

[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 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.**

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 June 2010 Showplace Square Open Space Plan identified a significant  
21 opportunity for new open space on the approximately one-acre one block section of Daggett  
22 Street between 16<sup>th</sup> and 7<sup>th</sup> Streets, owned by the Port of San Francisco and subject to the  
23 public trust. The Eastern Neighborhoods Community Advisory Committee ("ENCAC"), as well  
24 as various City agencies, recommended use of the Eastern Neighborhoods Infrastructure  
25

1 Impact Fee to support a new open space on this publicly-owned site. The ENCAC resolution  
2 is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

3 (d) In 2012, the Planning Commission and Archstone Daggett Place, LLC ("Project  
4 Sponsor"), which plans to develop a 453-unit rental development project, entered into an in-  
5 kind agreement on the properties abutting Daggett Street, to build a new open space and  
6 shared public way in this location in exchange for a waiver of a portion of its Eastern  
7 Neighborhoods Infrastructure Impact Fee. The Planning Commission and the Project  
8 Sponsor entered into the 1000 16th Street In-Kind Improvement Agreement dated as of  
9 November 29, 2012 (the "In-Kind Agreement"). Project Sponsor will provide the additional  
10 cost of construction of the initial park improvements and maintenance of the open space as a  
11 gift to the City. On November 29, 2012 and \_\_\_\_\_, 2015, at duly noticed public  
12 hearings, the Planning Commission, in Resolution Nos. 18752 and \_\_\_\_\_ approved an  
13 In-Kind Agreement and an amended In-Kind Agreement, respectively. Copies of these  
14 resolutions are on file with the Clerk of the Board in File No. \_\_\_\_\_.

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

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

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

9 (h) The Daggett Park project ("Project") was included in the adjacent 1000 16th Street  
10 mixed-use project and obtained project specific environmental clearance through a Final  
11 Environmental Impact Report ("FEIR") prepared in accordance with the California  
12 Environmental Quality Act (Public Resources Code Sections 21000 et seq.) in Planning Case  
13 No. 2003.0527E. As part of various actions related to the adjacent development, including  
14 approval of an in-kind agreement for the construction of Daggett Park, the Planning  
15 Commission adopted California Environmental Quality Act findings in Resolution Nos. 18419  
16 and 18752, copies of which are in Clerk of the Board of Supervisors File No. \_\_\_\_\_,  
17 and incorporated herein by reference. The Board adopts these findings as its own.

18 (i) The Board finds that no substantial changes are proposed to the Project or the  
19 circumstances under which the Project is undertaken that would cause new significant  
20 environmental effects or any increase in the severity of previously identified significant effects  
21 in the FEIR. The Board further finds there is no new information of substantial importance  
22 showing that the Project would have any significant effects not discussed in the FEIR, that  
23 significant effects would be substantially more severe, or that new or different mitigation  
24 measures or alternatives would substantially reduce one or more significant effects, if any, of  
25 the Project.

1 (j) On \_\_\_\_\_, 2015, the Planning Department, in a letter dated  
2 \_\_\_\_\_, 2015, determined that the actions contemplated in this ordinance are  
3 consistent, on balance, with the City's General Plan and eight priority policies of Planning  
4 Code Section 101.1. The Board adopts these findings as its own. A copy of said letter is on  
5 file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein  
6 by reference.  
7

8 Section 2. **Approval of the Transfer of Daggett Street from the Port of San**  
9 **Francisco to the City and Approval of the Interdepartmental Transfer of a Portion of**  
10 **Daggett Street.**

11 (a) **Findings.**

12 (1) On October 28, 2014, at a duly noticed public hearing, the San Francisco  
13 Port Commission, in Resolution No. 14-57, authorized Port staff to seek termination of the  
14 public trust on Daggett Street from State Lands Commission. On December 16, 2014, at a  
15 duly noticed public hearing, the San Francisco Port Commission, in Resolution No. 14-62,  
16 authorized a memorandum of understanding ("MOU") regarding the removal of the public trust  
17 from Daggett Street and jurisdictional transfer to RED. Copies of these resolutions and the  
18 draft MOU are on file with the Clerk of the Board in File No. \_\_\_\_\_. At RED's  
19 request, jurisdiction of the entirety of Daggett Street between 16th and 7th Streets will initially  
20 transfer to Public Works on behalf of the City and County of San Francisco, and following the  
21 Project Sponsor's satisfactory completion of the park improvements on the Vacation Area,  
22 jurisdiction of Vacation Area will transfer to RED. Jurisdiction of the remaining right of way  
23 portion of Daggett Street will remain with Public Works.

