Following the first and second Maintenance Conversion Payments, each Maintenance Conversion Payment shall be paid on each anniversary of the Maintenance Commencement Date.

(d) Owner's obligations with respect to the Maintenance Work and any Open Space Maintenance Payments or Maintenance Conversion Payments under this Declaration shall run with the land and continue in perpetuity, unless City elects to terminate such obligations by delivering written notice of such termination to Owner. City's right to modify the scope of the Maintenance Work and to terminate Owner's obligations with respect to the Maintenance Work and any Open Space Maintenance Payments or Maintenance Conversion Payments under this Declaration and

the Maintenance License shall be exercised by (i) City's Director of Property or the director of any other City department that has jurisdiction of the City Open Space Property at the time of such modification or termination, or (ii) any other person designated by the City's Board of Supervisors.

(e) If Owner fails to timely comply with its obligations under this Declaration at any time, City may demand by written notice to Owner (the "**Default Notice**") that the violation be cured. An "**Uncured Default**" shall mean Owner's failure to timely cure any violation specified in a Default Notice within thirty (30) days after receipt of the Default Notice or any longer period of time specified by City in writing, or if such default is of a kind which cannot reasonably be cured within such cure period, Licensee's failure to commence to cure such violation within such cure period and to diligently thereafter prosecute such cure to completion.

2. Maintenance of Shared Public Way and Right of Way Improvements.

(a) Commencing on the date this Declaration is recorded in the Official Records of San Francisco County, Owner shall maintain the Shared Public Way, including the Right of Way Improvements (the "**Right of Way Work**"), in compliance with the terms and conditions of the Encroachment Permit and the Street Agreement, as either may be modified by City, and shall comply with all of Owner's obligations under the Encroachment Permit and the Street Agreement, including, but not limited to, any obligation to provide a maintenance bond. Owner acknowledges and agrees that City and Owner may mutually modify the scope of the Right of Way Work at any time through a written amendment to this Declaration, which City and Owner each shall have the right to record in the Official Records of San Francisco County. Owner further acknowledges and agrees that City may amend the Encroachment Permit or the Street Agreement at any time in a writing executed by City, and no such amendment needs to be recorded in the Official Records of San Francisco County to be effective or to bind any future successors in interest to all or any portion of the Owner Property.

(b) If the Encroachment Permit is terminated by Owner or revoked or terminated by City (each, an "**MEP Termination Event**"), then Owner shall convert the Shared Public Way to a condition specified by City for a standard public right of way at Owner's sole cost (the "**Right of Way Conversion**") by (i) applying for, and providing the materials necessary to obtain, a street improvement permit from City for the performance of such conversion work, (ii) performing such conversion work pursuant to the terms and conditions of such street improvement permit, and (iii) warranting the conversion work meets the standards required under such street improvement permit. On completion of the Right of Way Conversion, Owner's obligations pursuant to this Section 2 as to the Right of Way Work shall terminate.

Notwithstanding the foregoing paragraph, Owner and City may mutually elect to modify Owner's obligation to perform the Right of Way Conversion, including any modification necessary to address any Right of Way Improvement that cannot be modified or replaced with a standard right of way improvement. Any such modification may include, but not be limited to, Owner's agreement to, at its sole cost, convert specified Right of Way Improvements to a standard public right of way while leaving other specified Right of Way Improvements in their as is condition, with Owner assuming a continuing obligation to pay for City's costs to maintain and replace such remaining Right of Way Improvements, and must address any applicable City requirements for

bonding and City's acquisition of specialized equipment needed to maintain such remaining Right of Way Improvements. If City and the Owner mutually agree to any modification to the Right of Way Conversion that results in Owner assuming such a maintenance payment obligation, Owner shall execute and acknowledge, and City shall have the right to record in the Official Records of San Francisco County, an amendment to this Declaration that details such payment obligation.

(c) Owner's obligations with respect to the Right of Way Work and the Right of Way Conversion under this Declaration shall run with the land and continue in perpetuity, unless City elects to terminate such obligations by delivering written notice of such termination to Owner or such obligations terminate pursuant to Section 2(b) above. City's right to modify the scope of the Right of Way Work and to terminate or modify Owner's obligations with respect to the Right of Way Work and the Right of Way Conversion under this Declaration, the Encroachment Permit or the Street Agreement shall be exercised by (i) City's Director of Public Works or the director of any other City department that has jurisdiction of the Shared Public Way at the time of such modification or termination, or (ii) any other person designated by the City's Board of Supervisors.

3. Lender. A "Lender" means the beneficiary named in any deed of trust that encumbers all or part of the Property and is recorded in the Official Records of San Francisco (the "**Deed of Trust**"). All rights in the Owner Property acquired by any party pursuant a Deed of Trust shall be subject to each and all of the covenants, conditions and restrictions set forth in this Declaration and to all rights of City hereunder. Any Lender that takes possession or acquires fee ownership of all or part of the Owner Property shall automatically assume Owner's obligations under this Declaration, the Maintenance License, and the Encroachment Permit for the period that Lender holds possession or fee ownership in the Owner Property. None of such covenants, conditions and restrictions is or shall be waived by City by reason of the giving of such Deed of Trust, except as specifically waived by City in writing.

4. Nature and Purpose of Covenants; Run with the Land. The requirements set forth in this Declaration are in consideration for City's agreement to allow the Owner to waive part of the Impact Fee that would otherwise apply to the construction and operation of the Development on the Owner Property and City's agreement to allow Owner to install the Right of Way Improvements on the Shared Public Way, and are for the burden of the Owner Property, the Owner, and each subsequent owner of the Owner Property (including any Lender or any other party that acquires any or all of the Property pursuant to foreclosure or a deed in lieu), and for the benefit of the City Open Space Property and the Shared Public Way; provided, however, that if the Owner Property is subdivided into condominiums, Owner's obligation under this Declaration shall be assumed by the homeowner's association established for such condominiums, rather than the individual owners of such condominiums. All of such covenants and restrictions are intended to be and are hereby declared to be covenants running with the land pursuant to California Civil Code Section 1460 *et seq.* Owner, and each future owner of the Owner Property, by accepting fee title to some or all of the Owner Property, agrees to be bound by and subject to all of the restrictions, covenants, and limitations set forth in this Declaration and to timely perform the obligations under this Declaration, the Maintenance License, the Encroachment Permit, and the Street Agreement during their respective successive periods of ownership; and therefore, the rights and obligations of Owner and any future fee owner of any portion of the Owner Property shall terminate upon transfer, expiration, or termination of its fee interest in the Owner Property, except that its liability

for any violations of the requirements or restrictions of this Declaration, or any acts or omissions during such ownership, shall survive any transfer, expiration or termination of its fee interest in the Owner Property.

5. Notice of Transfers. Except in the event of transferring fee ownership in a condominium that comprises a part of the Owner Property, prior to transferring fee ownership in all or any portion of the Owner Property to another party, Owner shall deliver a copy of the Maintenance License and the Encroachment Permit to the transferee party, and deliver written notice of the anticipated date of the transfer and the name and address for the transferee party to City at the following address, or any other address provided by City, by personal delivery, first class mail or certified mail, with a return receipt requested, or overnight courier, return receipt requested, with postage prepaid, addressed as follows:

City: Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property
Re: Daggett Open Space

Department of Public Works
City and County of San Francisco
City Hall
1 Dr. Carlton B. Goodlett Place, Room 348
San Francisco, California 94102
Attn: Director of Public Works
Re: Daggett Shared Public Way

If the Owner Property is subdivided into condominiums, prior to recording the documents effecting such subdivision, Owner shall deliver a copy of the Maintenance License and the Encroachment Permit to the homeowner's association established through such subdivision, and deliver written notice of the anticipated date of the subdivision and the name and address for the homeowner's association to be established through such subdivision to City by personal delivery, first class mail or certified mail, with a return receipt requested, or overnight courier, return receipt requested, with postage prepaid.

Any notices delivered pursuant to this Section shall be deemed given three (3) days after the date it is deposited with the U.S. Mail if sent by first class or certified mail, one (1) business day following the date it is deposited with a reputable overnight courier with next business day delivery requested, or on the date personal delivery is made. Either party shall have the right to designate a new address for notices to be given to it under this Section at any time by delivering written notice of such new address at least ten (10) days prior to the effective date of such change to the other party.

6. Duration. Following the recordation of this Declaration in the Official Records of San Francisco County, this Declaration shall continue and remain in full force and effect at all times with respect to the Owner Property in perpetuity; provided, however, that if City delivers written

notice of its election to terminate Owner's maintenance obligations pursuant to Section 1 and Section 2 above, this Declaration shall terminate at the time specified in such written notice. City shall record evidence of any such termination in the Official Records of San Francisco County.

7. No Third Party Beneficiaries. City is the sole beneficiary of Owner's obligations under this Declaration. Nothing contained herein shall be deemed to be a gift or dedication to the general public or for any public purposes whatsoever, nor shall it give rights to any party other than the City, it being the intention that this Declaration be strictly limited to the parties expressly set forth above. Without limiting the foregoing, nothing herein creates a private right of action by any person or entity other than the City.

8. Release, Waiver and Indemnification. Neither the City nor any of its commissions, departments, boards, officers, agents or employees (collectively, the "**City Parties**") shall be liable for any breach of any of the terms of this Declaration, for the failure to monitor or enforce any of the terms of this Declaration, or for any matter relating to this Declaration, or the construction or maintenance of the Open Space Improvements or the Right of Way Improvements (collectively, the "**Released Matters**"). Owner and each future owner of any portion of the Owner Property, by accepting fee title to the Owner Property or any portion thereof, fully RELEASES, WAIVES AND DISCHARGES forever any and all claims against, and covenants not to sue, the City Parties for anything arising from or relating to the Released Matters. Owner acknowledges that the releases contained herein includes all known and unknown, direct and indirect, disclosed and undisclosed, and anticipated and unanticipated claims. In addition, Owner shall indemnify, defend, reimburse and hold the City Parties harmless from and against any and all claims relating to the performance of its obligations under this Declaration. The foregoing waiver, release and indemnification shall survive any expiration or termination of this Declaration.

9. Severability. Should the application of any provision of this Declaration to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Declaration shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the Owner and City and shall be reformed to the extent necessary to make such provision valid and enforceable.

10. No Joint Venturers or Partnership; No Authorization. This Declaration does not create a partnership or joint venture between City and any Owner as to any activity conducted by an Owner in its performance of its obligations under this Declaration. No Owner shall be deemed a state actor with respect to any activity conducted by such Owner on, in, around or under the City Open Space Property or Shared Public Way pursuant to this Declaration.

11. Force Majeure. If Owner is delayed, interrupted or prevented from performing any of its obligations under this Declaration, excluding all obligations that may be satisfied by the payment of money or provision of materials within the control of such Party, and such delay, interruption or prevention is due to fire, natural disaster, act of God, civil insurrection, governmental act or failure to act, labor dispute, unavailability of materials or any cause outside such Party's reasonable control, then, provided written notice of such event and the effect on the Party's performance is given to the other Party within ten (10) business days of the occurrence of the event, the time for

performance of the affected obligations of that Party shall be extended for a period equivalent to the period of such delay, interruption or prevention, up to a maximum of sixty (60) days from the date of such event.

12. General Provisions. (a) This Declaration may be amended or modified only by a writing signed by the City and the Owner. (b) No waiver by Owner or by City of any of the provisions of this Declaration shall be effective unless in writing and signed by Owner or by City, and only to the extent expressly provided in such written waiver. No waiver shall be deemed a subsequent or continuing waiver of the same, or any other, provision of this Declaration. (c) The In Kind Agreement, this Declaration, and the Maintenance License contain the entire agreement between the parties as to the maintenance of the City Open Space Property and the Open Space Improvements by Owner, and all prior written or oral negotiations, discussions, understandings and agreements with respect to such maintenance are merged herein. (d) This Declaration, the Encroachment Permit, and the Street Agreement contain the entire agreement between the parties as to the maintenance of the Shared Public Way and the Right of Way Improvements by Owner, and all prior written or oral negotiations, discussions, understandings and agreements with respect to such maintenance are merged herein. (e) The section and other headings of this Declaration are for convenience of reference only and shall be disregarded in the interpretation of this Declaration. (f) Time is of the essence in each and every provision hereof. (g) This Declaration shall be governed by and construed in accordance with California law. (h) If City commences an action against Owner or a dispute arises under this Declaration, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and costs. For purposes hereof, reasonable attorneys' fees of the City shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience notwithstanding the City's use of its own attorneys. (i) If the Owner consists of more than one person, then the obligations of Owner shall be joint and several.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Declaration has been executed by Owner in favor of City, and acknowledged by City, as of the date first above written at San Francisco, California.

OWNER:

ARCHSTONE DAGGETT PLACE LLC, a Delaware limited liability company

By: EQR-WARWICK, L.L.C., a Delaware limited liability company, its sole member

By: ERP Operating Limited Partnership, an Illinois limited partnership, its managing member

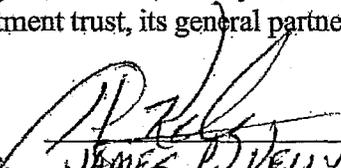
By: Equity Residential, a Maryland real estate investment trust, its general partner

By:

Name:

Its:

Date:



JAMES P. KELLY

EQR V.P.

9/9/15

I certify under Penalty of Perjury under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

