

City and County of San Francisco

San Francisco Public Works



London N. Breed, Mayor
Mohammed Nuru, Director

GENERAL - DIRECTOR'S OFFICE

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(415) 554-6920 ■ www.SFPublicWorks.org



Public Works Order No: 202465

Determination to recommend the street vacation of the south side of Mission Street and on the east side of Fremont Street, fronting Assessor's Block Number 3719, Lots 020–440, in connection with the Millennium Tower 301 Mission Perimeter Pile Upgrade Project pursuant to California Streets and Highways Code Sections 8300 *et seq.* and Public Works Code Section 787.

WHEREAS, Most public streets and sidewalks are owned by the City and County of San Francisco as a public right-of-way; and

WHEREAS, The area to be vacated (the "Vacation Area") is the sidewalk portion of the south side of Mission Street and the east side of Fremont Street, fronting Assessor's Block Number 3719, Lots 020–440, also known as the Millennium Tower at 301 Mission Street, and is specifically shown on SUR Map 2019 - 006, dated January 8, 2020; and

WHEREAS, For reference purposes, the Vacation Area also shall be identified as Assessor's Parcel Block No. 3719, Lot 519, for the Mission Street portion and Assessor's Parcel Block No. 3719, Lot 520, for the Fremont Street portion of the Vacation Area; and

WHEREAS, In accordance with information provided by the Project Sponsor, since completion of construction of the Tower in 2009, the area around the Tower and Property has experienced differential settlement due to consolidation and compression of the soil layer beneath the Colma Sand, which is known as Old Bay Clay. The existing mat foundation has settled near the northwest corner of the Tower and that corner of the Tower is tilting; and

WHEREAS, The 301 Mission Perimeter Pile Upgrade Project ("the Project") consists of a structural upgrade of the Tower building foundation that includes installation of a horizontal extension of the existing mat foundation for the Tower building within an approximately 8-foot-wide zone beneath public right of way sidewalk area immediately adjacent to the Tower along Fremont and Mission Streets, supported by 52 new piles extending to bedrock. The 52 new piles are referred to as "perimeter piles" and the extended mat foundation is referred to as the "collar foundation." In addition to preventing further settlement in the northwest corner of the Tower's existing foundation, the Project Sponsor has stated that this effort may allow for gradual tilt correction of the Tower building over time. The Project sponsor will need an easement to permanently occupy the City sidewalk portion of the public right-of-way (the "301 Mission Street Easement"); and

WHEREAS, The City is prohibited from granting a non-revocable permit or easement over public right-of-way unless the subject area is vacated in accordance with the Streets and Highways Code Sections 8300 *et seq.* and Public Works Code Section 787. Consequently, in order to accommodate the Project



and grant the 301 Mission Street Easement, the City will need to temporarily vacate the Vacation Area prior to granting such Easement; and

WHEREAS, Under these circumstances, Public Works finds that the Vacation Area is no longer necessary for the City's present or prospective future public street, sidewalk, and public service easement purposes on a temporary basis to allow for the grant of the 301 Mission Street Easement; and

WHEREAS, Once the street vacation occurs and the Easement is granted and recorded, the City intends to restore the street status on the Vacation Area so it will continue in its current form as a dedicated public right-of-way. Therefore, when the 301 Mission Street Easement is recorded, Public Works recommends that the Vacation Area be rededicated to public use for street and right-of-way purposes subject to the Easement; and

WHEREAS, Concurrent with recordation of the 301 Mission Street Easement, the Vacation Area should be rededicated to public use for street and right-of-way purposes subject to the Easement in order to restore the existing street use status to the Vacation Area; and

WHEREAS, The permanently installed perimeter piles and collar foundation will occupy a portion of current public right of way on Mission and Fremont Streets that is subject to the public trust doctrine, which designation will be removed by a State Trust exchange agreement approved by the State Lands Commission, the San Francisco Port Commission, and this Board of Supervisors ("Public Trust Exchange") prior to the street vacation being operative and 301 Mission Street Easement being recorded; and