24 (2) On December 17, 2014, at a duly noticed public hearing, the State Lands  
25 Commission, in Calendar Item C68, authorized termination of the State's public trust interest

1 in Daggett Street, in accordance with California State Legislative Session 2007's Chapter No.  
2 660. As part of this action, the State Lands Commission authorized transfer of Daggett Street  
3 to the City and County of San Francisco for \$1,675,000.00 free of any public trust interest. A  
4 copy of this Calendar item is on file with the Clerk of the Board in File No. \_\_\_\_\_.

5 (3) On July 18, 2011 and June 15, 2015, at duly noticed public hearings, the  
6 ENCAC supported the use of an In-Kind Agreement between the City and Project Sponsor  
7 that would utilize a portion of the Eastern Neighborhoods Infrastructure Impact Fees owed by  
8 the Project Sponsor's surrounding mixed use development, as set forth in Planning Code  
9 Section 423.3, to be allocated to the construction of the park improvements. The ENCAC  
10 recommended this action to the Planning Commission and Board of Supervisors.

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

13 (5) On November 29, 2012 and \_\_\_\_\_, 2015 , at duly noticed public  
14 hearings, the Planning Commission in Resolution Nos. 18752 and \_\_\_\_\_ agreed  
15 with the recommendation of the ENCAC and the IPIC. Copy of these resolutions are on file  
16 with the Clerk of the Board in File No. \_\_\_\_\_.

17 (6) The Board recognizes that additional money is necessary to complete the  
18 transfer of Daggett Street. The main source of these funds is the State Housing Related Parks  
19 Program Grant. On February 2, 2015, at a duly noticed hearing, the Board of Supervisors  
20 approved a Resolution retroactively authorizing the Recreation and Park Department to  
21 accept and expend a grant that included \$1,600,000 in funding for transfer of Daggett Street.  
22 A copy of this resolution is on file with the Clerk of the Board of Supervisors in File No.  
23 141305.

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

1           **(b) Approval of the Property Transfer from the Port.**

2           (1) Notwithstanding the provisions of Administrative Code Chapter 23, the  
3 Board hereby approves the interdepartmental transfer of Daggett Street from the Port of San  
4 Francisco to the City in accordance with terms of the draft MOU between the Port and City.

5           (2) The Board approves use of a portion of the Eastern Neighborhoods Public  
6 Benefits Fund for open space and recreational facilities as set forth in Planning Code Section  
7 423.5, to transfer the Property.

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

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

14          (2) This transfer also is conditioned upon the effective date of companion  
15 legislation in Clerk of the Board of Supervisors File No. \_\_\_\_\_ that will rezone the  
16 subject area so that its zoning designation is P (Public) with a height and bulk designation of  
17 OS (Open Space).

18          (3) The Vacation Area shall be subject to a declaration of restrictions as set  
19 forth below in Section 3(a)(6) for purposes of sidewalk use and compliance with the Building  
20 and Fire Codes.

21  
22          Section 3. **Summary Street Vacation of the Northern Portion of Daggett Street.**

23          **(a) Findings.**

24          (1) California Street and Highways Code Sections 8300 et seq. and Public  
25 Works Code Section 787(a) set forth the procedures that the City and County of San

1 Francisco follows to vacate public streets and public service easements. California Street and  
2 Highways Code Sections 8330 et seq. permits the summary vacation of a public street or  
3 public service easement if certain conditions are satisfied.

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

6 (3) The location and extent of the Vacation Area is more particularly shown on  
7 the Public Works ("PW") SUR Map No. \_\_\_\_\_, dated \_\_\_\_\_. A copy of this map  
8 is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

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

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

17 (6) In PW Order No. \_\_\_\_\_, dated \_\_\_\_\_, the Director of Public  
18 Works (the "PW Director") determined: (A) the Vacation Area has been impassable for  
19 vehicular travel for over five years and is excess right-of-way that can be summarily vacated  
20 under California Streets and Highways Code Sections 8331 and 8334(a), respectively; (B) the  
21 Vacation Area is unnecessary for the City's present or prospective public street, sidewalk, and  
22 service easement purposes; (C) with the relocation of the sanitary sewer line under the  
23 jurisdiction of the San Francisco Public Utility Commission as part of the Park design, there  
24 are no functioning in-place public or private utility facilities that would be affected by the  
25 vacation of the Vacation Area, which allows the City to proceed with a summary street