Legal Description of Owner Property

EXHIBIT B

Legal Description and Depiction of the City Open Space Property

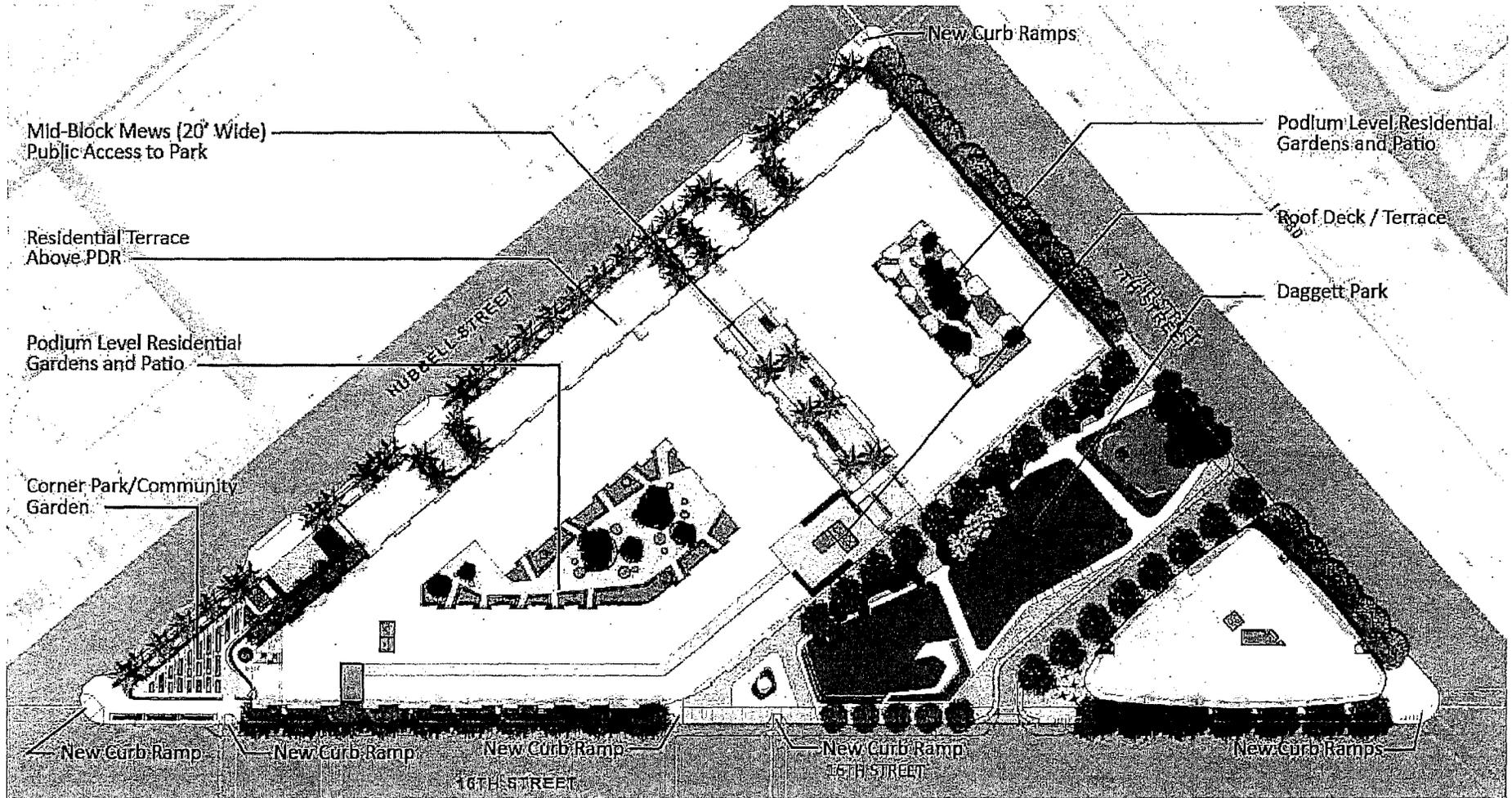
EXHIBIT C

Maintenance Work

EXHIBIT D

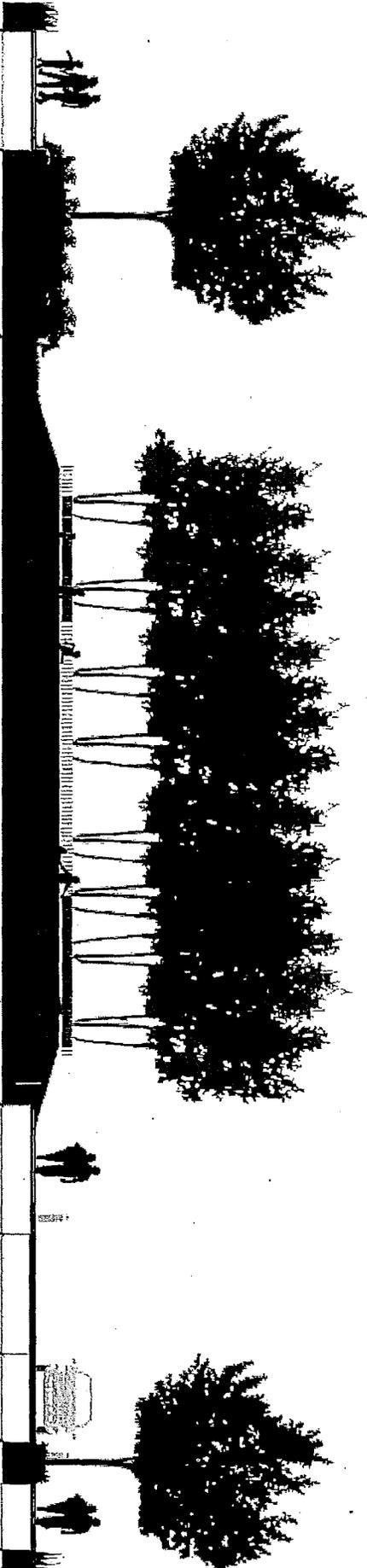
Maintenance License Agreement

Privately funded constructed and managed



652





Sidewalk Stormwater Garden

Lawn

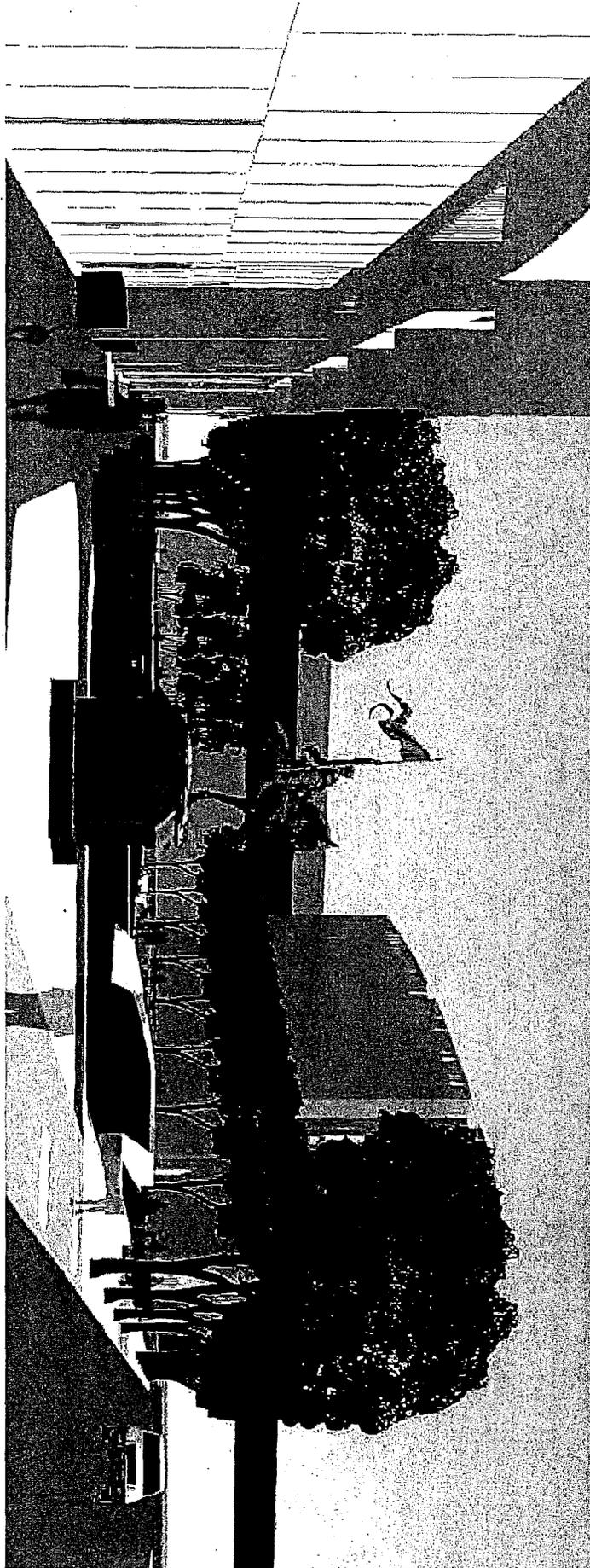
Sidewalk

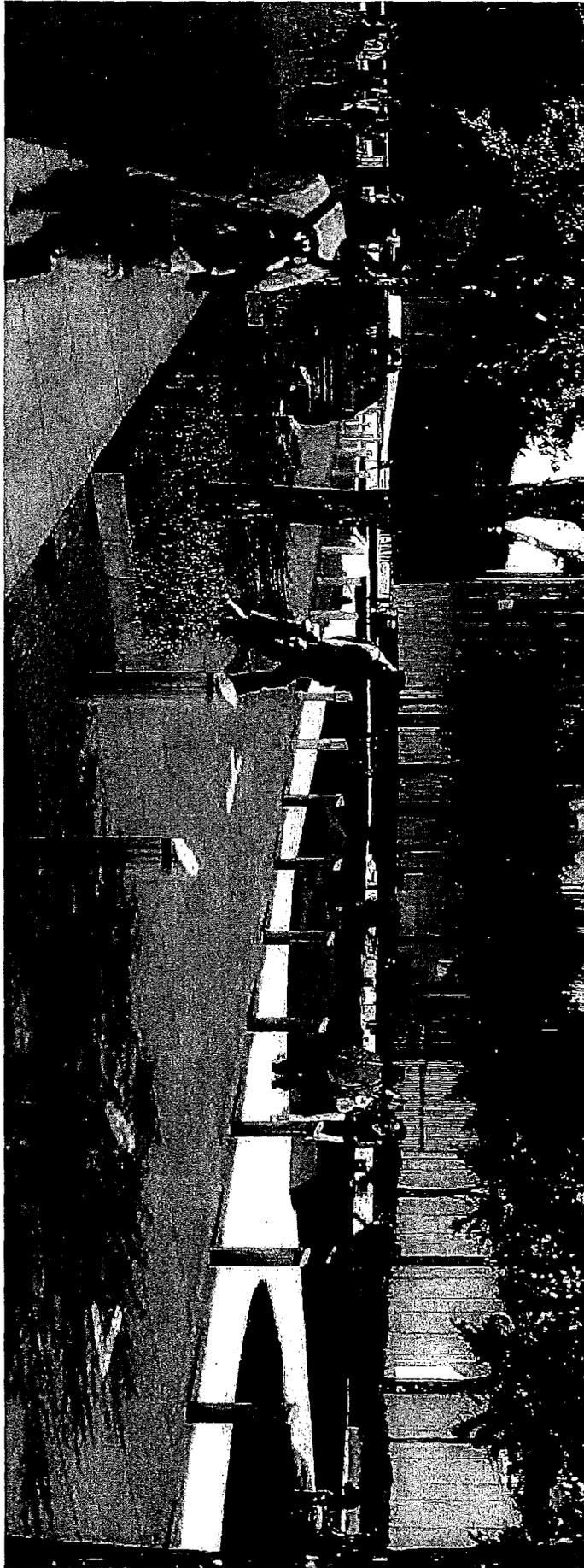
One Way
Travel
Lane

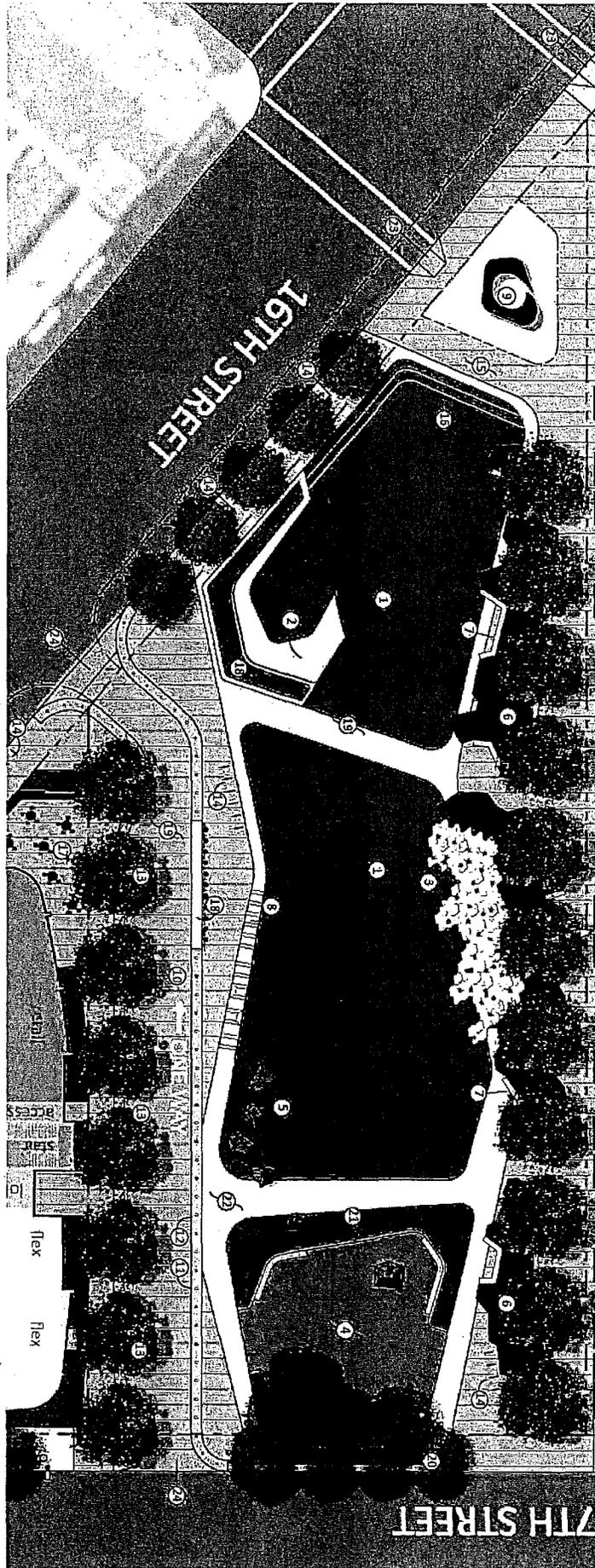
Parking

Sidewalk













TASC MINUTES

TRANSPORTATION ADVISORY STAFF COMMITTEE

Thursday, July 9, 2015 at 10:20 AM
One South Van Ness Avenue, 7th Floor, Room #7080

SFMTA Sustainable Streets:		Harvey Quan
SFMTA Transit Operations:	Absent	
SFMTA Parking Enforcements:		Curtis Smith
Department of Public Works:	Absent	
San Francisco Police Department:		Bernie Corry Eric Elias Michael Harris Paul Chasan Alec Balmy
SFMTA Taxi Services:		
San Francisco Planning Department:		
San Francisco Fire Department:		
Guests:		John Nestor Mike Sallaberry Jonah Chiarenza Kerry Glancy Kelli Rudnick Steve Schweijerdt Cory Hallam Gabriel Ho Alan Uy Cameron Beck Daniel Carr Matt Lasky David Noyola David Valle-Schwenk
Samidha Thakral		
Pamela Sallas		
Jessie Stuart		
Ian Trout		
Xavier Harmony		
Robin Havens		
Steve Danforth		
Will Tabajonda		
Olivia Tanquillut		
Dan Katzenberger		
Jim Kelly		
Ron Mitchell		
Jonathan Chimento		

MINUTES OF THE JUNE 25, 2015 MEETING

The Committee adopted the Minutes.

HOLD

1. 9th Avenue at Pacheco Street – TOW-AWAY NO PARKING ANYTIME
ESTABLISH – TOW-AWAY NO PARKING ANYTIME
ESTABLISH – SIDEWALK WIDENING
 - A. Pacheco Street, south side, from 9th Avenue to 25 feet easterly (for 6-foot wide sidewalk widening)
 - B. Pacheco Street, north side, from 9th Avenue to 25 feet easterly (for 6-foot wide sidewalk widening)
 - C. 9th Avenue, east side, from Pacheco Street to 25 feet northerly (for 6 foot wide sidewalk widening)

ESTABLISH – RAISED CROSSWALK
9th Avenue, north crosswalk, at Pacheco Street
Nick Carr, 701-4468

PUBLIC HEARING SCHEDULING – CONSENT CALENDAR

The following Items for Public Hearing were considered routine by SFMTA Staff:

1. Alamo Square and NOPA Neighborhoods – Residential Permit Parking
RESCIND – 2-HOUR PARKING, 8 AM TO 9 PM, MONDAY THROUGH FRIDAY,
EXCEPT VEHICLES WITH AREA S PERMITS
ESTABLISH – 4-HOUR PARKING, 8 AM TO 9 PM, MONDAY THROUGH FRIDAY,
EXCEPT VEHICLES WITH AREA S PERMITS
Divisadero Street, west side, between Page and Haight Streets (200 block)
Kathryn Studwell, 701-5708
2. Alamo Square and NOPA Neighborhoods – Residential Permit Parking
RESCIND – 2-HOUR PARKING, 8 AM TO 6 PM, MONDAY THROUGH FRIDAY,
EXCEPT VEHICLES WITH AREA P OR AREA Q PERMITS
ESTABLISH – 4-HOUR PARKING, 8 AM TO 6 PM, MONDAY THROUGH FRIDAY,
EXCEPT VEHICLES WITH AREA P OR AREA Q PERMITS
Fulton Street, north side, between Baker and Broderick Streets (1400 block)
Kathryn Studwell, 701-5708
3. Alamo Square and NOPA Neighborhoods – Residential Permit Parking
RESCIND – 2-HOUR PARKING, 8 AM TO 6 PM, MONDAY THROUGH FRIDAY,
EXCEPT VEHICLES WITH AREA P PERMIT
ESTABLISH – 4-HOUR PARKING, 8 AM TO 6 PM, MONDAY THROUGH FRIDAY,
EXCEPT VEHICLES WITH AREA P PERMIT
McAllister Street, both sides, between Divisadero and Broderick Streets (1600 block)
Kathryn Studwell, 701-5708

4. Alamo Square and NOPA Neighborhoods – Residential Permit Parking
 RESCIND – 2-HOUR PARKING, 8 AM TO 6 PM, MONDAY THROUGH FRIDAY,
 EXCEPT VEHICLES WITH AREA Q PERMITS
 ESTABLISH – 4-HOUR PARKING, 8 AM TO 6 PM, MONDAY THROUGH FRIDAY,
 EXCEPT VEHICLES WITH AREA Q PERMITS
 Hayes Street, south side, between Central Avenue and Lyon Street (1600 block)
 Lyon Street, west side, between Grove and Hayes Streets (400 block)
 Kathryn Studwell, 701-5708

5. Alamo Square and NOPA Neighborhoods – Residential Permit Parking
 RESCIND – 2-HOUR PARKING, 9 AM TO 8 PM, MONDAY THROUGH FRIDAY,
 EXCEPT VEHICLES WITH AREA Q PERMITS
 ESTABLISH – 4-HOUR PARKING, 9 AM TO 8 PM, MONDAY THROUGH FRIDAY,
 EXCEPT VEHICLES WITH AREA Q PERMITS
 Steiner Street, west side, between Fell and Oak Streets (500 block)
 Page Street, both sides, between Pierce and Steiner Streets (700 block)
 Fell Street, north side, between Divisadero and Broderick Streets (1200 block)
 Kathryn Studwell, 701-5708

6. Alamo Square and NOPA Neighborhoods – Residential Permit Parking
 RESCIND – 2-HOUR PARKING, 9 AM TO 8 PM, MONDAY THROUGH FRIDAY,
 EXCEPT VEHICLES WITH AREA Q PERMITS
 ESTABLISH – 4-HOUR PARKING, 9 AM TO 8 PM, MONDAY THROUGH FRIDAY,
 EXCEPT VEHICLES WITH AREA Q PERMITS
 - A. Golden Gate Avenue, both sides, between Pierce Street and Webster Street
 (1200, 1300 and 1400 blocks)

 - B. McAllister Street, south side, between Pierce and Fillmore Streets (1200 and
 1300 blocks)

 - C. Fillmore Street, west side, between McAllister and Fulton Streets (900 block)

 - D. Fulton Street, north side, between Webster and Fillmore Streets (800 block)
 Kathryn Studwell, 701-5708

No objections to all items.

FOR PUBLIC HEARING SCHEDULING – REGULAR CALENDAR

1. Sloat Boulevard and Clearfield Drive – Muni Forward 57-Park Merced Reroute
 ESTABLISH - BUS ZONE
 Sloat Boulevard, south side, from 65 feet to 165 feet west of Clearfield Drive (Bus
 zone extension, Removes 5 parking spaces)

 ESTABLISH - RIGHT LANE MUST TURN RIGHT EXCEPT MUNI
 Brotherhood Way, eastbound, at Church Access Road (999 Brotherhood Way)
 Kevin Shue, 701-4490

No objections.

2. Market Street, between 7th Street and 8th Street – Loading Zones
ESTABLISH – TOW-AWAY NO STOPPING ANY TIME, EXCEPT COMMERCIAL
LOADING, 30-MINUTE TIME LIMIT
Market Street, south side, from 164 feet to 270 feet east of 8th Street (replaces a 100
foot 6-wheel commercial loading zone)
Ian Trout, 701-4556

No objections.

3. Folsom Street, between 24th and Cesar Chavez Streets – Bike Lanes and Box
ESTABLISH - CLASS II BICYCLE LANES
Folsom Street, northbound, from Cesar Chavez Street to 24th Street
Folsom Street, southbound, from 24th Street to Cesar Chavez Street

ESTABLISH - NO RIGHT TURN ON RED
Folsom Street, northbound, at Cesar Chavez Street
Alan Uy, 749-2499

No objections.

4. Battery Street at Broadway – Red Zone
ESTABLISH – RED ZONE
Battery Street, east side, from Broadway to 30 feet northerly (removing one general
metered space #802)
Battery Street, west side, from Broadway to 30 feet northerly (removing one green
metered space #801G)
Laura Stonehill, 701-4789

No objections.

5. Chestnut Street / Columbus Avenue / Taylor Street – Red Zones
ESTABLISH – RED ZONE
- A. Chestnut Street, north side, from Taylor Street to 20 feet easterly
 - B. Columbus Avenue, west side, from Chestnut Street to 10 feet northerly (currently
on parking meter drawing but only 4' in the field)
 - C. Taylor Street, east side, from Columbus Avenue to 20 feet southerly
 - D. Chestnut Street, south side, from Taylor to 20 feet westerly

ESTABLISH – MOTORCYCLE PARKING
Taylor Street, east side, from 20 feet to 31 feet south of Columbus Avenue
Laura Stonehill, 701-4789

No objections.

6. 22nd at Minnesota Streets – Sidewalk Widening, On-Street Bicycle Parking Corral
ESTABLISH –TOW-AWAY NO STOPPING ANYTIME

Minnesota Street, east side, from 22nd Street to 23 feet southerly
22nd Street, south side, from Minnesota Street to 23 feet easterly

ESTABLISH –NO PARKING ANYTIME EXCEPT BICYCLES

Minnesota Street, east side, from 15 feet to 23 feet south of 22nd Street

ESTABLISH – SIDEWALK WIDENING

22nd Street, south side, from Minnesota Street to 23 feet easterly (6-foot bulb)

Minnesota Street, from 22nd Street to 15 feet southerly (18-foot bulb)

David Valle-Schwenk, 701-4565

No objections – bike corral not to extend beyond curb line.

7. Clement Street at Funston Avenue and 14th Avenue – Crosswalk Closure
ESTABLISH – CROSSWALK CLOSURE

Clement Street, western crosswalk, at Funston Avenue (unmarked crosswalk between the northwest and southwest corners)

Clement Street, eastern crosswalk, at 14th Avenue (unmarked crosswalk between the northeast and southeast corners)

Desmond Chan, 701-4204

Withdrawn.

8. Fulton Street at Gough Street; Ash Street at Gough Street – Sidewalk Widening, No Parking Anytime

ESTABLISH – NO PARKING ANYTIME

ESTABLISH – SIDEWALK WIDENING

A. Ash Street, south side, from Gough Street to 90 feet easterly (sidewalk widening for 3-foot wide bulb, removes 2 metered parking spaces and 2 motorcycle spaces #303 to #309)

B. Fulton Street, north side, from Gough Street to 93 feet easterly (sidewalk widening for 6-foot wide bulb, removes 4 metered parking spaces #336 to #342)

C. Gough Street, east side, from Fulton Street to 60 feet northerly (sidewalk widening for 6-foot wide bulb, removes 3 residential permit/2-hour parking spaces)

Norman Wong, 701-4600

Withdrawn.

9. 6th Avenue/Kirkham Street, 6th Avenue/Judah Street, 7th Avenue/Judah Street – Bulb-outs and Muni Stop Consolidation

ESTABLISH – NO PARKING ANYTIME

ESTABLISH – SIDEWALK WIDENING

A. Kirkham Street, south side, from 6th Avenue to 22 feet easterly (6-foot bulb, removes 1 parking space)

B. Judah Street, south side, from 6th Avenue to 35 feet westerly (6-foot bulb, removes 2 parking spaces)

C. Judah Street, north side, from 6th Avenue to 35 feet easterly (6-foot bulb, removes 2 parking spaces)

RESCIND – BUS ZONE

Judah Street, south side, from 7th Avenue to 75 feet westerly (adds 4 parking spaces)

Judah Street, north side, from 7th Avenue to 75 feet westerly (adds 2 parking spaces)

RESCIND – BUS FLAG STOP

Judah Street, south side, west of 5th Avenue

ESTABLISH – BUS FLAG STOP

Judah Street, south side, west of 6th Avenue

Dan Provence, 701-4448

After considerable discussion the respective departments advised the following:

SFPD – perform cone test

SFFD – hold the item and perform a cone test

DCP – no objections

DPW – neutral – await resolution before proceeding with legislation

MTA – no objections

10. Dolores Street at 18th Street – Street Improvements

ESTABLISH – TOW-AWAY NO STOPPING ANY TIME

Dolores Street, east side, from 18th Street to 36 feet northerly (6-foot wide bulb-out)

Dolores Street, west side, from 18th Street to 38 feet southerly (4-foot wide bulb-out)

RESCIND – YELLOW ZONE, 8 AM TO 4 PM, MONDAY THROUGH FRIDAY

Dolores Street, east side, from 18th Street to 31 feet northerly

ESTABLISH – YELLOW ZONE, 8 AM TO 4 PM, MONDAY THROUGH FRIDAY

Dolores Street, east side, from 36 feet to 61 feet north of 18th Street

Raoul Roque, 701-4562

Hold: adjust design to accommodate SFFD access to cistern at the southwest corner.

11. Dolores Street at 19th Street – Street Improvements

ESTABLISH – TOW-AWAY NO STOPPING ANY TIME

- A. Dolores Street, east side, from 19th Street, to 25 feet northerly (6-foot wide bulb-out)
- B. Dolores Street, east side, from 19th Street to 25 feet southerly (6-foot wide bulb-out)
- C. Dolores Street, west side, from 19th Street north property line to south property line (in intersection)
- D. Dolores Street, west side, from 19th Street to 20 feet northerly
- E. Dolores Street, west side, from 19th Street to 20 feet southerly
Raoul Roque, 701-4562

Hold: conduct cone test for northbound Dolores to eastbound 19th Street.

