[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.

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

Be it ordained by the People of the City and County of San Francisco:
Section 1. **General Findings.**

(a) 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.

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

(c) The Eastern Neighborhoods Streets and Open Space Concept Plan (Appendix A3 of the 2008 Showplace Square/Potrero Hill Area Plan) identified as a priority and significant opportunity for new open space the approximately one-acre one block section of Daggett Street between 16th and 7th Streets, owned by the Port of San Francisco and subject to the public trust. Policies 5.1.1 and 5.1.2 of the Showplace Square/Potrero Hill Area Plan (2009) call for the City to "[i]dentify opportunities to create new public parks and open spaces and
provide at least one new public park or open space serving the Showplace/Potrero” and
“[r]equire new residential development and commercial development to provide, or contribute
to the creation of publicly accessible open space.” In addition, the Showplace Open Space
Plan (2010) identified Daggett Street as a potential location for open space to fulfill the goals
of the Showplace Square/Potrero Hill Area Plan. As described below in Section 2, the
Eastern Neighborhoods Community Advisory Committee (“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.

(d) In 2012, the Planning Commission and Archstone Daggett Place, LLC ("Project
Sponsor"), which plans to develop a 453-unit rental development project on the properties
abutting Daggett Street, entered into an in-kind agreement to build a new open space on a
portion of Daggett Street 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
open space improvements and maintenance of the open space as a gift to the City. On
November 29, 2012 and July 9, 2015, at duly noticed public hearings, the Planning
Commission, in Resolution Nos. 18752 and 19410 approved an In-Kind Agreement and an
amended In-Kind Agreement, respectively (collectively referred to herein as the “In-Kind
Agreements”). Copies of these resolutions and the In-Kind Agreements are on file with the
Clerk of the Board in File No.150644.

(e) The Showplace Square/Potrero Hill area will benefit greatly from this new local
amenity, facilitated by the Project Sponsor’s adjacent new residential development, as
adequate resources have not been available to fund a significant new open space in this Plan
Area.
(f) Dagget Street, which was transferred to the City under the Burton Act, was subject to the public trust and placed in the jurisdiction of the Port of San Francisco. In order to support new open space uses on Dagget Street, the City worked with the Port and California State Lands Commission to lift the public trust from Dagget Street in exchange for the City's payment of the appraised fair market value of $1,675,000 to the Port. In exchange for such payment, the Port agreed to remove the public trust and transfer jurisdiction of Dagget Street to the City.

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

(h) The Dagget open space project (“Project”) was included in the adjacent 1000 16th Street mixed-use project and obtained project specific environmental clearance through a Final Environmental Impact Report (“FEIR”) prepared in accordance with the California Environmental Quality Act (“CEQA”) (Public Resources Code Sections 21000 et seq.) in Planning Case No. 2003.0527E. As part of various actions related to the adjacent development, including approval of an in-kind agreement for the construction of the Dagget open space, the Planning Commission certified the FEIR and adopted CEQA findings in Motion No. 17864 and Resolution Nos. 18419 and 18752, respectively, copies of which are in
Clerk of the Board of Supervisors File No. 150644, and incorporated herein by reference. The Board adopts the CEQA findings as its own.

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

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

Section 2. Approval of the Transfer of Daggett Street from the State of California to the City and Approval of the Interdepartmental Transfer of a Portion of Daggett Street.

   (a) Findings.

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

(2) 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 State Lands Commission transferred Daggett Street, free of the public trust, to the City,
acting by and through the Port Commission, by recording a Quitclaim Deed (City to State), a
Patent and Trust Termination, and a Certificate of Acceptance and Consent to Recording in
the Official Records of San Francisco County on July 21, 2015. Copies of this Calendar item,
Quitclaim Deed, this Patent and Trust Termination and this Certificate of Acceptance and
Consent to Recording are on file with the Clerk of the Board in File No. 150644.