1 vacation under Streets and Highways Code Section 8334.5; (D) pursuant to the Streets and  
2 Highways Code Section 892, the Vacation Area hereunder will not affect a nonmotorized  
3 transportation facility because commuters can continue to use the Daggett Street shared  
4 public way that will remain in public right-of-way use; (E) the public interest, convenience, and  
5 necessity do not require any easements or other rights be reserved for any public or private  
6 utility facilities that are in place in the Vacation Area and that any rights based upon any such  
7 public or private utility facilities shall be extinguished automatically upon the effectiveness of  
8 the vacation; provided, however, that a declaration of restrictions be recorded on the Vacation  
9 Area that an approximately 12-foot wide area on northerly side of the Vacation Area be  
10 permanently set aside for sidewalk and open space use; and (F) it is a policy matter for the  
11 Board of Supervisors to transfer jurisdiction of the Vacation Area to RED. A copy of the PW  
12 Order and the draft declaration of restrictions are on file with the Clerk of the Board of  
13 Supervisors in File No. \_\_\_\_\_.

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

22 (b) **Ordering a Summary Street Vacation of the Northern Portion of Daggett**  
23 **Street.**

24 (1) The Board of Supervisors hereby summarily vacates the Vacation Area, as  
25 shown on SUR Map No. \_\_\_\_\_, upon satisfaction of the conditions described in this

1 ordinance and pursuant to California Street and Highways Code Section 8300 et seq. and  
2 Public Works Code Section 787(a).

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

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

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

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

14 (B) A declaration of restrictions be recorded on the Vacation Area that  
15 the northerly side of the Vacation Area be permanently set aside for sidewalk and open space  
16 use.

17  
18 **Section 4. Modifying the official public right-of-way width on the Daggett Street**  
19 **Shared Public Way, changing the official sidewalk width, and changing the official**  
20 **grade.**

21 (a) Findings.

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

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

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

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

(2) In accordance with the PW Order No. \_\_\_\_\_, dated \_\_\_\_\_, 2015, a copy of which is in the Clerk of the Board of Supervisors File No. \_\_\_\_\_, Board of Supervisors Ordinance No.1061, entitled "Regulating the Width of Sidewalks," a copy of which is in the Clerk of the Board of Supervisors Book of General Ordinances, in effect May 11, 1910, is hereby amended by adding thereto a new section to read as follows:

Section 1603. The width of sidewalks on Daggett Street between 16th and 7th Streets and along 16th and 7th Streets perpendicular to Daggett Street shall be modified as shown on Public Works Map No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_.

(3) Notwithstanding California Streets and Highways Code Sections 8000 et seq., the Board of Supervisors, in accordance with San Francisco Administrative Code Sections 1.51 et seq., chooses to follow its own procedures for the establishment of street grades and hereby accepts and designates the street grades for the Daggett Street Shared Public Way as set forth in the PW Order No. \_\_\_\_\_, Map No. \_\_\_\_\_, dated \_\_\_\_\_, 2015.

(4) The sidewalk widths designated by the Board pursuant to Subsection (2) do not obviate, amend, alter, or in any other way affect the maintenance obligations of the adjacent property owners and further subject to the terms of the major encroachment permit authorized under this ordinance.

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

5 Section 5. **Gift Acceptance of Park Improvements, Including Maintenance, and**  
6 **Daggett Street Shared Public Way.**

7 (a) **Findings.**

8 (1) On November 29, 2012, at a duly noticed hearing, the Planning Commission  
9 in Resolution No. 18752 approved the In-Kind Agreement to allow the Project Sponsor, to  
10 construct park improvements on the Vacation Area in lieu of paying a portion of the Eastern  
11 Neighborhoods Infrastructure Impact Fee. On \_\_\_\_\_, 2015, at a duly noticed  
12 hearing, the Planning Commission in Resolution No. \_\_\_\_\_ approved an amended In-  
13 Kind Agreement. Copies of these resolutions are on file with the Clerk of the Board in File No.  
14 \_\_\_\_\_.