DISCUSSION, INFORMATIONAL AND OTHER ITEMS NOT SCHEDULED FOR SFMTA PUBLIC HEARING

1. Geary Street and Taylor Street - Painted Safety Zones

ESTABLISH – PAINTED SAFETY ZONE

Taylor Street, west side, from Geary Street to 23 feet southerly
Jonathan Chimento, 749-2449

No objections.

2. Hubbell Street, between 7th and 16th Streets – Overwide Driveway

ESTABLISH – OVERWIDE DRIVEWAY

Hubbell Street, south side, from 126 feet to 181 feet east of 16th Street
David Valle-Schwenk, 701-4565

No objections.

3. 22nd and Mississippi Streets – Sidewalk Widening

ESTABLISH – SIDEWALK WIDENING

Mississippi Street, west side, from 22nd Street to 17 feet northerly (18-foot wide bulb)

ESTABLISH – TOW-AWAY NO STOPPING ANYTIME

Mississippi Street, west side, from 22nd Street to 17 feet northerly
David Valle-Schwenk, 701-4565

No objections – evaluate westbound to northbound turn and adjust parking as needed.

4. Daggett Street, between 7th and 16th Streets – Street Vacation, Major Encroachment
STREET VACATION

Daggett Street, between 16th Street and 7th Street

MAJOR ENCROACHMENT

Daggett Street, between 16th Street and 7th Street

David Valle-Schwenk, 701-4565

No objections.

5. Jones Street and Turk Street – Painted Safety Zone

ESTABLISH – PAINTED SAFETY ZONE

Turk Street, south side, from Jones Street to 20 feet easterly

Jonathan Chimento, 749-2449

No objections.

6. Leavenworth Street and Turk Street – Painted Safety Zone

ESTABLISH – PAINTED SAFETY ZONE

Leavenworth Street, west side, from Turk Street to 16 feet southerly

Jonathan Chimento, 749-2449

No objections.

7. South Van Ness Avenue, from 17th Street through 22nd Street – Painted Safety Zones

ESTABLISH – PAINTED SAFETY ZONE

A. South Van Ness Avenue, east side, from 17th Street to 6 feet northerly

B. South Van Ness Avenue, west side, from 17th Street to 13 feet southerly

C. 17th Street, north side, from South Van Ness Avenue to 12 feet easterly

D. 17th Street, south side, from South Van Ness Avenue to 6 feet westerly

E. South Van Ness Avenue, west side, from 18th Street to 5 feet southerly

F. 18th Street, south side, from South Van Ness Avenue to 5 feet westerly

G. South Van Ness Avenue, east side, from 19th Street to 6 feet northerly

H. 19th Street, north side, from South Van Ness Avenue to 17 feet easterly

I. South Van Ness Avenue, west side, from 20th Street to 10 feet southerly

J. 20th Street, north side, from South Van Ness Avenue to 20 feet easterly

K. 20th Street, south side, from South Van Ness Avenue to 16 feet westerly

L. South Van Ness Avenue, east side, from 21st Street to 10 feet northerly

- M. South Van Ness Avenue, west side, from 21st Street to 9 feet southerly
 - N. 21st Street, north side, from South Van Ness Avenue to 13 feet easterly
 - O. 21st Street, south side, from South Van Ness Avenue to 15 feet westerly
 - P. South Van Ness Avenue, east side, from 22nd Street to 3 feet northerly
 - Q. South Van Ness Avenue, west side, from 22nd Street to 3 feet southerly
 - R. 22nd Street, north side, from South Van Ness Avenue to 15 feet easterly
 - S. 22nd Street, south side, from South Van Ness Avenue to 13 feet westerly
- Alan Uy, 749-2499

No objection to 6 month test period.



Edwin M. Lee, Mayor
Mohammed Nuru, Director

San Francisco Public Works
Office of the Deputy Director & City Engineer, Fuad Sweiss
Bureau of Street-Use & Mapping
1155 Market Street, 3rd Floor
San Francisco Ca 94103
(415) 554-5810 ■ www.sfdpw.org



Jerry Sanguinetti, Bureau Manager

DPW Order No: 184019

APPROVAL OF A MAJOR (STREET) ENCROACHMENT PERMIT TO MAINTAIN STREET IMPROVEMENTS WITHIN DAGGETT STREET BETWEEN 7TH AND 16TH STREET AND SIDEWALK IMPROVEMENTS FRONTING THE OPEN SPACE PORTIONS OF DAGGETT STREET ADJACENT TO 7TH AND 16TH STREET THAT ARE PROPOSED TO BE VACATED.

APPLICANT: Equity Residential
333 Third Street, Suite 210
San Francisco, CA 94107
Attn: Dan Katzenberger, Sr. Construction Manager

PROPERTY IDENTIFICATION: Lying between APN 3833-001, 3833-002 & 3834-001
(1380 7TH STREET)
San Francisco, CA 94107

DESCRIPTION OF REQUEST: Major (Street) Encroachment Permit No. 14-ME0021

BACKGROUND:

1. On August 25, 2014, the applicants filed an application with the Department of Public Works (DPW) to consider approval of a Major (Street) Encroachment Permit (MEP) to construct and improve Daggett Street for its entire length and width between 7th and 16th Streets within the portion of Daggett Street that will remain public right of way and flanked on the south by APN 3833-001 and on the north by a proposed open space park subject to a separate street vacation request and APN 3833-001 and APN 3833-002. The MEP area also includes sidewalk improvements that front 7th Street and 16th Street and are adjacent to the open space park (the future vacated portion of Daggett Street). The application noted the planned construction of landscaping and a landscaped open space park facility pursuant to an in-kind agreement being separately negotiated and approved. On August 6, 2015, Public Works separately approved the construction activities for the Daggett open space, Daggett Street shared public way improvements, and sidewalk improvements that front 7th Street and 16th Street and are adjacent to the open space park in Street Improvement Permit No. 15IE-0628. The open space park is not a part of this MEP. The application and subsequent plan documents proposed to relocate the existing combined storm and sanitary sewer main into the realigned Daggett Street right of way subject to the review and approval of the San Francisco Public Utilities Commission (SFPUC). The sewer



main was proposed to be offered separately for acceptance by the City and is not a part of the MEP.

2. On July 6, 2015, in Case No. 2015-007192GPR, the Planning Department, in response to a referral request dated April 22, 2015, and reciting the environmental review that had been earlier certified in Case No. 2003.0527E by the Planning Commission on April 16, 2009, found the proposed actions, on balance, in conformity with the General Plan.
3. On July 9, 2015, San Francisco Municipal Transportation Agency (SFMTA), at its meeting of the Transportation Advisory Staff Committee (TASC), considered and expressed no objection to the subject encroachments.
4. On July 21, 2015, DPW scheduled and mailed a Notice for Public Hearing (DPW Order No. 183,842), scheduled for August 12, 2015, to all property owners within a 300-foot radius of the subject encroachments.
5. On August 12, 2015, Hearing Officer Aileen Gonzales conducted a hearing and heard testimony regarding the subject encroachment from DPW staff recommending the Major (Street) Encroachment Permit for approval.
6. There was no public comment or testimony received in favor or in opposition to the subject encroachments.
7. On August 13, 2015, the SFPUC by way of email confirmed that the relocated sewer main was acceptable to the SFPUC subject to review and approval of standard engineering details and on condition that all other utility improvements remain subject to the proposed MEP.
8. On August 14, 2015, the Hearing Officer, after consideration of the evidence, recommended approval of the MEP.

RECOMMENDATION: APPROVAL of the request for the Major Encroachment Permit and transmittal to the Board of Supervisors for approval based on the following findings.

FINDING 1. Recommendation for approval by TASC.

FINDING 2. Findings by the Planning Department's and its Commission that the proposed infrastructure improvements are consistent with objectives and policies of the General Plan.

FINDING 3. Confirmation from the SFPUC of acceptability that utilities, with the exception of the combined sewer main, shall be privately owned and maintained subject to the MEP.

FINDING 4. Encroachments create new public street improvements and are designed to integrate with a new public park or open space serving the neighborhood as required by the Department of City Planning.

FINDING 5. Encroachments provide a safe and comfortable public right-of-way for shared vehicular and pedestrian use and improve the quality of life in the neighborhood.

FINDING 6. Encroachments will be fully maintained in perpetuity by the Permittee, subject to the terms of the Daggett street encroachment agreement and the Daggett maintenance covenant, both of which are incorporated into the MEP by their reference in this Order.

FINDING 7. That no objections were received or presented as related to the Major Encroachment Permit for the infrastructure improvements during the Public Hearing.

FINDING 8. The Board approve the MEP and its associated Street Encroachment Permit as set forth in legislation on file with the Clerk of the Board in File No. 150644.



9/9/2015

X *Jerry Sanguinetti*

Sanguinetti, Jerry
Bureau Chief
Signed by: Sanguinetti, Jerry

9/9/2015

X Mohammed Nuru

Nuru, Mohammed
Director
Signed by: Nuru, Mohammed

9/9/2015

X *Fuad Sweiss*

Sweiss, Fuad
City Engineer
Signed by: Sweiss, Fuad





**CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS**

STREET ENCROACHMENT AGREEMENT

WITNESSETH

In consideration of the adoption by the Board of Supervisors of the City and County of San Francisco of Ordinance No. _____ at its meeting of _____, 2015, a true copy of which is attached hereto as Exhibit A, and by this reference incorporated herein, including the approval of a street (major) encroachment permit ("MEP") for the so-called Daggett Street Shared Public Way, and subject to all the terms, conditions and restrictions of this Street Encroachment Agreement ("Agreement"), also by reference incorporated herein, Permittee agrees in accordance with this Agreement and Exhibit A, as follows:

1. This Agreement is not intended and is not to be construed to contradict or conflict with the Declaration of Maintenance Covenants and Obligations, by and between the City and County of San Francisco ("City") and the Permittee, entered into on or about _____, 2015 ("Declaration of Maintenance Covenants"), whereby the Permittee agreed to certain covenants and obligations with respect to certain improvements to the Daggett Street Shared Public Way that are included in the major encroachment permit related hereto. Unless expressly otherwise provided in this Agreement, to the extent that there is a conflict between the Declaration of Maintenance Covenants and this Agreement, the terms of the Declaration of Maintenance Covenants shall prevail.
2. The permitted encroachment shall constitute a revocable license, shall be personal to the Permittee and shall not be assignable or transferable by Permittee, whether separate from or together with any property interest of the Permittee, with the exception of an assignment and/or transfer to the homeowners association ("HOA") for the property and development, or any part thereof, located at 800 and 1000 16th Street, Assessor's Block 3833, Lots 001, 002 and 003, and Assessor's Block 3834, Lot 1 ("Property"). Upon an assignment or transfer, the HOA shall within a reasonable time after the effective date of such assignment and/or transfer, provide the Department of Public Works contact information for the HOA and proof of insurance required by this Agreement in the name of the HOA. Any other assignment or transfer shall be subject to prior written approval of the Public Works Director in his or her sole discretion.
3. In the event of a revocation or termination, in the absence of the City having elected to retain any portion of said encroachment and any materials thereto, the Permittee and/or successor owner(s), heir(s), assignee(s) and/or transferee(s) shall remove, or cause to be removed, the non-retained portion of the encroachment and all materials used in connections with its construction, without expense to the City and County of San Francisco, and the Permittee and/or its successor owner(s), heir(s), assignee(s) and/or transferee(s) shall restore the area

to a condition satisfactory to the Department of Public Works for a standard public right of way, pursuant to the terms specific in the Declaration of Maintenance Covenants and the MEP.

4. The occupancy, construction, and maintenance of the encroachment shall be in the location and as specified by the plans submitted, revised, approved and filed in the Department of Public Works. The Permittee, by acceptance of this permit, acknowledges its responsibility to comply with all requirements of the occupancy, construction, and maintenance of the encroachment as specified in Public Works Code Section 786 and with the sidewalk maintenance requirements specified in Public Works Code Section 706, subject to terms of the Declaration of Maintenance Covenants and the MEP. Pursuant to this Agreement, Permittee shall be responsible for the operation and maintenance of and liability for the improvements to, on, and in the Daggett Street shared public way and the public sidewalks on 16th and 7th Streets adjacent to the Daggett open space improvements as shown in Exhibit ___ to this Agreement. Notwithstanding the preceding obligation, the Permittee shall not be responsible or liable for the sanitary sewer line located in the Daggett Street shared public way or any improvements that would be under the jurisdiction of the Municipal Transportation Agency ("MTA") that the Public Works Director, after consultation with the MTA Director of Transportation, agrees to accept for City maintenance and liability purposes.
5. Permittee shall verify the locations of City and public service utility company facilities that may be affected by the work authorized by this permit and shall assume all responsibility for any damage to such facilities due to the work undertaken by the Permittee. The Permittee shall make satisfactory arrangements and payments for any temporary relocation of City and/or public utility company facilities, to the extent such relocation is necessary.
6. In consideration of the permit being issued for the work described in the MEP application, the Permittee on its behalf and that of any successor, assignee or transferee, and on behalf of any lessee, promises and agrees to perform all the terms of the MEP and to comply with all applicable laws, ordinances and regulations, subject to the terms of the Declaration of Maintenance Covenants. Subdivider shall submit to the Director of Public Works a maintenance and operation manual for the Daggett Street Shared Public Way. Subdivider shall submit a maintenance monitoring report to the Director of Public Works on the first anniversary of the City Engineer's certification of completion of the MEP and once every five years thereafter. The manual should include estimated operating expenses, regular maintenance expenses, replacement costs and replacement lifespan and any specialized equipment necessary for continued operation of the facilities. The report should provide any updates that may be necessary to the maintenance and operation manual specified above.
7. Permittee acknowledges that it will provide the Public Utilities Commission ("PUC") access at all times for maintenance, repair and/or replacement purposes on an as needed basis. Furthermore, the Permittee acknowledges that following any such access, the PUC's restoration shall include only back-fill and patch restoration. The PUC shall not replace special finishes, structures, and surface improvements that the PUC may remove or damage in connection with such access.
8. Permittee acknowledges that it has elected to install streetlights that do not meet the PUC's criteria for operation, maintenance, and repair. Therefore, Permittee shall be responsible to operate, maintain, repair, and replace the streetlights within the Daggett Street shared public way as provided herein and in Section 4 above. Permittee shall separately meter the streetlights and be responsible for providing electricity, at its own cost, to the streetlights. Permittee also agrees to operate, maintain, repair, and replace any stormwater control improvements within the Daggett Street shared public way, including but not limited to the catchbasin connected to a City-owned sewer within the Daggett Street shared public way as

provided herein and in Section 4 above. Permittee shall be responsible for any flooding caused by its maintenance or operation of the stormwater control improvements. Permittee shall indemnify and hold City harmless against any claims related to the operation and maintenance of such streetlights and stormwater control improvements as set forth below in Section 9.

9. Permittee agrees on its behalf and that of any successor, assignee or transferee to hold harmless, defend, and indemnify the City, including, without limitation, each of its commissions, departments, officers, agents and employees, from and against any and all losses, liabilities, expenses, claims, demands, injuries, damages, fines, penalties, costs or judgments including, without limitation, attorneys' fees and costs (collectively, "claims") of any kind arising directly or indirectly from (i) any act by, omission by, or negligence of, Permittee or its subcontractors, or the officers, agents or employees of either, while engaged in the performance of the work authorized by the MEP, or while in or about the property subject to the MEP for any reason connected in any way whatsoever with the performance of the work authorized by the MEP, or resulting directly or indirectly from the Permittee's or its subcontractor's maintenance or installation of any equipment, facilities or structures authorized under the MEP, (ii) any act or omission by, or negligence of, Permittee or its subcontractors resulting in any accident or injury to any contractor or subcontractor, or any officer, agent, or employee of either of them, while engaged in the performance of the work authorized by the MEP, or while in or about the property, for any reason connected with the performance of the work authorized by the MEP, or arising from liens or claims for services rendered or labor or materials furnished in or for the performance of the work authorized by the MEP, (iii) any act or omission by, or negligence of, Permittee or its subcontractors resulting injuries or damages to real or personal property, good will, and persons in, upon or in any way allegedly connected with the work authorized by the MEP from any cause or claims arising at any time, and potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligations arises at the time such claim is tendered to Permittee by the City and continues at all times thereafter; except solely to the extent of Losses resulting directly from the gross negligence or willful misconduct of City or City's authorized representatives. Permittee agrees that the indemnification obligations assumed under the MEP shall survive expiration of the MEP or completion of the work.
10. Permittee shall procure and keep in effect at all times during the term of this Agreement insurance as follows: (i) General Liability Insurance written on an Insurance Services Office (ISO) Coverage form CG 00 01 or another form providing equivalent coverage with limits not less than Two Million Dollars (\$2,000,000) each occurrence for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Independent Licensees, and Broadform Property Damage; (ii) Automobile Liability Insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired automobiles, as applicable for any vehicles brought onto City Property; and (iii) Workers' Compensation Insurance with Employer's Liability Coverage with limits of not less than One Million Dollars (\$1,000,000) each accident.

All liability policies required hereunder shall provide for the following: (i) name as additional insureds the City and County of San Francisco, its officers, agents and employees; and (ii) specify that such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Agreement. Limits may be provided through a combination of primary and excess insurance policies. Such policies shall also provide for severability of interests and that an act or omission of one of the named insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to any insured, and shall afford coverage for all claims based on acts, omissions,

injury or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

All insurance policies required to be maintained by Permittee hereunder shall be endorsed to provide for thirty (30) days' prior written notice of cancellation for any reason, non-renewal or reduction in coverage, except for ten (10) days' notice for cancellation due to non-payment of premium, to both Permittee and City. Permittee agrees to provide any such notice in the event insurers do not agree to provide such notice. Notices shall be mailed and addressed as follows:

City: Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property
Re: Daggett Plaza

Public Works
City and County of San Francisco
City Hall
1 Dr. Carlton B. Goodlett Place
Room 348
San Francisco, California 94102
Attn: Director of Public Works
Re: Daggett Street Major Encroachment Permit

Permittee: c/o Equity Residential
333 Third Street, Suite 210
San Francisco, CA 94107
Attn: Jim Kelly

With a Copy to:

Equity Residential
Two North Riverside Plaza, Suite 400
Chicago, Illinois 60606
Attn: General Counsel

Prior to the effective date of this Agreement, Permittee shall deliver to City certificates of insurance and additional insured policy endorsements from insurers in a form reasonably satisfactory to City, evidencing the coverages required. Permittee shall furnish complete copies of the policies upon written request from City's Risk Manager. In the event Permittee shall fail to procure such insurance, or to deliver such certificates or policies (following written request), City shall provide notice to Permittee of such failure and if Permittee has not procured such insurance or delivered such certificates within five (5) days following such notice, City may procure, at its option, the same for the account of Permittee, and the cost thereof shall be paid to City within five (5) days after delivery to Permittee of bills therefor.

Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall double the occurrence or claims limits specified above.

Should any of the required insurance be provided under a claims made form, Permittee shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three (3) years beyond the Permit expiration, to the effect that, should any occurrences during the Permit term give rise to claims made after expiration of the Permit, such claims shall be covered by such claims-made policies.

Upon City's request, Permittee and City shall periodically review the limits and types of insurance carried pursuant to this Section. If the general commercial practice in the City and County of San Francisco is to carry liability insurance in an amount or coverage materially greater than the amount or coverage then being carried by Permittee for risks comparable to those associated with the City Property, then City in its sole discretion may require Permittee to increase the amounts or coverage carried by Permittee hereunder to conform to such general commercial practice.

Permittee's compliance with the provisions of this Section shall in no way relieve or decrease Permittee's indemnification obligations under this Agreement or any of Permittee's other obligations hereunder. Permittee shall be responsible, at its expense, for separately insuring Permittee's personal property.

11. If Permittee fails to timely comply with its obligations under this Agreement at any time, City may demand by written notice to Permittee (the "Default Notice") that the violation be cured. An "Uncured Default" shall mean Permittee's failure to timely cure any violation specified in a Default Notice within thirty (30) days after receipt of the Default Notice, or if such default is of a kind which cannot reasonably be cured within thirty (30) days, Permittee's failure to commence to cure such violation within such thirty (30) day period and to diligently thereafter prosecute such cure to completion. If there is an Uncured Default, then within five (5) business days of City's request, Permittee shall deposit with City the sum of \$25,000 (the "Security Deposit") to secure Permittee's faithful performance of all terms and conditions of this Agreement, including, without limitation, its obligation to maintain the MEP improvements in the condition required by this Agreement. Such Security Deposit shall be in the form of cash. If Permittee delivers the Security Deposit to City pursuant to the foregoing sentence, City shall have the right to require Permittee to proportionately increase the amount of the Security Deposit by an amount that reflects the increase in the Consumer Price Index Urban Wage Earners and Clerical Workers (base years 1982-1984 = 100) for San Francisco-Oakland-San Jose area published by the United States Department of Labor, Bureau of Labor Statistics ("Index") published most immediately preceding the date the amount of the Security Deposit was established and the Index published most immediately preceding the date City delivers written notice of the increase in the Security Deposit. The amount of the Security Deposit shall not limit Permittee's obligations under this Agreement.