(3) On January 27, 2009, the City issued an “Eastern Neighborhoods
Infrastructure Prioritization Memorandum of Understanding” (“ENMOU”) between seven City
agencies. This MOU listed the implementation of one new open space project in the
Showplace Square area (generally bounded by 16th Street to the south, 7th Street to the
northeast, Bryant Street to the northwest, and Potrero Avenue to the west) as one of the
seven priority projects for funding in the Eastern Neighborhoods. On July 18, 2011, in Motion
No. 2011-6-1, and June 15, 2015, in Motion No. 2015-06-05, at duly noticed public meetings,
the ENCAC supported the use of a portion of the Eastern Neighborhoods Infrastructure Impact fee that the Project Sponsor owed via an In-Kind Agreement between the City and Project Sponsor, as set forth in Planning Code Section 423.3, to be allocated to the construction of the open space improvements. The ENCAC recommended this action to the Planning Commission and Board of Supervisors. Copies of these motions are on file with the Clerk of the Board in File No. 150644.

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

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

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

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

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

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

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

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

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

Section 3. Summary Street Vacation of the Northern Portion of Daggett Street.

(a) Findings.

(1) California Street and Highways Code Sections 8300 et seq. and Public Works Code Section 787(a) set forth the procedures that the City and County of San Francisco follows to vacate public streets and public service easements. California Street and Highways Code Sections 8330 et seq. permits the summary vacation of a public street or public service easement if certain conditions are satisfied.
(2) The Board of Supervisors finds it appropriate to pursue a street vacation of the Vacation Area.

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

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

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

(6) In PW Order No. 183968, dated September 1, 2015, the Director of Public Works (the "PW Director") determined: (A) 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; (B) 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; (C) the Vacation Area is unnecessary for the City's present or prospective public street, sidewalk, and service easement purposes; (D) pursuant to the Streets and Highways Code Section 892, the Vacation Area hereunder will not affect a nonmotorized transportation facility because commuters can continue to use the Daggett Street shared public way that will remain in public right-of-way use; (E) 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 shall 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; and (F) the Board of Supervisors should transfer jurisdiction of the Vacation Area from PW to RED for purposes of establishing a City Plaza under Administrative Code Chapter 94. A copy of the PW Order and the draft declaration of restrictions are on file with the Clerk of the Board of Supervisors in File No. 150644.

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

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

(1) The Board of Supervisors hereby summarily vacates the Vacation Area, as shown on SUR Map No. 2015-002, upon satisfaction of the conditions described in this ordinance and pursuant to California Street and Highways Code Sections 8300 et seq. and Public Works Code Section 787(a).
(2) The Board of Supervisors finds that the Vacation Area is unnecessary for present or prospective public use, subject to the conditions described in this ordinance.

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

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

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

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

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


(a) Findings.

(1) Public Works prepared map A-17-174 to designate the new right-of-way width of the Daggett Street Shared Public Way, change official sidewalk width, and change official grade. In PW Order No.183969, dated September 1, 2015, the PW Director approved
such map and 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.183969, 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. 183969, a copy of which is in the
Clerk of the Board of Supervisors File No. 150644, 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 along 16th and 7th Streets perpendicular to Daggett
Street on either end of the Daggett open space shall be modified as shown on Public Works Map Q-20-
776, dated August 27, 2015. In addition, as a result of the Daggett Street Shared Public Way design
there is no designated sidewalk width on Daggett Street between 16th and 7th Street as shown on
Public Works Map A-17-174.

(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. 183969, Map A-17-174.

(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 Street Encroachment Permit authorized under this ordinance.

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

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

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

(a) Findings.

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

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

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

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

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

(a) **Findings.**

(1) The Daggett Street Shared Public Way is a one-block street connecting 16th and 7th Streets.
(2) The Project Sponsor currently is constructing a mixed use project consisting of approximately 450 housing units along with accompanying space for ground floor retail and Production, Distribution, and Repair (PDR) on its properties that abut Daggett Street.

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

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

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

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

Shared Public Way Permit Area.

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

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

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

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

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

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

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

(B) To provide access to such facilities to allow said entities to construct,
reconstruct, maintain, operate, or repair such facilities; and,
(C) To remove or relocate such facilities if installation of the encroachment requires said removal or relocation and to make all necessary arrangements with the owners of such facilities, including payment for all their costs, should said removal or relocation be required.