15 (2) The cost of constructing the park improvements, estimated to be  
16 \$4,899,999.00, exceeds the amount of the approved fee waiver. Consequently, the Project  
17 Sponsor, has offered the excess cost of construction for the park improvements to the City  
18 and County of San Francisco as a gift. In addition, the gift includes permanent maintenance  
19 of the Vacation Area as evidenced in a declaration of restrictions to be recorded against the  
20 adjacent property. A copy of the gift offer and draft declaration of restrictions are on file with  
21 the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

22 (b) **Acceptance of the Gift.**

23 (1) The Board of Supervisors, on behalf of the City and County of San  
24 Francisco, graciously accepts the gift offer from the Project Sponsor, Archstone Daggett  
25

1 Place, LLC, for the park improvements to the Vacation Area, including permanent  
2 maintenance thereof.

3  
4 **Section 6. Major Encroachment Permit for the Daggett Street Shared Public Way.**

5 **(a) Findings.**

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

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

11 (3) The Project Sponsor has agreed to construct certain public improvements  
12 on and in Daggett Street, including the creation of public open space park improvements of  
13 approximately 38,000 square feet and a shared public way. The shared public way  
14 improvements are more fully shown in permit drawings and diagrams, copies of which are in  
15 the Clerk of the Board of Supervisors File No. \_\_\_\_\_ and are incorporated herein by  
16 reference.

17 (4) Pursuant to Public Works Code Section 786, the Project Sponsor requested  
18 permission to occupy portions of the public right-of-way to construct the Daggett Street  
19 Shared Public Way improvements and provide for the maintenance of this encroachment.

20 (5) The Eastern Neighborhoods Streets and Open Space Concept (Appendix  
21 A3 of the Showplace Square/Potrero Hill Area Plan) shows a public open space on Daggett  
22 Street as a priority area for the City to provide new open space. Policies 5.1.1 and 5.1.2 of the  
23 Showplace Square/Potrero Hill Area Plan (2009) call for the City to “[i]dentify opportunities to  
24 create new public parks and open spaces and provide at least one new public park or open  
25 space serving the Showplace/Potrero” and “[r]equire new residential development and

1 commercial development to provide, or contribute to the creation of publicly accessible open  
2 space.” In addition, the Showplace Open Space Plan (2010) identified Daggett Street as a  
3 potential location for open space to fulfill the goals of the Showplace Square/Potrero Hill Area  
4 Plan.

5 (6) The Transportation Advisory Staff Committee, at its meeting of \_\_\_\_\_,  
6 20\_\_\_\_, recommended the proposed encroachments for approval. Minutes of said meeting  
7 are on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

8 (7) After a public hearing on \_\_\_\_\_, 20\_\_, Public Works recommended  
9 to the Board approval of a street encroachment permit for the Daggett Street Shared Public  
10 Way and its maintenance. This recommendation is contained in PW Order No. \_\_\_\_\_, a  
11 copy of which is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_, and  
12 incorporated herein by reference.

13 (b) **Approval of a Major Encroachment Permit for the Daggett Street Shared**  
14 **Public Way.**

15 (1) The Street (Major) Encroachment Permit and its associated encroachment  
16 agreement for the Daggett Street Shared Public Way shall not become effective until:

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

19 (B) PW records the Permit and associated encroachment agreement  
20 along with a declaration of restrictions ensuring maintenance in perpetuity in the County  
21 Recorder’s Office, and

22 (C) The Project Sponsor posts a maintenance bond in an amount and  
23 subject to terms acceptable to the Director of PW and the City Attorney to ensure long-term  
24 maintenance of the Daggett Street Shared Public Way.  
25

1                   (2) The Permit and its associated encroachment agreement are on file with the  
2 Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and incorporated herein by  
3 reference.

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

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

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

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

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

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

20                   (6) Pursuant to Public Works Code Section 786, the Board of Supervisors  
21 hereby grants revocable permission to the Project Sponsor, Archstone Daggett Place, LLC, to  
22 occupy the public right-of-way with the Daggett Street Shared Public Way improvements and  
23 to maintain this encroachment.

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

4 (8) The Board of Supervisors accepts the recommendations of the PW Order  
5 and approves the Street Encroachment Permit and its associated maintenance agreement.