Permittee agrees that City may (but shall not be required to) apply the Security Deposit in whole or in part to remedy any damage to the MEP improvements caused by Permittee, its Agents or Invitees, or any failure of Permittee to perform any other terms or conditions contained herein (including, but not limited to, the payment of any sum due to City hereunder either before or after a default), without waiving any of City's other rights and remedies hereunder or at law or in equity and without any obligation. Within the thirty (30) day period immediately following the termination of the MEP, City's Director of Public Works shall submit a check request to City's Controller's Office to have the unapplied portion of the Security Deposit delivered to Permittee.

Should City use any portion of the Security Deposit to cure any Uncured Default, Permittee shall immediately replenish the Security Deposit to the original amount. City's obligations with respect to the Security Deposit are solely that of debtor and not trustee. City shall not

be required to keep the Security Deposit separate from its general funds, and Permittee shall not be entitled to interest on the Security Deposit. The amount of the Security Deposit shall in no way limit the liabilities of Permittee under any provision of this Agreement. Upon the City's revocation or termination of the MEP, City shall return any unapplied portion of the Security Deposit to Permittee.

In lieu of such Security Deposit, Permittee may deliver to City a clean irrevocable letter of credit issued by a financial institution acceptable to the Director of Public Works and in form approved by the City Attorney. Permittee shall keep such letter of credit, at its expense, in full force and effect until the thirtieth (30th) day after the City's revocation or termination of the MEP, to insure the faithful performance by Permittee of all of the covenants, terms and conditions of this Agreement. Upon such revocation or termination of this Agreement, if the letter of credit has not been drawn by City to cure any Uncured Default, the letter of credit shall be returned to Permittee within the thirty (30) day period immediately following the termination of the MEP. Such letter of credit shall provide thirty (30) days' prior written notice to City of cancellation or material change thereof. If the letter of credit has been drawn at the time of the revocation or termination of this Agreement, within the thirty (30) day period immediately following the termination of the MEP, City's Director of Public Works shall submit an check request to City's Controller's Office to have the unapplied portion of the drawn letter of credit delivered to Permittee.

12. In lieu of a maintenance bond for the cost of maintenance, and in the event of termination or revocation the cost of potential removal of the encroachment and all materials thereto and the cost of potential restoration of the said area pursuant to Section 3 above, the Department of Public Works is relying on the terms of the Declaration of Maintenance Covenants and the requirements of Section 11 above on Security for Performance.
13. Permittee shall obtain any and all necessary building permit(s) from the Central Permit Bureau, 1660 Mission Street for the construction or alteration of the improvements that are subject to this Agreement.
14. Permittee shall contact the DPW Street Inspection Section (415) 554-7149, at least 72 hours prior to starting work to arrange an inspection schedule.
15. Permittee acknowledges that is has the responsibility to notify any successor owner(s), heir(s), assignee(s) and/or transferee(s) of the existence of the encroachment. The Permittee's obligation to remove the encroachment and restore the right-of-way in accordance with Section 3 above shall survive the revocation, expiration or termination of the MEP or sale of the Property, with the exception of an assignment or transfer of the obligations herein to the HOA or any subsequent owner of the Property pursuant to Section 2 above.
16. The Permittee's right to use City property, as set forth in the MEP is appurtenant to the Property. The provisions of the MEP shall bind all subsequent purchases and owners of the described property. Subsequent purchasers and owners shall be subject to the revocation and termination provisions set forth in this permit.
17. The Permittee and/or successor owner(s), heir(s), assignee(s) and/or transferee(s) recognize the recordation of the MEP and this Agreement.

All of the provisions of this Agreement shall be deemed provisions of the Board of Supervisors Ordinance approving the MEP. All of the provisions of said Ordinance shall be deemed provisions of this Agreement.

MAINTENANCE LICENSE AGREEMENT
(Daggett Plaza, San Francisco)

THIS MAINTENANCE LICENSE AGREEMENT (this "Agreement"), dated for reference purposes only as of _____, 20____, is made by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City") and ARCHSTONE DAGGETT PLACE LLC, Delaware limited liability company ("Licensee").

RECITALS

A. City owns that certain improved real property commonly known as Daggett Plaza in San Francisco, California, as more particularly depicted and described in Schedule 1 attached hereto (as improved, the "City Property"), and Licensee owns that certain real property commonly known as 1000 16th Street in San Francisco, California, as more particularly depicted and described in Schedule 2 attached hereto (the "Licensee Property").

B. Pursuant to an Amended and Restated In Kind Agreement between Licensee and City, dated as of _____ ("In Kind Agreement"), and Street Improvement Permit No. 15IE-0628, issued by the City's Department of Public Works to Roberts-Obayashi Corporation (the "Street Improvement Permit"), Licensee installed certain improvements on the City Property that created a landscaped public open space with seating and other improvements (the "Open Space Improvements"), and Licensee granted ownership of the Open Space Improvements to City under a Gift Agreement between City and Licensee and dated _____, 2015.

C. Pursuant to the In Kind Agreement, Licensee agreed to maintain the City Property in perpetuity, as further set forth in that certain Declaration of Maintenance Covenants and Obligations with respect to the Licensee Property (the "Declaration"), to be recorded in the Official Records of San Francisco County on or before the Effective Date (as defined in Section 3.4).

D. City and Licensee wish to enter into this Agreement to provide for the terms and conditions for Licensee's performance of such maintenance activities on the City Property.

Now, therefore, in consideration of the foregoing and other good and valuable consideration, City and Licensee agree as follows:

AGREEMENT

1. LICENSE

City confers to Licensee a revocable, personal, non-exclusive and non-possessory privilege to enter upon and use the City Property for the limited purpose and subject to the terms, conditions and restrictions set forth below. This Agreement gives Licensee a license only, and notwithstanding anything to the contrary herein, this Agreement does not constitute a grant by City of any ownership, leasehold, easement or other property interest or estate whatsoever in the City Property, or any portion thereof. The privilege given to Licensee under this Agreement is effective only insofar as the rights of City in the City Property are concerned, and Licensee shall obtain any further permission necessary for its activities under this Agreement because of any other existing rights affecting the City Property.

2. USE OF CITY PROPERTY

Licensee may enter and use the City Property for the sole purpose of performing the maintenance, repair, and replacement activities set forth in the attached Schedule 3 and otherwise

described in this Agreement (the "Permitted Activities"), as such maintenance, repair, and replacement activities be modified by any amendment to this Agreement executed by City and Licensee, and for no other purpose whatsoever.

3. CONDITIONS OF ENTRY AND USE

Licensee shall comply, and cause its Agents (as defined in Section 16 below), to comply with each of the following requirements in its performance of the Permitted Activities.

3.1 Permits and Approvals

Licensee shall obtain any permits, licenses or approvals of any regulatory agencies ("Regulatory Permits") required to commence and complete any of the Permitted Activities that requires such Regulatory Permits. Promptly upon receipt of any such Regulatory Permits, Licensee shall deliver copies of them to City. Licensee recognizes and agrees that no approval by City under this Agreement for purposes of the Permitted Activities shall be deemed to constitute the grant of any Regulatory Approvals needed for the Permitted Activities, and nothing herein shall limit Licensee's obligation to obtain all such Regulatory Approvals, at Licensee's sole cost.

3.2 Exercise of Due Care

Licensee shall use due care at all times to avoid any damage or harm to the City Property or any improvements or property located thereon, and take such soil and resource conservation and protection measures with the City Property as are required by applicable laws and as City may reasonably request in writing. Licensee shall not perform any excavation work without City's prior written approval. Under no circumstances shall Licensee damage, harm or take any rare, threatened or endangered species on or about the City Property. While on the City Property to perform the Permitted Activities, Licensee shall do everything reasonably within its power to prevent and suppress fires on and adjacent to the City Property attributable to such entry.

3.3 Cooperation with City Personnel

Licensee shall work closely with City personnel to avoid unreasonable disruption (even if temporary) of the improvements and property in, under, on or about the City Property and City and public uses of the City Property.

3.4 Work Schedule

No less than fifteen (15) business days prior to the date (the "Effective Date") that Licensee has satisfactorily completed, and City has accepted, the Open Space Improvements pursuant to the In Kind Agreement and the Street Improvement Permit, Licensee shall deliver written notice of its proposed schedule of performance for the Permitted Activities to City. If City objects to the proposed schedule, Licensee shall work in good faith with City to reach a mutually agreeable schedule of performance prior to entering the City Property for such activity. Licensee shall complete the activities described in such schedule within the periods specified in such schedule, subject to unavoidable delays. If Licensee wishes to modify the City-approved schedule for the performance of the Permitted Activities, Licensee shall deliver written notice of its proposed change in the schedule to City no less than fifteen (15) business days prior to commencing the modified schedule. If City objects to the proposed schedule changes, Licensee shall work in good faith with City to reach a mutually agreeable schedule of performance prior to modifying the schedule. For purposes of this Section, "unavoidable delays" shall mean any delays by reason of acts of God, accidents, breakage, repairs, strikes, lockouts, other labor disputes, inability to obtain labor or materials, enemy action, civil commotion, protests, riots, demonstrations, federal or state governmental restrictions, or by any other reason beyond the reasonable control of Licensee.

3.5 Restoration of City Property

Immediately following completion of any of the Permitted Activities permitted hereunder, Licensee shall remove all debris and any excess dirt and restore the City Property to its condition immediately prior to Licensee's commencement of such Permitted Activity to the satisfaction of City.

3.6 Revocability or Suspension

Licensee acknowledges and agrees that the obligation that the owner(s) of the Licensee Property have to perform the Permitted Activities shall continue in perpetuity pursuant to the Declaration, however City reserves the right to revoke or suspend, in its sole and absolute discretion, this Agreement pursuant to the terms hereof or any of City's other rights hereunder. City shall deliver no less than twenty (20) business day's prior written notice of any such revocation or suspension to Licensee.

3.7 Green Maintenance Requirements

In performing any Permitted Activities that require cleaning materials or tools, Licensee shall use cleaning materials or tools selected from the Approved Alternatives List created by City under San Francisco Environmental Code, Chapter 2, or any other material or tool approved by City's Director of Property. Licensee shall properly dispose of such cleaning materials or tools.

4. RESTRICTIONS ON USE

Licensee agrees that, by way of example only and without limitation, the following uses of the City Property by Licensee or any other person claiming by or through Licensee are inconsistent with the limited purpose of this Agreement and are strictly prohibited as provided below:

4.1 Improvements

Licensee shall not make, construct or place any temporary or permanent alterations, installations, additions, or improvements on the City Property, structural or otherwise (each, a "Proposed Improvement"), nor alter any existing structures or improvements on the City Property (each, a "Proposed Alteration"), without City's prior written consent in each instance. City shall have a period of thirty (30) days from receipt of request for approval of a Proposed Improvement or Proposed Alteration to review and approve or deny such request for approval. Should City fail to respond to such request within said thirty (30) day period, Licensee's Proposed Improvement or Proposed Alteration shall be deemed to be not approved. In requesting City's approval of a Proposed Improvement or a Proposed Alteration, Licensee acknowledges that City's approval of such Proposed Improvement or Proposed Alteration may be conditioned on Licensee's compliance with specific installation requirements and Licensee's performance of specific on-going maintenance thereof or other affected City Property. If Licensee does not agree with City's installation or maintenance requirements for any Proposed Improvement or a Proposed Alteration, Licensee shall not perform the Proposed Improvement or a Proposed Alteration. If Licensee agrees with City's installation or maintenance requirements for any Proposed Improvement or a Proposed Alteration, prior to Licensee's commencement of such Proposed Improvement or Proposed Alteration, Licensee and City shall enter into a written amendment to this Agreement that modifies the Permitted Activities to include such requirements. Prior approval from City shall not be required for any repairs and replacements made pursuant to and in accordance with the Permitted Activities.

If Licensee performs any City-approved Proposed Improvement or a Proposed Alteration, Licensee shall comply with all of the applicable terms and conditions of this Agreement, including, but not limited to, the requirements in Section 8 below.

4.2 Dumping

Licensee shall not dump or dispose of refuse or other unsightly materials on, in, under or about the City Property.

4.3 Hazardous Material

Licensee shall not cause, nor shall Licensee allow any of its Agents (as defined in Section 16 below) to cause, any Hazardous Material (as defined below) to be brought upon, kept, used, stored, generated or disposed of in, on or about the City Property, or transported to or from the City Property. Licensee shall immediately notify City if Licensee learns of, or has reason to believe that, a release of Hazardous Material has occurred in, on or about the City Property. In the event Licensee or its Agents cause a release of Hazardous Material in, on or about the City Property, Licensee shall, without cost to City and in accordance with all laws and regulations, (i) comply with all laws requiring notice of such releases or threatened releases to governmental agencies, and shall take all action necessary to mitigate the release or minimize the spread of contamination and (ii) return the City Property to the condition it was in immediately prior to the release. In connection therewith, Licensee shall afford City a full opportunity to participate in any discussion with governmental agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree or other compromise proceeding involving Hazardous Material. For purposes hereof, "Hazardous Material" means material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state or local governmental authority to pose a present or potential hazard to public health, welfare or the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance, pollutant or contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 et seq., or pursuant to Section 25316 of the California Health & Safety Code; a "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the City Property or are naturally occurring substances in the City Property, and any petroleum, including, without limitation, crude oil or any fraction thereof, natural gas or natural gas liquids. The term "release" or "threatened release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about the City Property.

Notwithstanding anything herein to the contrary, Licensee shall have no liability whatsoever (including, without limitation, the costs of any investigation, any required or necessary repair, replacement, remediation, cleanup or detoxification, or preparation and implementation of any closure, monitoring or other required plans) with respect to any release or threatened release of any Hazardous Material on, in, under or about the City Property to the extent such release or threatened release is not caused by Licensee or its Agents. Licensee shall not be listed or identified as the generator or responsible party of any waste required to be removed from the City Property, and will not sign any manifests or similar environmental documentation, with respect to any Environmental Condition (as hereinafter defined). "Environmental Condition" shall mean any adverse condition relating to the release or discharge of any Hazardous Materials on, in, under or about the City Property by any party other than Licensee or its Agents.

4.4 Nuisances

Licensee shall not conduct any activities on or about the City Property that constitute waste, nuisance or unreasonable annoyance (including, without limitation, emission of objectionable odors, noises or lights) to City, to the owners or occupants of neighboring property or to the public. The parties hereby acknowledge that customary use of landscaping and similar equipment (such as lawn mowers, clippers, hedge trimmers, leaf blowers, etc.) that would typically be used to

perform the Permitted Activities shall not be considered a nuisance under this Section 4.4 if they are used in compliance with all applicable laws.

4.5 Damage

Licensee shall use due care at all times to avoid causing damage to any of the City Property or any of City's property thereon, including the metal bear sculpture ("Sculpture"). Except for the Sculpture, if any of the Permitted Activities or Licensee's other activities at the City Property causes such damage, Licensee shall restore such damaged City Property or City property to the condition it was in prior to the commencement of such Licensee activity. If any of the Permitted Activities or Licensee's other activities at the City Property causes damage to the Sculpture, Licensee shall notify City and shall reimburse City for its costs to restore such damaged portions of the Sculpture to the condition it was in prior to the commencement of such Licensee activity.

4.6 Sculpture

Licensee acknowledges that the Sculpture is a work of art comprised of painted steel, brass inlay, and repurposed granite curbstone and created by Adriane Colburn for City. Licensee shall not perform any work or other activities on the Sculpture, provided that Licensee may perform the following maintenance work on the Sculpture:

(a) If there is any graffiti on the Sculpture, Licensee may remove (but is not obligated to remove) such graffiti with Sosafe, a graffiti removal gel that is applied to the graffiti and removed with rags, or any other material or method approved in advance and in writing by the City's San Francisco Arts Commission.

(b) Licensee may power wash (but is not obligated to power wash) the curbstone elements of the Sculpture as long as Licensee sufficiently protects the metal elements of the Sculpture to avoid any damage to their ultraviolet or anti-graffiti coatings.

(c) Licensee may wipe (but is not obligated to wipe) the Sculpture with damp rags as needed to maintain the Sculpture in a clean and neat condition.

5. TERM OF PERMIT; REVOCABILITY

The privilege given to Licensee pursuant to this Agreement shall commence on the Effective Date and shall continue in perpetuity, unless sooner terminated pursuant to the terms hereof. Without limiting any of its rights hereunder, City may at its sole option freely revoke this Agreement at any time, without cause and without any obligation to pay any consideration to Licensee.

6. INSURANCE

(a) Licensee shall procure and keep in effect at all times during the term of this Agreement, at Licensee's expense, and cause its contractors and subcontractors to maintain at all times, during Licensee's or its contractors performance of any of the Permitted Activities on the City Property, insurance as follows:

(i) General Liability Insurance written on an Insurance Services Office (ISO) Coverage form CG 00 01 or another form providing equivalent coverage with limits not less than Two Million Dollars (\$2,000,000) each occurrence for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Independent Licensees, and Broadform Property Damage;

(ii) Automobile Liability Insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired automobiles, as applicable for any vehicles brought onto City Property; and

(iii) Workers' Compensation Insurance with Employer's Liability Coverage with limits of not less than One Million Dollars (\$1,000,000) each accident.

(b) All liability policies required hereunder shall provide for the following: (i) name as additional insureds the City and County of San Francisco, its officers, agents and employees; and (ii) specify that such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Agreement. Limits may be provided through a combination of primary and excess insurance policies. Such policies shall also provide for severability of interests and that an act or omission of one of the named insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to any insured, and shall afford coverage for all claims based on acts, omissions, injury or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

(c) All insurance policies required to be maintained by Licensee hereunder shall be endorsed to provide for thirty (30) days' prior written notice of cancellation for any reason, non-renewal or reduction in coverage, except for ten (10) days' notice for cancellation due to non-payment of premium, to both Licensee and City. Licensee agrees to provide any such notice in the event insurers do not agree to provide such notice. Notice to City shall be mailed to the address(es) for City set forth in Section 30 below.

(d) Prior to the Effective Date, Licensee shall deliver to City certificates of insurance and additional insured policy endorsements from insurers in a form reasonably satisfactory to City, evidencing the coverages required hereunder. Licensee shall furnish complete copies of the policies upon written request from City's Risk Manager. In the event Licensee shall fail to procure such insurance, or to deliver such certificates or policies (following written request), City shall provide notice to Licensee of such failure and if Licensee has not procured such insurance or delivered such certificates within five (5) days following such notice, City may procure, at its option, the same for the account of Licensee, and the cost thereof shall be paid to City within five (5) days after delivery to Licensee of bills therefor.

(e) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall double the occurrence or claims limits specified above.

(f) Should any of the required insurance be provided under a claims made form, Licensee shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three (3) years beyond the expiration of this Agreement, to the effect that, should any occurrences during the term of this Agreement give rise to claims made after expiration of this Agreement, such claims shall be covered by such claims-made policies.

(g) Upon City's request, Licensee and City shall periodically review the limits and types of insurance carried pursuant to this Section. If the general commercial practice in the City and County of San Francisco is to carry liability insurance in an amount or coverage materially greater than the amount or coverage then being carried by Licensee for risks comparable to those associated with the City Property, then City in its sole discretion may require Licensee to increase the amounts or coverage carried by Licensee hereunder to conform to such general commercial practice.

(h) Licensee's compliance with the provisions of this Section shall in no way relieve or decrease Licensee's indemnification obligations under this Agreement or any of Licensee's other obligations hereunder. Licensee shall be responsible, at its expense, for separately insuring Licensee's personal property.

7. SECURITY FOR PERFORMANCE

If Licensee fails to timely comply with its obligations under this Agreement at any time, City may demand by written notice to Licensee (the "Default Notice") that the violation be cured. An "Uncured Default" shall mean Licensee's failure to timely cure any violation specified in a Default Notice within thirty (30) days after receipt of the Default Notice, or if such default is of a kind which cannot reasonably be cured within thirty (30) days, Licensee's failure to commence to cure such violation within such thirty (30) day period and to diligently thereafter prosecute such cure to completion. If there is an Uncured Default, then within five (5) business days of City's request, Licensee shall deposit with City the sum of \$100,000 (the "Security Deposit") to secure Licensee's faithful performance of all terms and conditions of this Agreement, including, without limitation, its obligation to maintain the City Property in the condition required by this Agreement. Such Security Deposit shall be in the form of cash. If Licensee delivers the Security Deposit to City pursuant to the foregoing sentence, City shall have the right to require Licensee to proportionately increase the amount of the Security Deposit by an amount that reflects the increase in the Consumer Price Index Urban Wage Earners and Clerical Workers (base years 1982-1984 = 100) for San Francisco-Oakland-San Jose area published by the United States Department of Labor, Bureau of Labor Statistics ("Index") published most immediately preceding the date the amount of the Security Deposit was established and the Index published most immediately preceding the date City delivers written notice of the increase in the Security Deposit. The amount of the Security Deposit shall not limit Licensee's obligations under this Agreement.