WHEREAS, The vacation of the Vacation Area is conditioned upon the State Lands Commission Public Trust Exchange being final and effective; and

WHEREAS, Related to the street vacation action, the City also will consider the settlement of litigation related to 301 Mission Street that is comprised of all complaints and associated cross-claims and cross-complaints coordinated and/or consolidated under the case entitled, *Laura S. Lehman v. Transbay Joint Powers Authority, et al.*, Case Number CGC-16-553758 in the Superior Court of San Francisco in a companion ordinance (the "Settlement Ordinance"). But for this settlement, the City would not undertake this street vacation or the companion legislation for the 301 Mission Street Easement. Consequently, Public Works recommends that the street vacation ordinance not be operative until the Settlement Ordinance is final and effective.

WHEREAS, On November 20, 2019, the Planning Department published a Preliminary Mitigated Negative Declaration ("PMND") for the 301 Mission Street, Millennium Tower Perimeter Pile Upgrade Project (the "Project"). The PMND found that although the Project could have potentially significant impacts on the environment, such impacts will be reduced to a less than significant level because Millennium Tower Association (the "Project Sponsor") will implement all mitigation measures identified in the PMND; and

WHEREAS, Prior to the Board of Supervisor's acting on the Street Vacation, the Planning Department will finalize CEQA documents and will issue a General Plan determination related to the street vacation; and

WHEREAS, In accordance with California Streets and Highways Code Sections 892 and 8300 et seq., the right-of-way and parts thereof proposed for vacation are no longer useful as a non-motorized transportation facility, as defined in Streets and Highways Code Section 887, because the subject area is underground; and

WHEREAS, The vacation is being carried out pursuant to San Francisco Public Works Code Section 787; and

WHEREAS, Pursuant to the California Streets and Highway Code, the Department of Public Works, Bureau of Street Use and Mapping (the "Department") has initiated the process to vacate the Vacation Area; and

WHEREAS, The Department sent notice of the proposed street vacation, draft SUR drawing, a copy of the petition letter, and a DPW referral letter to the Department of City Planning, the Department of Technology, San Francisco Municipal Transportation Agency, AT&T, CenturyLink, Comcast, ExteNet, Point to Point communications, Verizon/MCI, XO-Communications, Sprint, San Francisco Fire Department, San Francisco Water Department, Pacific Gas and Electric ("PG&E"), Bureau of Engineering, Department of Parking and Traffic, Utility Engineering Bureau, and the San Francisco Public Utility Commission ("PUC"). No utility company or agency objected to the proposed vacation; and

WHEREAS, On December 6, 2019, the Municipal Transportation Agency determined that the proposed vacation did not have to be presented to the Transportation Advisory Staff Committee (TASC); and WHEREAS, The public interest, convenience, and necessity require that the street vacation occur as contemplated to protect the public safety and allow for the Project to be implemented; and

WHEREAS, It is a policy matter for the Board of Supervisors to grant the 301 Mission Street Easement over the City's interest in the Vacation Area to the Project Sponsor;

NOW THEREFORE BE IT ORDERED THAT,

The Director approves the following documents either attached hereto or referenced herein:

1. Ordinance to vacate the Vacation Area
2. Vacation Area SUR Map No. 2019-006

The Director recommends that the Board of Supervisors move forward with the legislation to vacate said Vacation Area.

The Director recommends that the Board of Supervisors approve all actions set forth herein with respect to this vacation and, after recordation of the 301 Mission Street Easement, rededicate the Vacation Area to street use for public right-of-way purposes subject to the Easement. 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.

X

DocuSigned by:

Bruce Storrs

Storrs, Bruce^{97ABC41507B0494...}

County Surveyor

X

DocuSigned by:

Nuru, Mohammed

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Director