6 (9) The Board also delegates the authority to the PW Director, after confirmation  
7 from the General Manager of the Public Utilities Commission and the City Engineer's issuance  
8 of a determination of completion, to accept the sanitary sewer line in the Daggett Street  
9 Shared Public Way for City maintenance and liability purposes, subject to any terms related to  
10 its operation and maintenance that are contained in the permit or street encroachment  
11 agreement.  
12

13 **Section 7. Approval of Maintenance License Agreement for Vacation Area.**

14 (a) Under the In-Kind Agreement, Project Sponsor agreed to maintain the Vacation  
15 Area in perpetuity, which maintenance obligation will be detailed in a declaration of  
16 maintenance obligations ("Declaration") to be recorded against the Project Sponsor properties  
17 that abut Daggett Street, which Declaration shall be substantially in the form on file with the  
18 Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

19 (b) To authorize the Project Sponsor to enter on the Vacation Area to perform such  
20 maintenance obligations in perpetuity under the Declaration, RED recommends that Project  
21 Sponsor and City enter into a maintenance license agreement in substantially the form on file  
22 with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_. Such agreement shall  
23 remain in effect until such time that City elects in writing to terminate such maintenance  
24 obligations.  
25



1 (c) The Board of Supervisors authorizes the Director of Property to execute such  
2 maintenance license agreement on behalf of the City, to perform and exercise City's rights  
3 and obligations under such agreement, and to enter into any amendments or modifications to  
4 such agreement (including without limitation, the exhibits) that the Director of Property  
5 determines, in consultation with the City Attorney, are in the best interest of the City, do not  
6 materially increase the obligations or liabilities of the City or materially decrease the  
7 obligations of Project Sponsor or its successors, are necessary or advisable to effectuate the  
8 purposes of the Declaration or this Ordinance, and are in compliance with all applicable laws,  
9 including City's Charter.

10  
11 **Section 8. Delegation to Public Works of Acceptance of Future Public**  
12 **Improvements.**

13 (a) **Findings.**

14 (1) The Board of Supervisors in Motion No. \_\_\_\_\_, approved Final  
15 Subdivision Map No. \_\_\_\_\_, associated with the development of \_\_\_\_\_. This  
16 map was accompanied by a public improvement agreement that addresses required public  
17 improvements associated with the development on private properties abutting Daggett Street.  
18 These improvements include an extended sidewalk and public right-of-way are at the corner  
19 of 16th and Hubbell Streets and the corner of 16th and 7th Streets . A copy of the motion,  
20 public improvement agreement, and an irrevocable offer for the identified public improvements  
21 and the fee title underlying such improvements are on file with the Clerk of the Board in File  
22 No. \_\_\_\_\_. The subject public improvements are not complete at this time when  
23 the Board is considering this legislation. Consequently, the Board of Supervisors determines  
24 that it would be efficient to delegate to the Director of PW the authority, upon completion of  
25 these future public improvements and the satisfaction of other conditions, to adopt any related

1 official PW maps, dedicate the improvements to public use, and accept the improvements for  
2 City maintenance and liability purposes, subject to the maintenance responsibility of fronting  
3 property owners pursuant to the Public Works Code, including, but not limited to, Public  
4 Works Code Section 706. The Board of Supervisors also determines that it would be efficient  
5 to delegate to the Director of RED the authority, upon the City Engineer's determination of  
6 completion of these future public improvements, to accept and record, on behalf of the City  
7 and County of San Francisco, a grant deed for the fee title to property underlying the public  
8 improvements.

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

11 (1) The Board of Supervisors hereby delegates to the Director of PW the  
12 authority, upon completion of the future public improvements associated with the Project  
13 Sponsor's Final Subdivision Map and certification from the City Engineer that the  
14 improvements are ready for their intended use, to adopt any related official PW maps,  
15 dedicate the improvements to public use, and accept the improvements for City maintenance  
16 and liability purposes, subject to the maintenance responsibility of the Project Sponsor or his  
17 or her successor(s) pursuant to the Public Works Code.

18 (2) The Board of Supervisors hereby delegates to the Director of RED the  
19 authority, upon the City Engineer's determination of completion of these future public  
20 improvements, to accept and record, on behalf of the City and County of San Francisco, a  
21 grant deed for the fee title to property underlying the public improvements.  
22

23 Section 9. **Official Acts in Furtherance of the Ordinance.** The Board of Supervisors  
24 directs the Directors of PW and RED, in consultation with the City Attorney's Office, to take all  
25

1 actions necessary to implement the intent of this ordinance, including acceptance and  
2 recordation of deeds and the aforementioned declarations of restrictions.

3  
4 Section 10. **Effective Date.** This ordinance shall become effective 30 days after  
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
7 of Supervisors overrides the Mayor's veto of the ordinance.

8  
9 APPROVED AS TO FORM:  
10 DENNIS J. HERRERA, City Attorney

11 By: \_\_\_\_\_  
12 John D. Malamut  
13 Deputy City Attorney

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