Licensee agrees that City may (but shall not be required to) apply the Security Deposit in whole or in part to remedy any damage to the City Property caused by Licensee, its Agents or Invitees, or any failure of Licensee to perform any other terms, covenants or conditions contained herein (including, but not limited to, the payment of any sum due to City hereunder either before or after a default), without waiving any of City's other rights and remedies hereunder or at law or in equity and without any obligation. Licensee waives the provisions of Section 1950.7 of the California Civil Code or any similar law, statute or ordinance now or hereafter in effect that limit the use of a security deposit to remedy defaults in the payment of rent, to repair damages caused by a tenant, or to clean premises on the termination of a tenancy if additional uses for the security deposit are not specified, and agrees that City may retain any portion of Security Deposit reasonably necessary to compensate City for its costs to perform any of the Permitted Activities in the event of an Uncured Default and for any foreseeable or unforeseeable loss or damage caused to the City Property by the acts or omissions of Licensee or its Agents under this Agreement. Within the thirty (30) day period immediately following the termination of this Agreement, City's Director of Property shall submit a check request to City's Controller's Office to have the unapplied portion of the Security Deposit delivered to Licensee.

Should City use any portion of the Security Deposit to cure any Uncured Default, Licensee shall immediately replenish the Security Deposit to the original amount. City's obligations with respect to the Security Deposit are solely that of debtor and not trustee. City shall not be required to keep the Security Deposit separate from its general funds, and Licensee shall not be entitled to interest on the Security Deposit. The amount of the Security Deposit shall in no way limit the liabilities of Licensee under any provision of this Agreement. Upon the City's revocation or termination of this Agreement, City shall return any unapplied portion of the Security Deposit to Licensee.

In lieu of such Security Deposit, Licensee may deliver to City a clean irrevocable letter of credit issued by a financial institution acceptable to the Director of Property and in form approved

by the City Attorney. Licensee shall keep such letter of credit, at its expense, in full force and effect until the thirtieth (30th) day after the City's revocation or termination of this Agreement, to insure the faithful performance by Licensee of all of the covenants, terms and conditions of this Agreement. Upon such revocation or termination of this Agreement, if the letter of credit has not been drawn by City to cure any Uncured Default, the letter of credit shall be returned to Licensee within the thirty (30) day period immediately following the termination of this Agreement. Such letter of credit shall provide thirty (30) days' prior written notice to City of cancellation or material change thereof. If the letter of credit has been drawn at the time of the revocation or termination of this Agreement, within the thirty (30) day period immediately following the termination of this Agreement, City's Director of Property shall submit a check request to City's Controller's Office to have the unapplied portion of the drawn letter of credit delivered to Licensee.

8. COMPLIANCE WITH LAWS

Licensee shall, at its expense, conduct and cause to be conducted all activities on the City Property allowed hereunder in a safe and prudent manner and in compliance with all laws, regulations, codes, ordinances and orders of any governmental or other regulatory entity (including, without limitation, the Americans with Disabilities Act and any other disability access laws), whether presently in effect or subsequently adopted and whether or not in the contemplation of the parties. Licensee shall, at its sole expense, procure and maintain in force at all times during its use of the City Property any and all business and other licenses or approvals necessary to conduct the Permitted Activities. Licensee understands and agrees that City is entering into this Agreement in its capacity as a property owner with a proprietary interest in the City Property and not as a regulatory agency with police powers. Nothing herein shall limit in any way Licensee's obligation to obtain any required regulatory approvals from City departments, boards or commissions or other governmental regulatory authorities or limit in any way City's exercise of its police powers. At City's written request, Licensee shall deliver written evidence of any such regulatory approvals Licensee is required to obtain for any of the Permitted Activities.

9. COVENANT TO MAINTAIN CITY PROPERTY

During any entry on the City Property to perform any of the Permitted Activities, Licensee shall, at all times and at its sole cost, perform the Permitted Activities in a manner that maintains the City Property in a good, clean, safe, secure, sanitary and sightly condition.

10. WAIVER OF CLAIMS

(a) Neither City nor any of its commissions, departments, boards, officers, agents or employees shall be liable for any damage to the property of Licensee, its Agents, or the employees of any of its Agents, for any bodily injury or death to such persons, resulting or arising from the condition of the City Property or its use by Licensee or any of its Agents.

(b) Licensee acknowledges that this Agreement is freely revocable by City and in view of such fact, Licensee expressly assumes the risk of making any expenditures in connection with this Agreement, even if such expenditures are substantial. Without limiting any indemnification obligations of Licensee or other waivers contained in this Agreement and as a material part of the consideration for this Agreement, Licensee fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against, and covenants not to sue, City, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any present or future laws, statutes, or regulations, including, but not limited to, any claims for inverse condemnation or the payment of just compensation under the law of eminent domain, or otherwise at equity, in the event that City exercises its right to revoke or terminate this Agreement.

(c) Licensee acknowledges that it will not be a displaced person of the City Property at the time this Agreement is terminated or revoked or expires by its own terms, and Licensee fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against, and covenants not to sue, City, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any present or future laws, statutes, or regulations with respect to the termination of Licensee's license to enter and use the City Property, including, without limitation, any and all claims for relocation benefits or assistance from City under federal and state relocation assistance laws arising from the revocation or termination of this Agreement.

(d) In connection with the foregoing releases, Licensee acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Licensee acknowledges that the releases contained herein includes all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims. Licensee realizes and acknowledges that it has agreed upon this Agreement in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The releases contained herein shall survive any termination of this Agreement.

11. REPAIR OF DAMAGE

If any portion of the City Property or any property of City located on or about the City Property is damaged by any of the activities conducted by Licensee hereunder, Licensee shall immediately, at its sole cost, repair any and all such damage and restore the City Property or property to its previous condition.

12. SIGNS

Licensee shall not place, erect or maintain any sign, advertisement, banner or similar object on or about the City Property without City's written prior consent, which City may give or withhold in its sole discretion; provided, however, that Licensee may install any temporary sign that is reasonably necessary to protect public health or safety during the performance of a Permitted Activity.

13. UTILITIES

City has no responsibility or liability of any kind with respect to any utilities that may be on, in or under the City Property. Licensee has the sole responsibility to locate such utilities and protect them from damage. Licensee shall arrange and pay for any necessary temporary relocation of City and public utility company facilities, subject to the prior written approval by City and any such utility companies of any such relocation. Licensee shall be solely responsible for arranging and paying directly for any utilities or services necessary for its activities hereunder.

14. CITY'S RIGHT TO CURE DEFAULTS BY LICENSEE

If Licensee fails to perform any of its obligations under this Agreement, to restore the City Property or repair damage, or if Licensee defaults in the performance of any of its other obligations under this Agreement, then City may issue a Default Notice demanding that the violation be cured. If Licensee does not cure the violation within thirty (30) days after receipt of the Default Notice,

or if such default is of a kind which cannot reasonably be cured within thirty (30) days, and Licensee does not within such thirty (30) day period commence to cure such default and diligently thereafter prosecute such cure to completion, then City may, at its sole option, remedy such failure for Licensee's account and at Licensee's expense by providing Licensee with three (3) days' prior written or oral notice of City's intention to cure such default (except that no such prior notice shall be required in the event of an emergency as determined by City). Such action by City shall not be construed as a waiver of any rights or remedies of City under this Agreement, and nothing herein shall imply any duty of City to do any act that Licensee is obligated to perform. Licensee shall pay to City upon demand, all costs, damages, expenses or liabilities incurred by City, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such default. Licensee's obligations under this Section shall survive the termination of this Agreement.

15. NO COSTS TO CITY

Licensee shall bear all costs or expenses of any kind or nature in connection with its use of the City Property pursuant to this Agreement, and shall keep the City Property free and clear of any liens or claims of lien arising out of or in any way connected with its use of the City Property pursuant to this Agreement.

16. INDEMNITY

Licensee shall indemnify, defend and hold harmless City, its officers, agents, employees and contractors, and each of them, from and against any and all demands, claims, legal or administrative proceedings, losses, costs, penalties, fines, liens, judgments, damages and liabilities of any kind (collectively, "Losses"), arising in any manner out of (a) any injury to or death of any person or damage to or destruction of any property occurring in, on or about the City Property, or any part thereof, whether the person or property of Licensee, its officers, agents, employees, contractors or subcontractors (collectively, "Agents"), its invitees, guests or business visitors (collectively, "Invitees"), or third persons, relating in any manner to any use or activity by Licensee or its Agents under this Agreement, (b) any failure by Licensee to faithfully observe or perform any of the terms, covenants or conditions of this Agreement, (c) the use of the City Property or any activities conducted thereon by Licensee or its Agents under this Agreement, or (d) any release or discharge, or threatened release or discharge, of any Hazardous Material caused by Licensee, or its Agents, on, in, under or about the City Property, any improvements permitted thereon, or into the environment; except solely to the extent of Losses resulting directly from the gross negligence or willful misconduct of City or City's authorized representatives. The foregoing indemnity shall include, without limitation, reasonable attorneys' and consultants' fees, investigation and remediation costs and all other reasonable costs and expenses incurred by the indemnified parties, including, without limitation, damages for decrease in the value of the City Property and claims for damages or decreases in the value of adjoining property. Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Licensee by City and continues at all times thereafter. Licensee's obligations under this Section shall survive the expiration or other termination of this Agreement.

17. "AS IS" CONDITION OF CITY PROPERTY; DISABILITY ACCESS; DISCLAIMER OF REPRESENTATIONS

Licensee acknowledges and agrees that Licensee installed the In-Kind Improvements (as defined in the In-Kind Agreement) and has full knowledge of the condition of the In-Kind Improvements and the physical condition of the City Property. Licensee accepts the City Property in its "AS IS" condition, without representation or warranty of any kind by City, its officers, agents or employees, including, without limitation, the suitability, safety, or duration of availability of the City Property or any facilities on the City Property for Licensee's performance of the Permitted

Activities. Without limiting the foregoing, this Agreement is made subject to all applicable laws, rules and ordinances governing the use of the City Property, and to any and all covenants, conditions, restrictions, easements, encumbrances, claims of title and other title matters affecting the City Property, whether foreseen or unforeseen, and whether such matters are of record or would be disclosed by an accurate inspection or survey. It is Licensee's sole obligation to conduct an independent investigation of the City Property and all matters relating to its use of the City Property hereunder, including, without limitation, the suitability of the City Property for such uses. Licensee, at its own expense, shall obtain such permission or other approvals from any third parties with existing rights as may be necessary for Licensee to make use of the City Property in the manner contemplated hereby.

Under California Civil Code Section 1938, to the extent applicable to this Agreement, Licensee is hereby advised that the City Property has not undergone inspection by a Certified Access Specialist ("CAS") to determine whether it meets all applicable construction-related accessibility requirements.

18. NO ASSIGNMENT; FUTURE LICENSEE PROPERTY OWNERS

This Agreement is personal to Licensee and shall bind Licensee and all future fee owners of all or any portion of the Licensee Property, with each party acquiring fee ownership of any or all of the Licensee Property being deemed to have assumed the Licensee obligations under this Agreement at the time of such acquisition of fee ownership; provided, however, that if any or all of the Licensee Property is converted into condominiums, the obligations of Licensee under this Agreement shall be those of the homeowners association established for such condominiums, rather than of the individual owners of such condominiums. This Agreement shall be the obligation of Licensee and each future fee owner of all or any of the Licensee Property, and may not be assigned, conveyed or otherwise transferred to any party under any circumstances. Any attempt to assign, convey or otherwise transfer this Agreement to any party that does not own all or part of the Licensee Property shall be null and void. It is intended that this Agreement binds Licensee and all future fee owners of all or any of the Licensee Property only during their respective successive periods of ownership; and therefore, the rights and obligations of any Licensee or its respective successors and assignees under this Agreement shall terminate upon transfer, expiration, or termination of its interest in the Licensee Property, except that its liability for any violations of the requirements or restrictions of this Agreement, or any acts or omissions during such ownership, shall survive any transfer, expiration or termination of its interest in the Licensee Property.

19. NO JOINT VENTURES OR PARTNERSHIP; NO AUTHORIZATION

This Agreement does not create a partnership or joint venture between City and Licensee as to any activity conducted by Licensee on, in or relating to the City Property. Licensee is not a State actor with respect to any activity conducted by Licensee on, in, or under the City Property. The giving of this Agreement by City does not constitute authorization or approval by City of any activity conducted by Licensee on, in or relating to the City Property.

20. MACBRIDE PRINCIPLES - NORTHERN IRELAND

The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Licensee acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

21. NON-DISCRIMINATION

In the performance of this Agreement, Licensee agrees not to discriminate against any employee of, any City employee working with Licensee, or applicant for employment with Licensee, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

22. TROPICAL HARDWOODS AND VIRGIN REDWOOD BAN

The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product, except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code. Licensee agrees that, except as permitted by the application of Sections 802(b) and 803(b), Licensee shall not use or incorporate any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product in the performance of this Agreement.

23. NOTIFICATION OF LIMITATIONS ON CONTRIBUTIONS

Through its execution of this Agreement, Licensee acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (1) the City elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Licensee acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Licensee further acknowledges that the prohibition on contributions applies to each Licensee; each member of Licensee's board of directors, and Licensee's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in Licensee; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Licensee. Additionally, Licensee acknowledges that Licensee must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Licensee further agrees to provide to City the names of each person, entity or committee described above.

24. POSSESSORY INTEREST TAXES

Licensee recognizes and understands that this Agreement may create a possessory interest subject to property taxation and that Licensee may be subject to the payment of property taxes levied on such interest under applicable law. Subject to the immediately following paragraph, Licensee agrees to pay taxes of any kind, including any possessory interest tax, if any, that may be lawfully assessed on Licensee's interest under this Agreement or use of the City Property pursuant hereto and to pay any other taxes, excises, licenses, permit charges or assessments based on Licensee's usage of the City Property that may be imposed upon Licensee by applicable law (collectively, a "Possessory Interest Tax"). Subject to the immediately following paragraph, Licensee shall pay all of such charges when they become due and payable and before delinquency.

The parties hereto hereby acknowledge that the City Property will be a public open space during the term of this Agreement and Licensee's use of the City Property pursuant to this Agreement is intended to be non-exclusive and non-possessory.

Based on the unusual circumstances related to the negotiation and execution of this Agreement, if City's Assessor determines this Agreement creates a Possessory Interest Tax, Licensee may, in its sole discretion, either pay such Possessory Interest Tax or, within thirty (30) days following such City Assessor determination, request, in writing, that City pay such Possessory Interest Tax (a "Payment Request"). If City's Director of Property does not notify Licensee in writing of City's agreement to pay such Possessory Interest Tax within sixty (60) days of receiving a Payment Request (a "Payment Determination Period"), then Licensee shall have the right to terminate this Agreement by delivering written notice of such termination to City within fifteen (15) days following the expiration of the Payment Determination Period.

25. PESTICIDE PROHIBITION

Licensee shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "Pesticide Ordinance") which (a) prohibit the use of certain pesticides on City property, (b) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (c) require Licensee to submit to the Real Estate Division of the Department of the City Administrator an integrated pest management ("IPM") plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Licensee may need to apply to the City Property during the term of this Agreement, (ii) describes the steps Licensee will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance and (iii) identifies, by name, title, address and telephone number, an individual to act as the Licensee's primary IPM contact person with the City. In addition, Licensee shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Nothing herein shall prevent Licensee, through the City's Director of Property, from seeking a determination from the Commission on the Environment that it is exempt from complying with certain portions of the Pesticide Ordinance as provided in Section 307 thereof.

26. PROHIBITION OF TOBACCO SALES AND ADVERTISING

Licensee acknowledges and agrees that no sale or advertising of cigarettes or tobacco products is allowed on the City Property. This advertising prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (a) communicate the health hazards of cigarettes and tobacco products, or (b) encourage people not to smoke or to stop smoking.

27. PROHIBITION OF ALCOHOLIC BEVERAGE ADVERTISING

Licensee acknowledges and agrees that no advertising of alcoholic beverages is allowed on the City Property. For purposes of this Section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (a) communicate the health hazards of alcoholic beverages, (b) encourage people not to drink alcohol or to stop drinking alcohol, or (c) provide or publicize drug or alcohol treatment or rehabilitation services.

28. CONFLICTS OF INTEREST

Through its execution of this Agreement, Licensee acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provision, and agrees that if Licensee becomes aware of any such fact during the term of this Agreement, Licensee shall immediately notify the City.

29. FOOD SERVICE WASTE REDUCTION

Licensee agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth herein. This provision is a material term of this Agreement. By entering into this Agreement, Licensee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting City's other rights and remedies, Licensee agrees that the sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Licensee's failure to comply with this provision.

30. NOTICES

Except as otherwise expressly provided herein, any notices given or requests made under this Agreement shall be effective only if in writing and given by delivering the notice in person, by sending it first class mail or certified mail, with a return receipt requested, or overnight courier, return receipt requested, with postage prepaid, addressed as follows:

City: Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property
Re: Daggett Plaza

Licensee: c/o Equity Residential
333 Third Street, Suite 210
San Francisco, CA 94107
Attn: Jim Kelly

With a Copy to:

Equity Residential
Two North Riverside Plaza, Suite 400
Chicago, Illinois 60606
Attn: General Counsel

Notices herein shall be deemed given two (2) days after the date when it shall have been mailed if sent by first class, certified or overnight courier, or upon the date personal delivery is

made. Either party may change the address shall have the right to designate a new address for notices to be given to it under this Section at any time by delivering written notice of such new address to the other party at least ten (10) days prior to the effective date of such change.

31. SEVERABILITY

If any provision of this Agreement or the application thereof to any person, entity or circumstance shall be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law, except to the extent that enforcement of this Agreement without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Agreement.

32. COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

33. COOPERATIVE DRAFTING

This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have this Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

34. GENERAL PROVISIONS

(a) This Agreement may be amended or modified only by a writing signed by City and Licensee; provided that City shall have the right to terminate or revoke this Agreement by providing written notice of such termination or revocation to Licensee (b) No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. (c) All approvals and determinations of City requested, required or permitted hereunder may be made in the sole and absolute discretion of the Director of Property or other authorized City official. (d) This instrument (including the schedules hereto), the Declaration, and the In-Kind Agreement contain the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. (e) The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. (f) Time is of the essence. (g) This Agreement shall be governed by California law and the City's Charter. (h) If either party commences an action against the other or a dispute arises under this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes hereof, reasonable attorneys' fees of City shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience. (i) If Licensee consists of more than one person then the obligations of each person shall be joint and several. (j) Licensee may not record this Agreement or any memorandum hereof against the City Property. (k) Subject to the prohibition against assignments or other transfers by Licensee hereunder, this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors and assigns.

[SIGNATURES ON FOLLOWING PAGE]

Licensee represents and warrants to City that it has read and understands the contents of this Agreement and agrees to comply with and be bound by all of its provisions.

LICENSEE: ARCHSTONE DAGGETT PLACE LLC, a Delaware limited liability company

By: EQR-WARWICK, L.L.C., a Delaware limited liability company, its sole member

By: ERP Operating Limited Partnership, an Illinois limited partnership, its managing member

By: Equity Residential, a Maryland real estate investment trust, its general partner

By: [Signature]
Name: JAMES P. KELLY
Its: FIRST V.P.
Date: 9/9/15

CITY:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
John Updike
Director of Property

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Carol Wong
Deputy City Attorney

SCHEDULE 1

Description and Depiction of City Property

SCHEDULE 2

Description and Depiction of Licensee Property

SCHEDULE 3

Maintenance, Repair, and Replacement Activities

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City and County of San Francisco
Director of Property
25 Van Ness Avenue, Suite 400
San Francisco CA 94102

**IRREVOCABLE OFFER OF IMPROVEMENTS
IN FEE TITLE
(Portion of 16th Street sidewalks)**

Archstone Daggett Place LLC, a Delaware limited liability company ("Archstone") does hereby irrevocably offer to the City and County of San Francisco, a municipal corporation ("City"), and its successors and assigns, a fee title interest for pedestrian access, ingress and egress solely for extended public sidewalk and right-of-way purposes over those portions of Assessor's Block 3833, Lot 003 and Block 3834, Lot 001, as set forth in the grant deed in substantially the form attached hereto as **Exhibit C** and more particularly described and depicted as "Right-of-Way Dedication" areas on the plat maps, attached as **Exhibits A-2 and B-2**, respectively, and in the Legal Descriptions, attached as **Exhibits A-1 and B-1**, respectively, to this instrument ("Right-of-Way Fee Dedication Areas"), excluding and being reserved by and unto Archstone, its successors and assigns, any and all underground private utility facilities, such as sanitary sewers, storm drains, manholes and catch basins, water lines and fire hydrants, and streetlights, to the extent that such underground utility facilities, or other such improvements, have not already been previously offered to and accepted by the City. It is understood that Archstone, and its successors and assigns, shall have the right to use the foregoing described Right-of-Way Fee Dedication Areas for any and all purposes that do not unreasonably interfere with the City's use of the area, including, without limitation, for existing and future improvements, irrigation, storm drainage, electrical, gas, cable, water and sanitary sewer consistent with public sidewalk use and any applicable City permits.