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

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

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

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

(8) The Board of Supervisors accepts the recommendations of the PW Order No. 184019 and approves the Street Encroachment Permit, its associated Street Encroachment Agreement, and the Declaration of Maintenance Restrictions with respect to the Daggett Street Shared Public Way Permit Area. The Board also authorizes the PW Director to acknowledge the Declaration of Maintenance Restrictions on behalf of the City; to perform and exercise the City’s rights and obligations with respect to the Daggett Street Shared Public Way under the Declaration of Maintenance Restrictions, the Permit, and Street Encroachment Agreement; and to enter into any amendments or modifications to the Permit,
the Street Encroachment Agreement, and/or the Declaration of Maintenance Restrictions with respect to the Daggett Street Shared Public Way Permit Area (including without limitation, the exhibits) that the PW Director determines, in consultation with the City Attorney, are in the best interest of the City, do not materially increase the obligations or liabilities of the City or materially decrease the obligations of Project Sponsor or its successors, are necessary or advisable to effectuate the purposes of the Permit, the Street Encroachment Agreement, or the Declaration of Maintenance Restrictions or this ordinance with respect to the Daggett Street Shared Public Way Permit Area, and are in compliance with all applicable laws, including the City’s Charter.

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

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

Section 7. Approval of Maintenance License Agreement for Open Space Vacation Area.
Under the In-Kind Agreement, Project Sponsor agreed to maintain the open space Vacation Area in perpetuity, which maintenance obligation is detailed in the Declaration of Maintenance Restrictions.

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

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

Section 8. Delegation to Public Works of Acceptance of Future Public Improvements.

(a) Findings.

(1) On March 30, 2015, PW approved tentative subdivision map number 7780 for the Project Sponsor's development. A public improvement agreement for required but as yet unfinished public improvements will accompany the final map for this development and be
subject to Board approval. These improvements include the Daggett open space, Daggett
Street Shared Public Way, and an extended sidewalk and public right-of-way area at the
corner of 16th and Hubbell Streets and the corner of 16th and 7th Streets. The public
sidewalk extensions are not complete at this time; however, the Project Sponsor has
submitted to PW a draft irrevocable offer of improvements and real property for these areas.
Consequently, the Board of Supervisors determines that it would be efficient to delegate to the
Director of PW the authority, upon completion of these future public improvements and the
satisfaction of other conditions, to adopt any related official PW maps, dedicate the
improvements to public use, and accept the improvements for City maintenance and liability
purposes, subject to the maintenance responsibility of fronting property owners pursuant to
the Public Works Code, including, but not limited to, Public Works Code Section 706. The
Board of Supervisors also determines that it would be efficient to delegate to the Director of
RED the authority, upon the City Engineer's determination of completion of these future public
improvements, to accept and record, on behalf of the City and County of San Francisco, a
grant deed for the fee title to property underlying the abovementioned sidewalk extensions.
Copies of the irrevocable offer for the sidewalk extensions and the related grant deed are on
file with the Clerk of the Board in File No. 150644 and are incorporated herein by reference.

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

(1) The Board of Supervisors hereby delegates to the Director of PW the
authority, upon completion of the future public improvements associated with the Project
Sponsor's final subdivision map and certification from the City Engineer that the
improvements are ready for their intended use, to adopt any related official PW maps,
dedicate the improvements to public use, and accept an irrevocable offer for the
improvements in substantially the form on file with the Clerk of the Board, subject to the
maintenance responsibility of the Project Sponsor or his or her successor(s) pursuant to the
Public Works Code, the Maintenance License Agreement, Declarations of Maintenance
Restrictions, and Street Encroachment Permit.

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

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

Section 10. **Effective Date.** This ordinance shall become effective 30 days after
enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
of Supervisors overrides the Mayor’s veto of the ordinance.
APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: John D. Malamut
Deputy City Attorney

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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.
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 9/29/2015 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved

'0/8/15