With respect to this offer of improvements for the Right-of-Way Fee Dedication Areas, it is understood and agreed that: (i) upon acceptance of this offer of real property and public improvements, the City shall own and be responsible for maintenance of the offered real property, public facilities and improvements, subject to the maintenance obligation of fronting property owners pursuant to the Public Works Code, including, but not limited to, Public Works Code Section 706, and (ii) the City and its successors and assigns shall incur no liability or obligation whatsoever hereunder with respect to such offer of real property and public improvements, and, except as may be provided by separate instrument, shall not assume any responsibility for the offered improvements, unless and until such offer has been accepted by the Director of Public Works and/or

Director of the Real Estate Division of the Office of the City Administrator, in accordance with Board of Supervisors' Ordinance No. _____.

The provisions hereof shall inure to the benefit of and be binding upon the heirs, successors, assigns and personal representatives of the respective parties hereto.

IN WITNESS WHEREOF, the undersigned has executed this instrument this ___ day of _____, 2015.

ARCHSTONE DAGGETT PLACE, LLC,
a Delaware limited liability company

By: [other],
a [xx] [corporation], its Manager

By: _____
[name]
President

CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGEMENT

State of California
County of _____

On _____ before me,

(here insert name and title of the officer)
personally appeared

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

EXHIBIT A-1

**Legal Description of Right-of-Way Fee Dedication Area
over a portion of Lot 003, Block 3833**

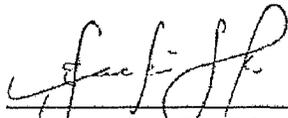
EXHIBIT "A-1"
LEGAL DESCRIPTION

All that real property situated in the City and County of San Francisco, State of California, being described as follows:

BEGINNING at the intersection of the Southeasterly line of Hubbell Street with the Northerly line of 16th Street; thence Easterly along said line of 16th Street, 17.68 feet; thence deflecting 132°47'35" to the left and running Northwesterly 3.97 feet; thence deflecting 22°21'49" to the right and running Northwesterly 5.91 feet; thence from a tangent deflecting 00°00'06" to the right, Northerly and Northeasterly along a curve concave to the East with a radius of 3.00 feet, through a central angle of 69°54'29", an arc length of 3.66 feet to said line of Hubbell Street; thence Southwesterly along said line of Hubbell Street, 18.13 feet to the POINT OF BEGINNING.

CONTAINING 87 square feet, more or less.

PREPARED BY LUK AND ASSOCIATES



JACQUELINE LUK, PLS 8934

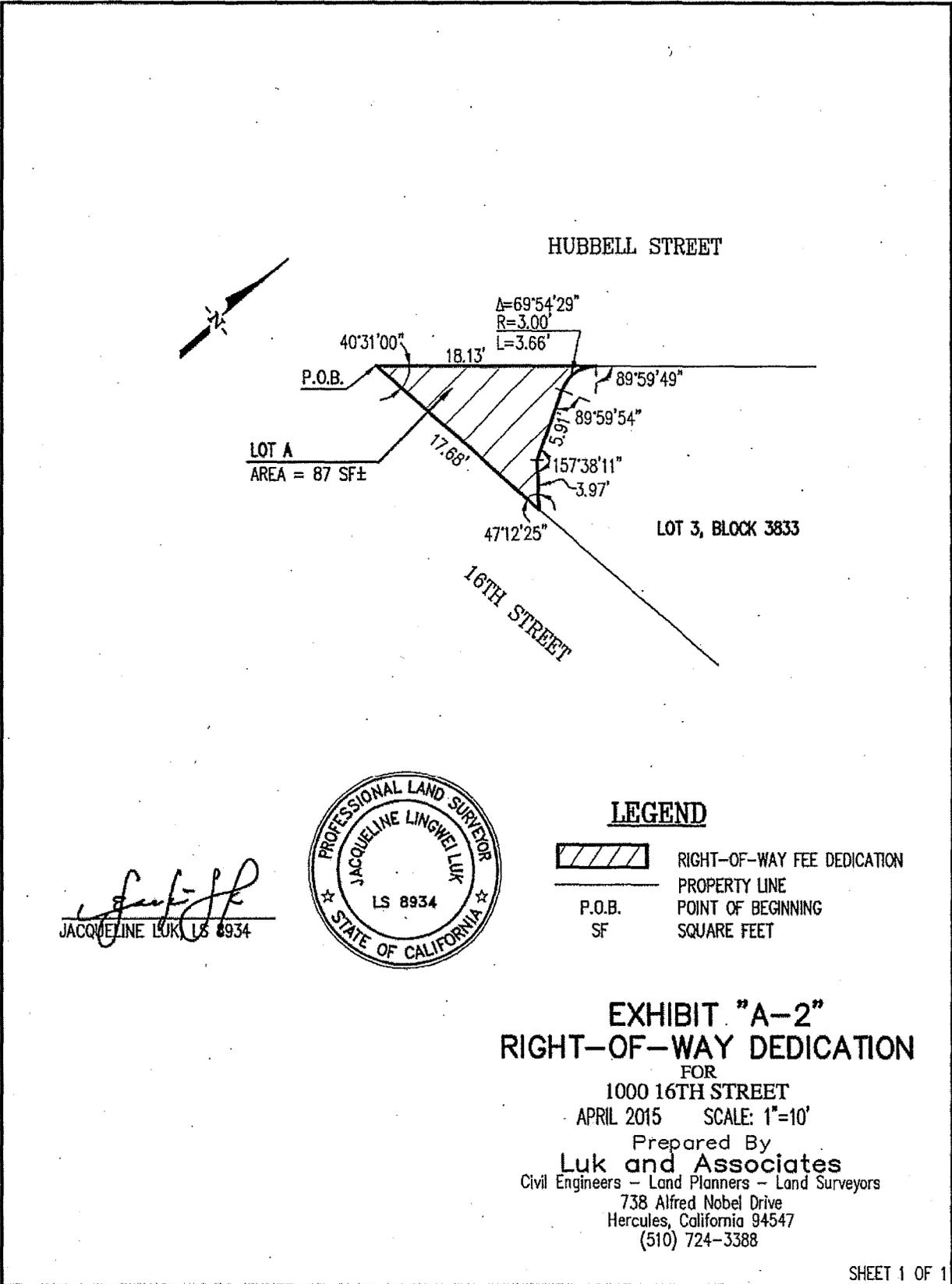


DATE: 4/2/15

This real property description has been prepared by me or under my direction in conformance with the Professional Land Surveyors Act.

EXHIBIT A-2

**Plat map of Right-of-Way Fee Dedication Area
over a portion of Lot 003, Block 3833**



Jacqueline Luk
 JACQUELINE LUK, LS 8934



LEGEND

- RIGHT-OF-WAY FEE DEDICATION
- PROPERTY LINE
- POINT OF BEGINNING
- SQUARE FEET

EXHIBIT "A-2"
RIGHT-OF-WAY DEDICATION

FOR
 1000 16TH STREET
 APRIL 2015 SCALE: 1"=10'
 Prepared By
Luk and Associates
 Civil Engineers - Land Planners - Land Surveyors
 738 Alfred Nobel Drive
 Hercules, California 94547
 (510) 724-3388

EXHIBIT B-1

**Legal Description of Right-of-Way Fee Dedication Area
over a portion of Lot 001, Block 3834**

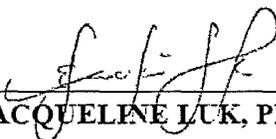
EXHIBIT "B-1"
LEGAL DESCRIPTION

All that real property situated in the City and County of San Francisco, State of California, being described as follows:

BEGINNING at the intersection of the Southwesterly line of 7th Street with the Northerly line of 16th Street; thence Northwesterly along said line of 7th Street, 20.31 feet; thence from a tangent deflecting 00°00'33" to the right, Southeasterly, Southerly, and Southwesterly along a curve concave to the West with a radius of 9.39 feet, through a central angle of 125°31'26", an arc length of 20.56 feet to said line of 16th Street; thence Easterly along said line of 16th Street, 19.52 feet to the POINT OF BEGINNING.

CONTAINING 90 square feet, more or less.

PREPARED BY LUK AND ASSOCIATES



JACQUELINE LUK, PLS 8934



DATE: 4/2/15

This real property description has been prepared by me or under my direction in conformance with the Professional Land Surveyors Act.

EXHIBIT B-2

**Plat map of Right-of-Way Fee Dedication Area
over a portion of Lot 001, Block 3834**

DAGGETT STREET

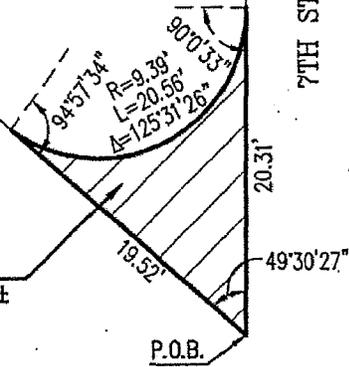
LOT 1, BLOCK 3834

7TH STREET

16TH STREET

LOT B
AREA = 90 SF±

P.O.B.



Jacqueline Luk
JACQUELINE LUK, LS 8934



LEGEND

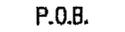
-  RIGHT-OF-WAY FEE DEDICATION
-  PROPERTY LINE
-  POINT OF BEGINNING
-  SQUARE FEET

EXHIBIT "B-2"
RIGHT-OF-WAY DEDICATION

FOR
1000 16TH STREET

APRIL 2015 SCALE: 1"=10'

Prepared By
Luk and Associates
Civil Engineers - Land Planners - Land Surveyors
738 Alfred Nobel Drive
Hercules, California 94547
(510) 724-3388

SHEET 1 OF 1

EXHIBIT C

Form of Grant Deed

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:
City and County of San Francisco
Director of Property
25 Van Ness Ave.
San Francisco, CA 94102

Documentary Transfer Tax is zero
Official Business-Entitled to Free Recordation Government Code § 6103

[Space above for Recorder's use only]

GRANT DEED

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, **ARCHSTONE DAGGETT PLACE, LLC, a Delaware limited liability company** ("Grantor"), HEREBY GRANTS to **CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation** ("City"), all that real property in the County of San Francisco, State of California, described as follows:

A portion of Assessor's Block 3833, Lot 003, more particularly described and depicted as "Right-of-Way Fee Dedication Area" on the plat for the Right-of-Way Dedication and in the Legal Description, attached respectively as **Exhibits "A-2" and "A-1"**, hereto and by this reference incorporated herein.

A portion of Assessor's Block 3834, Lot 001, more particularly described and depicted as "Right-of-Way Fee Dedication Area" on the plat for the Right-of-Way Dedication and in the Legal Description, attached respectively as **Exhibits "B-2" and "B-1"**, hereto and by this reference incorporated herein.

This Grant Deed is being executed and recorded to effectuate the acceptance by the City of the real property described on Exhibits A-1, A-2, B-1 and B-2 hereto.

Grantor hereby reserves unto itself and its successors and assigns, and excludes from this grant, any and all underground private utility facilities, such as sanitary sewers, storm drains, manholes and catch basins, water lines and fire hydrants, and streetlights, to the extent that such underground utility facilities or other such improvements have not already been previously offered to and accepted by the City.

[Signature Page Follows]

EXECUTED this _____ day of _____, 2015.

GRANTOR:

ARCHSTONE DAGGETT PLACE, LLC,
a Delaware limited liability company

By: [other],
a [xx] [corporation], its Manager

By: _____
[name]
President

NOTARY ACKNOWLEDGMENT

STATE OF CALIFORNIA)SS
COUNTY OF SAN FRANCISCO)

On _____, 2015 before me _____, Notary Public for the State of California, personally appeared [name], who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A-1

Legal Description for portion of Lot 003, Block 3833

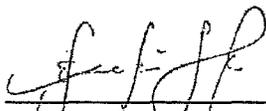
**EXHIBIT "A-1"
LEGAL DESCRIPTION**

All that real property situated in the City and County of San Francisco, State of California, being described as follows:

BEGINNING at the intersection of the Southeasterly line of Hubbell Street with the Northerly line of 16th Street; thence Easterly along said line of 16th Street, 17.68 feet; thence deflecting 132°47'35" to the left and running Northwesterly 3.97 feet; thence deflecting 22°21'49" to the right and running Northwesterly 5.91 feet; thence from a tangent deflecting 00°00'06" to the right, Northerly and Northeasterly along a curve concave to the East with a radius of 3.00 feet, through a central angle of 69°54'29", an arc length of 3.66 feet to said line of Hubbell Street; thence Southwesterly along said line of Hubbell Street, 18.13 feet to the POINT OF BEGINNING.

CONTAINING 87 square feet, more or less.

PREPARED BY LUK AND ASSOCIATES



JACQUELINE LUK, PLS 8934

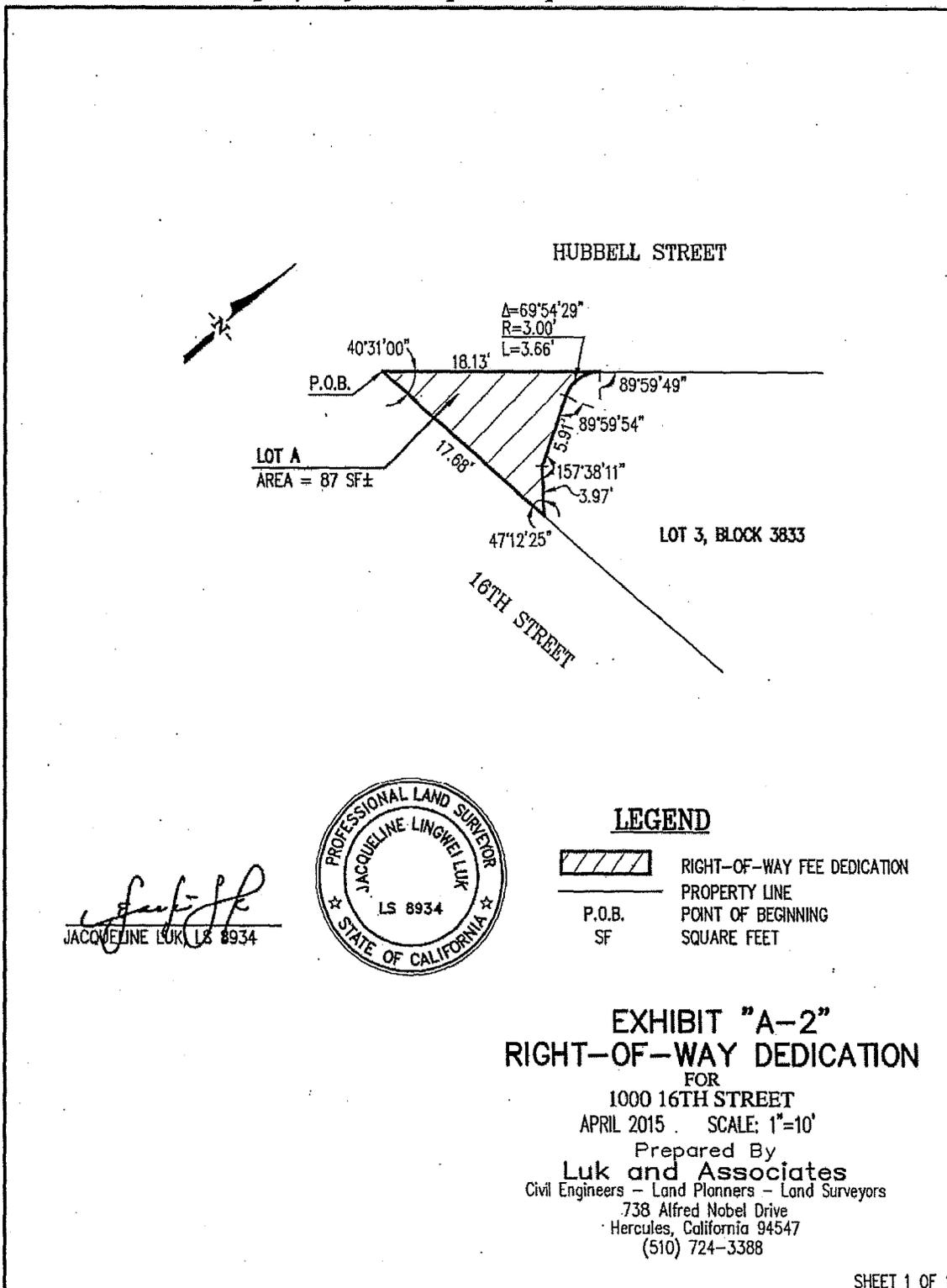


DATE: 4/2/15

This real property description has been prepared by me or under my direction in conformance with the Professional Land Surveyors Act.

EXHIBIT A-2

Plat to Accompany Legal Description for portion of Lot 003, Block 3833



Jacqueline Luk
 JACQUELINE LUK, LS 8934



LEGEND

- RIGHT-OF-WAY FEE DEDICATION
- PROPERTY LINE
- P.O.B. POINT OF BEGINNING
- SF SQUARE FEET

EXHIBIT "A-2"
RIGHT-OF-WAY DEDICATION

FOR
 1000 16TH STREET
 APRIL 2015 . SCALE: 1"=10'
 Prepared By
Luk and Associates
 Civil Engineers - Land Planners - Land Surveyors
 738 Alfred Nobel Drive
 Hercules, California 94547
 (510) 724-3388

SHEET 1 OF 1

EXHIBIT B-1

Legal Description for portion of Lot 001, Block 3834

**EXHIBIT "B-1"
LEGAL DESCRIPTION**

All that real property situated in the City and County of San Francisco, State of California, being described as follows:

BEGINNING at the intersection of the Southwesterly line of 7th Street with the Northerly line of 16th Street; thence Northwesterly along said line of 7th Street, 20.31 feet; thence from a tangent deflecting 00°00'33" to the right, Southeasterly, Southerly, and Southwesterly along a curve concave to the West with a radius of 9.39 feet, through a central angle of 125°31'26", an arc length of 20.56 feet to said line of 16th Street; thence Easterly along said line of 16th Street, 19.52 feet to the POINT OF BEGINNING.

CONTAINING 90 square feet, more or less.

PREPARED BY LUK AND ASSOCIATES



JACQUELINE LUK, PLS 8934

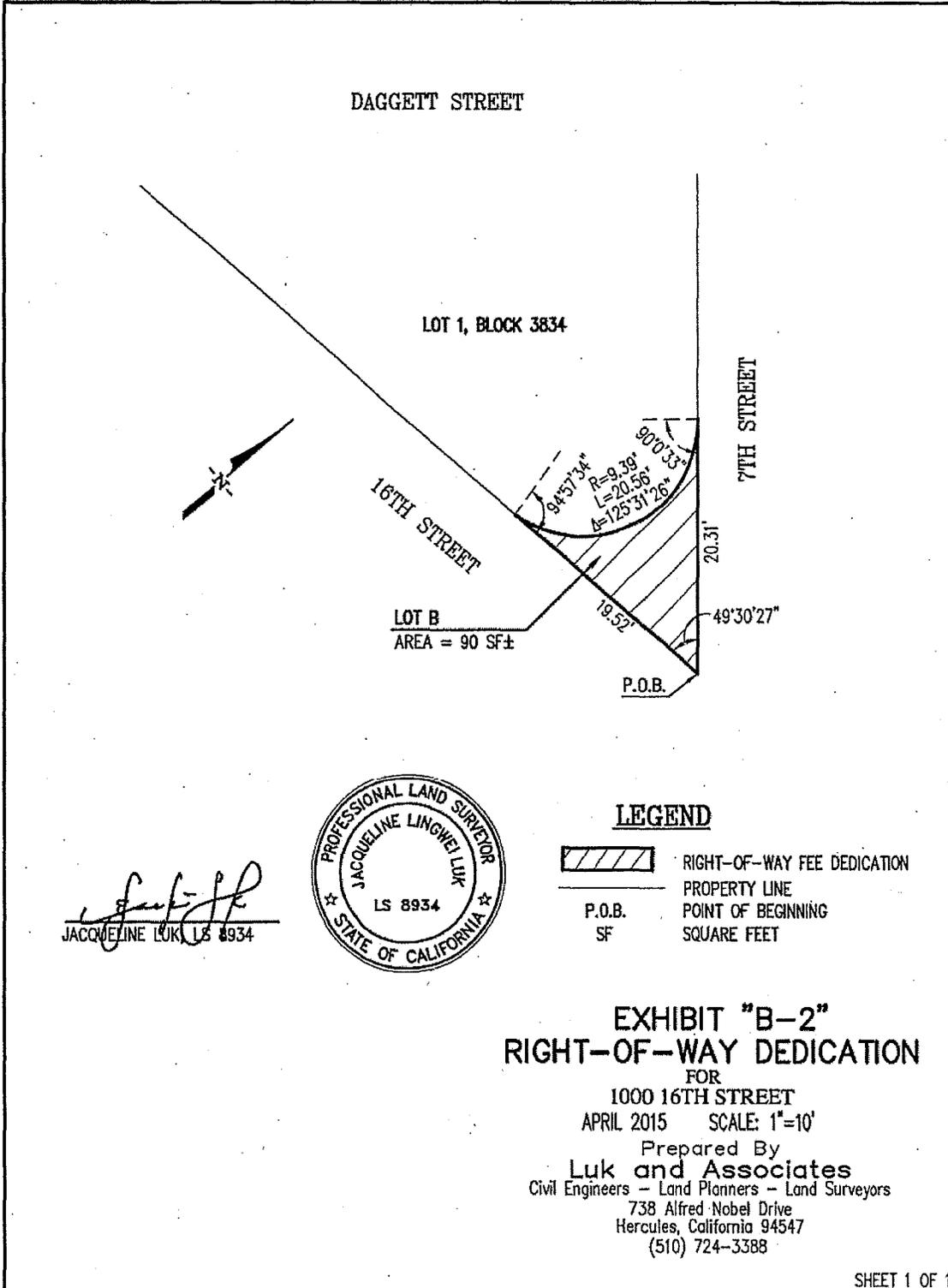


DATE: 4/2/15

This real property description has been prepared by me or under my direction in conformance with the Professional Land Surveyors Act.

EXHIBIT B-2

Plat to Accompany Legal Description for portion of Lot 001, Block 3834



Jacqueline Luk
 JACQUELINE LUK, LS 8934



LEGEND

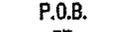
-  RIGHT-OF-WAY FEE DEDICATION
-  PROPERTY LINE
-  POINT OF BEGINNING
-  SQUARE FEET

EXHIBIT "B-2"
RIGHT-OF-WAY DEDICATION
 FOR
 1000 16TH STREET
 APRIL 2015 SCALE: 1"=10'
 Prepared By
Luk and Associates
 Civil Engineers - Land Planners - Land Surveyors
 738 Alfred Nobel Drive
 Hercules, California 94547
 (510) 724-3388

SHEET 1 OF 1

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by this offer of dedication dated _____, 2015, from Archstone Daggett Place, LLC, a Delaware limited liability company, to the City and County of San Francisco, a charter city and county, is hereby accepted in accordance with the Board of Supervisor's Ordinance _____, adopted on _____, 2015, and the City consents to the recordation thereby of its duly authorized officer.

Dated: _____, 2015

City and County of San Francisco

By: _____
Director of Property

NOTARY ACKNOWLEDGMENT

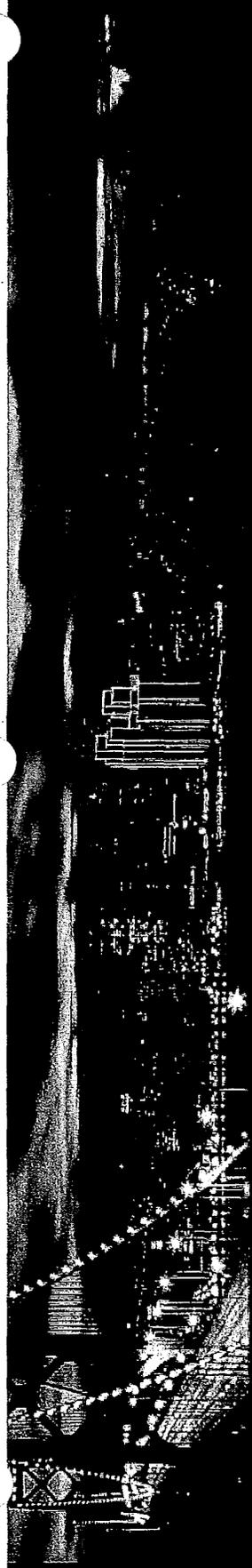
STATE OF)SS
COUNTY OF)

On _____, 20__ before me _____, Notary Public for the State of California, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)



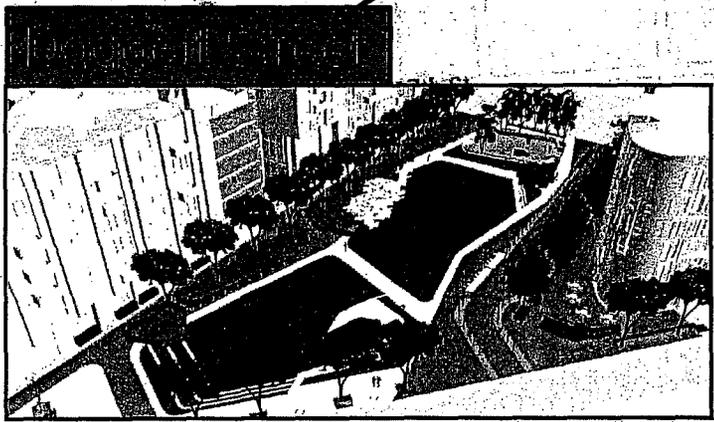
Daggett Shared Public Way and Open Space

SF Board Of Supervisors Land Use Committee

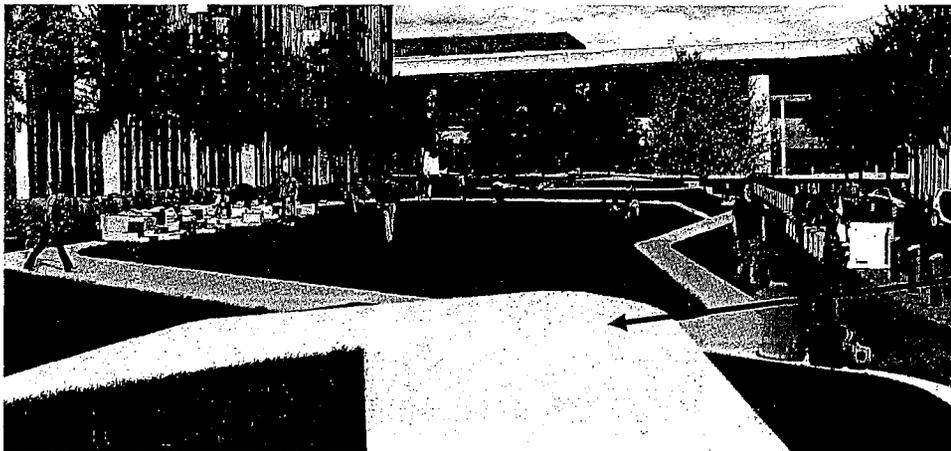
September 14th, 2015



Project Location

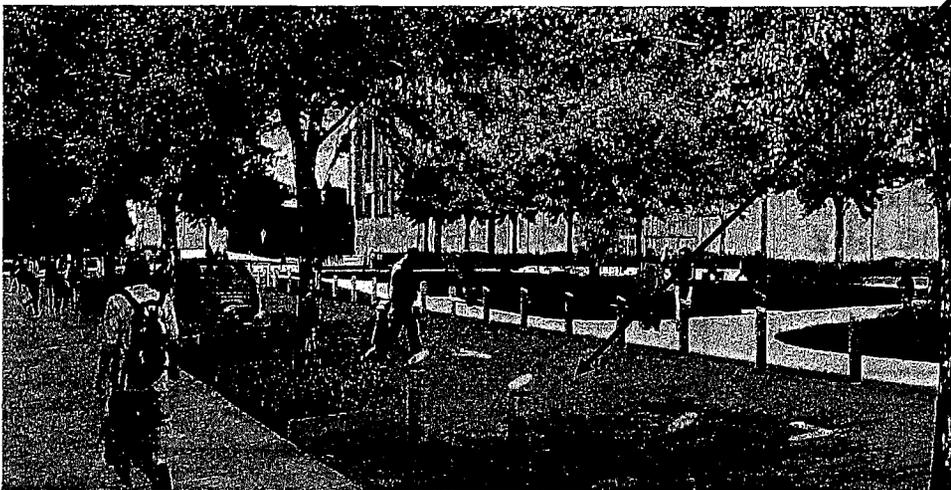


The Daggett Project: Overview



Daggett Shared Public Way and Open Space:

- Total area almost 0.9 acres:
 - Daggett open space
 - Daggett Street shared public way

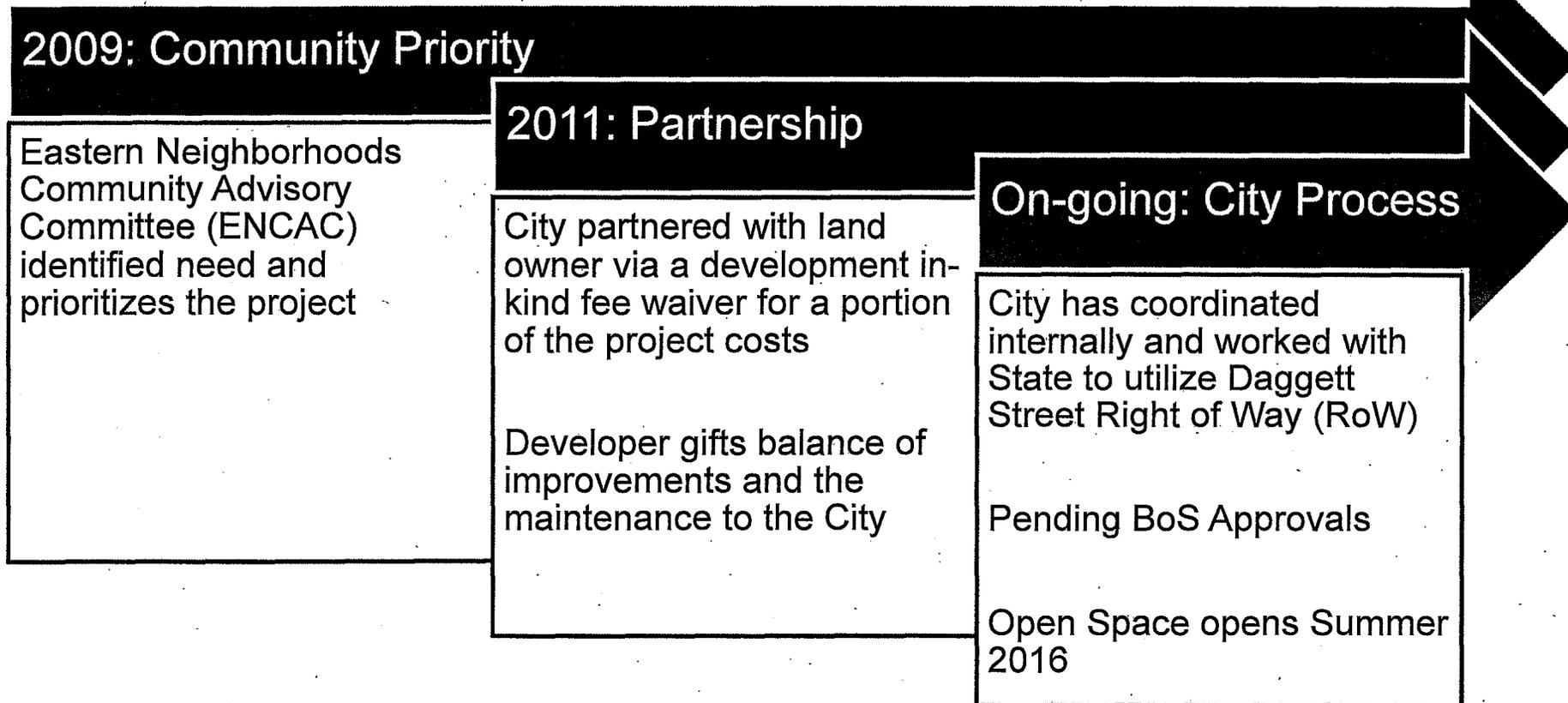


Amenities and design features include:

- Ample seating opportunities
- Universal accessibility
- A fenced-off dog run
- “Mission Marsh Bears”, a public art piece
- Drought-resistant trees and landscaping
- One-way “Shared Public Way” to create a pedestrian-oriented environment while allowing vehicle access



Daggett Project Timeline and Actions



722

Eastern Neighborhoods Background

- The Eastern Neighborhoods Area Plan identifies open space need.
- Development in the Eastern Neighborhoods pays the Eastern Neighborhoods Infrastructure Impact Fee or project sponsors may propose to directly provide community improvements to the City in lieu of fee payments.
- **“Eastern Neighborhoods Infrastructure Prioritization Memorandum of Understanding” (2009)** between seven City agencies listed the implementation of one new open space project in the Showplace Square area as one of the seven priority projects for funding in the Eastern Neighborhoods.
 - The June 2010 Eastern Neighborhoods Area Plan prioritized Daggett between 16th and 7th for open space.
 - In 2011 the Planning Commission entered into an in-kind improvement agreement with the sponsor and approved a fee waiver.

723

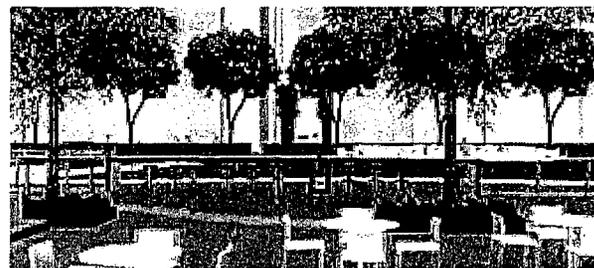
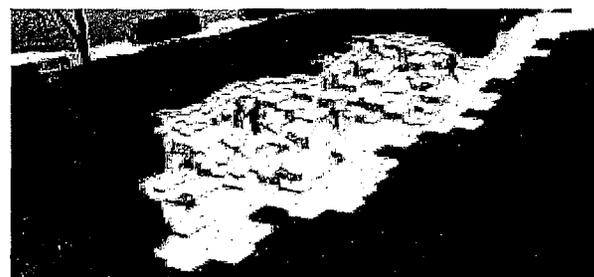
Daggett Open Space Background

- Public meetings, workshops and approvals around this project:
 - **May 16 2011:** The Eastern Neighborhoods Community Advisory Committee (“ENCAC”) Showplace Open Space Plan meeting
 - **July 18, 2011:** The ENCAC considered In-Kind Agreement for Daggett, included design presentation
 - **September 7, 2011:** Additional public meeting on Daggett design.
 - Art Commission’s Civic Design Review, which are public meetings
 - **January 1, 2012:** Phase I Design Review
 - **February 13, 2012:** Phase II Design Review
- In 2011 and again in 2015:
 - ENCAC supported the use of the Eastern Neighborhoods Infrastructure Impact fee via an In-Kind Agreement between the City and Project Sponsor



Daggett Project Process

- Realize one of the main community infrastructure needs: more open space to support local growth
- A local-serving open space on Daggett would not be Public Trust compliant
 - City utilized the SB 815 to lift the Public Trust (State Lands action, 2014); City awarded State Housing-Related Parks grant: \$1.6 million and local \$75,000 to fill funding gap
- Project keeps open space 100% publically accessible, and would be proposed to BoS to be adopted via Plaza Program



The Plaza Program

- **Plaza Program established 2014 as Chapter 94 of Admin Code**
- **Involve community-based stewards**
 - Support local stewardship efforts
 - All plazas and potential plaza stewards need Board of Supervisor adoption/approval
- **Coordinate City efforts**
 - Streamline event permitting processes to encourage activation
 - Provide a long-term “home” for existing plaza projects created through various City programs:
 - City Plazas: Real Estate jurisdiction – as a license agreement
 - Street Plaza: Public Works jurisdiction – as a Plaza Encroachment permit
- **A City Plaza requires a rezone (unless unfeasible) to Public (P) and Open Space (OS) height and bulk designation**

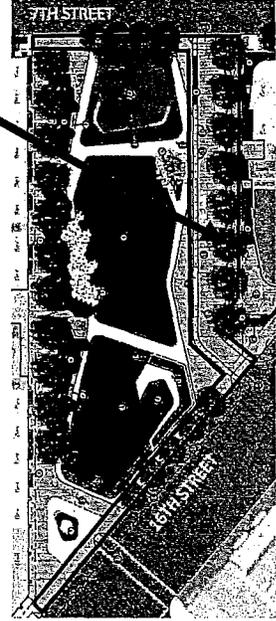
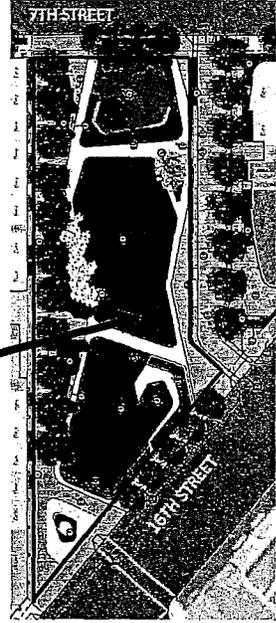
City Management

In-Kind Maintenance Agreement

**Maintenance covenant/declaration recorded to developer's land:
Runs with the land**

**Daggett Open Space
(Real Estate Jurisdiction zoned P/OS):
Maintenance License Agreement would allow property owner to enter land to maintain
Plaza Program Steward License Agreement would allow use (events, etc.)**

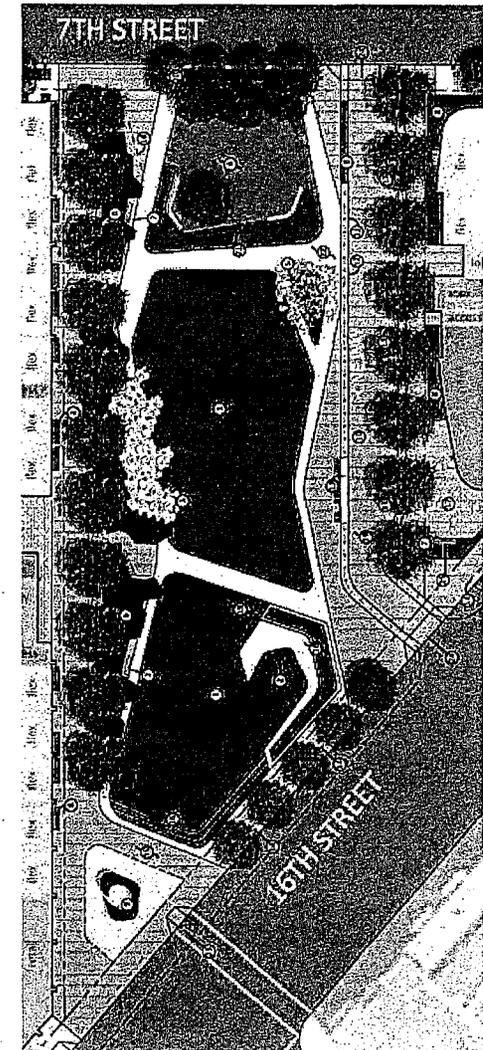
**Shared Public Way
(Public Works Right of Way Jurisdiction):
Adjacent property owner right to maintain through a Major Encroachment Permit**



Improvement Cost and In-Kind Fee Waiver

Detail	Balance
Total Improvement Costs	\$4,899,999
Less Shared Public Way Cost (Required for project)	(\$963,036)
Total Open Space Improvement Cost	\$3,936,963
Less fee waiver	(\$2,369,144)
Remainder: Is considered by law a gift to City, which requires City acceptance	\$1,567,819

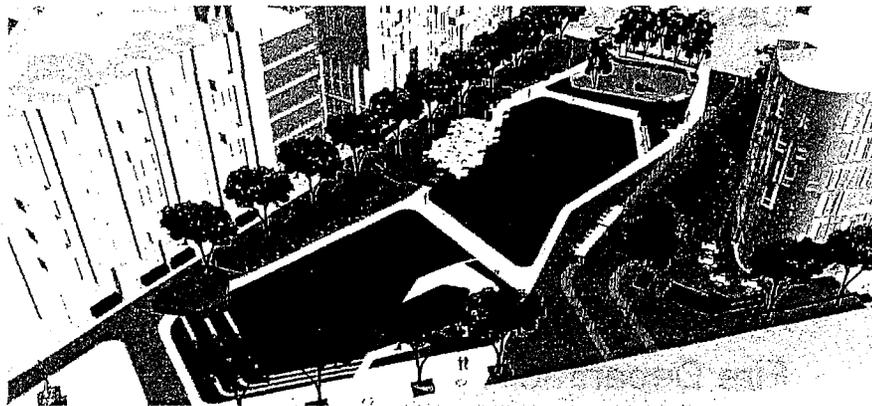
- Additional gift: Perpetual maintenance



Approvals before this Board today

Daggett Rezone Ordinance: File # 150586

1. **Rezone land to Public (P) and Open Space Height 1. and bulk designation Open Space (OS)**
2. **Affirming California Environmental Quality Act**
3. **Make findings of consistency with the General Plan**



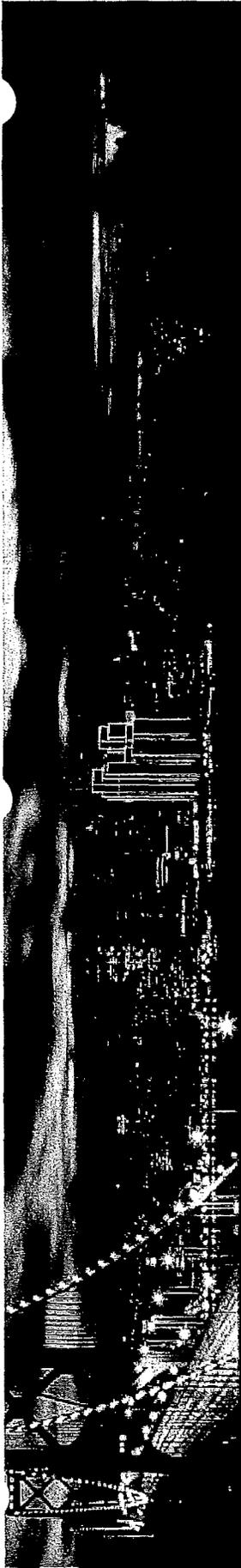
729

Main Daggett Ordinance: File # 150644

1. **Memorandum of Understanding (MOU) between Port and Real Estate Division for land transfer and funding**
2. **Summary Street vacation of open space area of Daggett Street**
3. **Interdepartmental Transfer from Port to Real Estate Division and Public Works**
4. **Public Works Director's Order for various sidewalk and street grade modifications**
5. **Gift Acceptance for balance of improvements**
6. **Public Works Director's Order for Major Encroachment permit (Shared Public Way)**
7. **Director's of Public Works to accept other required public improvements**
8. **Directory of Property to execute a license agreement for the maintenance of the vacation area**
9. **Affirming California Environmental Quality Act**
10. **Make findings of consistency with the General Plan**

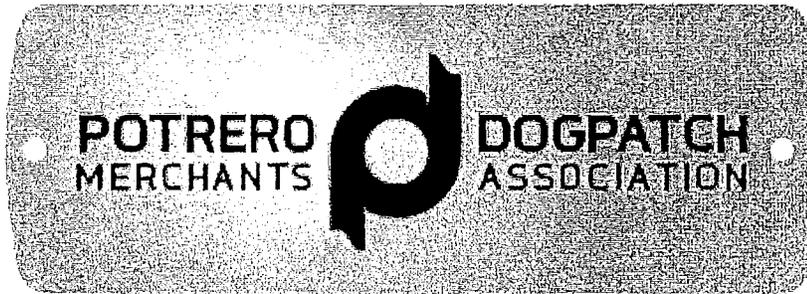
Project Collaboration and Partnerships

- Community partners
 - Eastern Neighborhoods Community Advisory Committee
- Private partners
 - Equity Residential
- State
 - California State Lands Commission
- San Francisco City and County
 - Port of San Francisco
 - Office of Economic and Workforce Development (OEWD)
 - Planning Department
 - Public Works
 - Real Estate Division (RED)
 - Public Utilities Commission (SFPUC)
 - Art Commission (SFAC)
 - Fire Department (SFFD)
 - Department of Building Inspection (DBI)
 - Metropolitan Transportation Authority (MTA)



Thank you!

**SAN
FRANCISCO**
Office of Economic and Workforce Development



September 14, 2015

Re: Daggett Park
To BOS Land Use Committee

The Potrero Dogpatch Merchants Association (PDMA) respectfully urges you to approve the ordinances that will enable the construction of Daggett Park. This proposed park is a sorely-needed open space for the northern part of Potrero/ Showplace. Currently, the sole open space in that neighborhood is the somewhat decrepit Jackson Park, a space that is primarily used as a baseball field. Daggett Park will be open to the whole neighborhood; it has been very attractively designed, it was unanimously approved at the ENCAC and it will be an asset to both current and future residents of the area.

Yours sincerely,

Keith Goldstein
President, PDMA

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Mohammed Nuru, Director, Public Works
Harlan Kelly, General Manager, Public Utilities Commission
John Updike, Director, Real Estate
Phil Ginsberg, Director, Recreation and Parks Department
Monique Moyer, Executive Director, Port

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee,
Board of Supervisors

DATE: June 16, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Cohen:

File No. 150644

Ordinance approving an agreement with the Port of San Francisco for the City's purchase of Daggett Street between 16th and 7th Streets; summarily vacating the northern portion of the street; authorizing an interdepartmental transfer of the vacation area from Public Works to the Real Estate Division of the Office of the City Administrator for public open space; modifying the official public right-of-way width, changing the official sidewalk width, and changing the official grade on the remaining portion of Daggett Street and portions of 16th and 7th Streets; accepting a gift from Archstone Daggett Place, LLC, for certain park improvements on the portion of Daggett Street to be vacated and their maintenance; approving a major encroachment permit for the shared public way improvements on the remaining southerly portion of Daggett Street; delegating to the Director of Public Works the authority to accept other required public improvements associated with the adjacent development project; authorizing the Director of Property to execute a license agreement for the maintenance of the vacation area; affirming the Planning Commission's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, for the actions contemplated in this Ordinance.

If you have any additional 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.

C:

Frank Lee, Secretary to the Director
Juliet Ellis, External Affairs
Donna Hood, Commission Secretary
Sarah Ballard, Director of Policy and Public Affairs
Margaret McArthur, Commission Secretary
Amy Quesada, Commission Secretary

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

June 30, 2015

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On June 16, 2015, Supervisor Cohen introduced the following legislation:

File No. 150644

Ordinance approving an agreement with the Port of San Francisco for the City's purchase of Daggett Street between 16th and 7th Streets; summarily vacating the northern portion of the street; authorizing an interdepartmental transfer of the vacation area from Public Works to the Real Estate Division of the Office of the City Administrator for public open space; modifying the official public right-of-way width, changing the official sidewalk width, and changing the official grade on the remaining portion of Daggett Street and portions of 16th and 7th Streets; accepting a gift from Archstone Daggett Place, LLC, for certain park improvements on the portion of Daggett Street to be vacated and their maintenance; approving a major encroachment permit for the shared public way improvements on the remaining southerly portion of Daggett Street; delegating to the Director of Public Works the authority to accept other required public improvements associated with the adjacent development project; authorizing the Director of Property to execute a license agreement for the maintenance of the vacation area; affirming the Planning Commission's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, for the actions contemplated in this Ordinance.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk

Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
AnMarie Rodgers, Senior Policy Manager
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS



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1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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PROOF OF POSTING

Legislative File No. 150644

Description of Items:

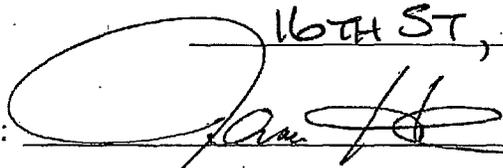
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I, JAMES HECK, an employee of the City and County of San Francisco, posted the above described document(s) in at least three (3) public places along the street(s) to be affected at least ten (10) days in advance of the hearing (pursuant to CA Streets and Highways Code, Section 970.5):

Date: 9-1-15

Time: 8:30AM

Location: 16TH ST, 7TH ST, HUBBELL

Signature: 

Instructions: Upon completion, original must be filed in the above referenced file.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND TRANSPORTATION COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: ~~Monday, July 20, 2015~~ CONTINUED TO MONDAY, SEPTEMBER 14, 2015

Time: 1:30 p.m.

Location: Legislative Chamber, Room 250, located at City Hall,
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subject: File No. 150644. Ordinance approving an agreement with the Port of San Francisco for the City's purchase of Daggett Street between 16th and 7th Streets; summarily vacating the northern portion of the street; authorizing an interdepartmental transfer of the vacation area from Public Works to the Real Estate Division of the Office of the City Administrator for public open-space; modifying the official public right-of-way width, changing the official sidewalk width, and changing the official grade on the remaining portion of Daggett Street and portions of 16th and 7th Streets; accepting a gift from Archstone Daggett Place, LLC, for certain park improvements on the portion of Daggett Street to be vacated and their maintenance; approving a major encroachment permit for the shared public way improvements on the remaining southerly portion of Daggett Street; delegating to the Director of Public Works the authority to accept other required public improvements associated with the adjacent development project; authorizing the Director of Property to execute a license agreement for the maintenance of the vacation area; affirming the Planning Commission's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, for the actions contemplated in this Ordinance.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall,

1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, July 17, 2015.


Angela Calvillo, Clerk of the Board.

DATED: July 2, 2015
POSTED/PUBLISHED: July 6 & 14, 2015

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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Angela Calvillo, Clerk of the Board

DATED: July 2, 2015
POSTED/PUBLISHED: July 6 & 14, 2015

BOARD of SUPERVISORS



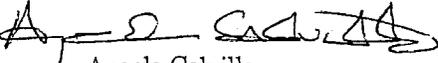
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

公聽會通知

土地使用與交通運輸委員會

日期: 續至 2015 年 9 月 14 日
時間: 下午 1 時 30 分
地點: 市政廳, 立法會議廳 250 室, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA

議題: 檔案號碼150644。該項條例通過了與三藩市港口 (Port of San Francisco) 所達成的有關市府購買位於16th街夾7th街之間的 Daggett街區的協議; 立即騰空該街道的北區; 授權一項閒置區 (vacation area) 的跨部門轉交, 由工務局 (Public Works) 轉交至市行政官辦公室房地產部 (Real Estate Division of the City Administrator) 以用作公眾休憩用地; 修改正式的公共通行道路 (right-of-way) 寬度、變更正式的人行道寬度, 以及變更Daggett街區的尚存部分地段及16th街夾7th街之間的部分地段的正式級別; 接受Archstone Daggett Place, LLC的饋贈, 對即將騰空的Daggett街區的部分公園進行改善及維護; 批准一份重要的佔用許可證, 容許對Daggett街僅存的朝南區進行共用公共道路改善; 授權公務局局長接受其它要求與毗鄰開發項目相關的公共改善; 授權物業主任履行維護空置區的牌照協議; 依據「加州環境質量法」(California Environmental Quality Act) 確定規劃委員會的決定; 並且鑒於該項條例內經慎重考慮的動議, 作出與總體計劃及規劃法第101.1條款之八項優先政策相一致的裁斷。


Angela Calvillo
市參事委員會書記

日期: July 2, 2015

BOARD of SUPERVISORS

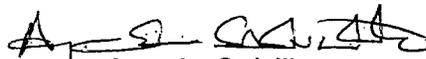


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NOTIFICACIÓN DE AUDIENCIA PÚBLICA

COMITÉ DEL USO DEL TERRENO Y EL TRANSPORTE

- Fecha:** Continuación del lunes, 14 de septiembre de 2015
- Hora:** 1:30 p.m.
- Lugar:** Cámara Legislativa, Sala 250, ubicada en la Alcaldía
1 Dr. Carlton B. Goodlett Place, San Francisco, CA
- Asunto:** **Archivo No. 150644.** Ordenanza aprobando un acuerdo con el Puerto de San Francisco para la compra por parte de la Ciudad de la Calle Daggett entre las Calles 16 y 7; desocupar sumariamente la parte norte de la calle; autorizando una transferencia interdepartamental del área privada de la vía pública (vacation area) de Obras Públicas a la División Bienes Raíces de la Oficina del Administrador de la Ciudad para un espacio público abierto; modificando el ancho oficial del derecho de vía pública, cambiando el ancho oficial de la acera y cambiando el grado oficial en la porción restante de la Calle Daggett y porciones de las Calles 16 y 7; aceptando un regalo de Archstone Daggett Place, LLC, para ciertas mejoras al parque en la porción de la Calle Daggett que será desocupada y su mantenimiento; aprobando un permiso de zona restringida significativo para las mejoras a la vía pública compartida en la parte sur restante de la Calle Daggett; delegando en el Director de Obras Públicas la autoridad para aceptar otras mejoras públicas necesarias asociadas con el Proyecto de desarrollo adyacente; autorizando al Director de la Propiedad a ejecutar un acuerdo de licencia para el mantenimiento del área privada de la vía pública (vacation area); afirmando la determinación de la Comisión de Planificación bajo la Ley de Calidad Ambiental de California; y formulando conclusiones de la consistencia con el Plan General, y las ocho políticas prioritarias del Código de Planificación, Sección 101.1, para las acciones contempladas en esta Ordenanza.


Angela Calvillo
Secretaria de la Junta

FECHADO: 2 de julio de 2015

SAN FRANCISCO EXAMINER • DAILY CITY INDEPENDENT • SAN MATEO WEEKLY • REDWOOD CITY TRIBUNE • ENQUIRER-BULLETIN • FOSTER CITY PROGRESS • MILLBRAE • SAN BRUNO SUN • BOUTIQUE & VILLAGER

INVITATION FOR BIDS

The Port of San Francisco, announces an invitation for bids for construction of the PIER 31 BUILDING & ROOF REPAIR PROJECT, Contract No. 2762, in San Francisco, CA. Work includes selective demolition, repair of structural framing, new roofing and roof elements, new windows and doors, toilet room and ADA upgrades, and upgrades to plumbing, mechanical, and electrical systems.

Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, July 17, 2015. Angelia Cavillo, Clerk of the Board.

CIVIL

SUMMONS (CITACION JUDICIAL) CASE NUMBER (Número del Caso): CIVS#2735

NOTICE TO DEFENDANT (AVISO AL DEMANDADO): Juan C. Reyes, aka Rey Juan, an individual; Does 1 through 20, inclusive. YOU ARE BEING SUED BY PLAINTIFF (LO ESTÁ DEMANDANDO) EL DEMANDANTE: American Express Centurion Bank, a Utah state chartered bank.

NOTICE TO DEFENDANT (AVISO AL DEMANDADO): You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.suorteca.gov).

NOTICE TO DEFENDANT (AVISO AL DEMANDADO): You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff.

The court may decide against you without your being heard unless you respond within 30 days. Read the information below. You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff.

Los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services.

Los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services.

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FICTITIOUS BUSINESS NAME STATEMENT File No. 265743 The following person(s) is (are) doing business as: AVALON HOME CARE, 2600 Westford Ave., South San Francisco, CA 94080.

FICTITIOUS BUSINESS NAME STATEMENT File No. 265744 The following person(s) is (are) doing business as: LIVE AT HOME SENIOR CARE, 333 Bradford St #150, Redwood City, CA 94063.

FICTITIOUS BUSINESS NAME STATEMENT File No. 265745 The following person(s) is (are) doing business as: RONNIE GUINTO PHOTOGRAPHY, 1364 Valota Rd., Redwood City, CA 94061.

FICTITIOUS BUSINESS NAME STATEMENT File No. 265746 The following person(s) is (are) doing business as: AIRAM, 184 Harbor Way, South San Francisco, CA 94080.

FICTITIOUS BUSINESS NAME STATEMENT File No. 265747 The following person(s) is (are) doing business as: AIRAM INTERNATIONAL CORPORATION, 184 Harbor Way, South San Francisco, CA 94080.

FICTITIOUS BUSINESS NAME STATEMENT File No. 265748 The following person(s) is (are) doing business as: AIRAM, 184 Harbor Way, South San Francisco, CA 94080.

FICTITIOUS BUSINESS NAME STATEMENT File No. 265749 The following person(s) is (are) doing business as: ARMS CAREGIVERS, 333 Gallert Blvd., #150, Daly City CA 94015.

FICTITIOUS BUSINESS NAME STATEMENT File No. 265750 The following person(s) is (are) doing business as: CLEAN DEAL, 488 Second Avenue, Redwood City, CA 94063.

GOVERNMENT

NOTICE OF PUBLIC HEARING BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND TRANSPORTATION COMMITTEE JULY 20, 2015 -1:30 PM LEGISLATIVE CHAMBER, RM 250, CITY HALL 1 DR. CARLTON B. GODDLETT PLACE, SF CA. NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard.

and 7th Street; accepting a gift from Archstone Dagggett Park; approving a major encroachment permit for the shared public way improvements on the remaining southerly portion of Dagggett Street; delegating to the Director of Public Works the authority to accept other regulated public improvements associated with the adjacent development project; authorizing the Director of Property to execute a license agreement for the maintenance of the vacation area adjoining the Planning Code, Section 01.1, for the actions contemplated in this Ordinance.

FICTITIOUS BUSINESS NAMES

FICTITIOUS BUSINESS NAME STATEMENT File No. 265751 The following person(s) is (are) doing business as: CLARK CARINA, 333 Gallert Blvd., #150, Daly City CA 94015.

FICTITIOUS BUSINESS NAME STATEMENT File No. 265752 The following person(s) is (are) doing business as: CLEAN DEAL, 488 Second Avenue, Redwood City, CA 94063.

**New
Order**



Your Order is sent.

Customer Information

Customer Name	S.F. BD OF SUPERVISORS (NON-CONSECUTIVE)	Master Id	52704
Address	1 DR CARLTON B GOODLETT PL #244	Phone	4155547704
City	SAN FRANCISCO	Fax	4155547714
State - Zip	CA - 94102		

Product Information

Legal GOVERNMENT - GOVT PUBLIC NOTICE

Order Information

Attention Name	AA	Billing Reference No.	<input type="text"/>
Ad Description	Summary St. Vacation 150644	Sale/Hrg/Bid Date	<input type="text"/>

Special Instructions

Orders Created

Order No.	Newspaper Name	Publishing Dates	Ad	Price Description	Price	Ad Status
2770354	SAN FRANCISCO EXAMINER 10%, CA Billed To: CCSF BD OF SUPERVISORS (OFFICIAL NOTICES) Created For: CCSF BD OF SUPERVISORS (OFFICIAL NOTICES)	07/06/2015, 07/14/2015	Depth : 8.40" Lines : 103	\$3.75 103 lines * 2 Inserts[\$772.50] \$ 10% set aside [\$-77.25]	\$695.25	Sent

Order No.	Newspaper	View
2770354	SAN FRANCISCO EXAMINER 10%	View Ad In PDF

NOTICE OF PUBLIC HEARING BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND TRANSPORTATION COMMITTEE JULY 20, 2015 -1:30 PM LEGISLATIVE CHAMBER, RM 250, CITY HALL 1 DR. CARLTON B. GOODLETT PLACE, SF, CA

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard: File No. 150644. Ordinance approving an agreement with the Port of San Francisco for the City's purchase of Daggett Street between 16th and 7th Streets; summarily vacating the northern portion of the street; authorizing an interdepartmental transfer of the vacation area from Public Works to the Real Estate Division of the Office of the City Administrator for public open space; modifying the official public right-of-way width, changing the official sidewalk width, and changing the official grade on the remaining portion of Daggett Street and portions of 16th and 7th Streets; accepting a gift from Archstone Daggett Place, LLC, for certain park improvements on the portion of Daggett Street to be vacated and their maintenance; approving a major encroachment permit for the shared public way improvements on the remaining southerly portion of

Daggett Street; delegating to the Director of Public Works the authority to accept other required public improvements associated with the adjacent development project; authorizing the Director of Property to execute a license agreement for the maintenance of the vacation area; affirming the Planning Commission's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, for the actions contemplated in this Ordinance. In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, July 17, 2015. Angela Calvillo, Clerk of the Board

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [150644]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

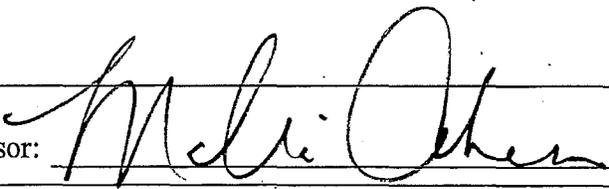
COHEN

Subject:

Daggett st - Approval of land transfer - st encroachment - vacation : Related Actions

The text is listed below or attached:

Attached

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

