

**STAFF REPORT FOR CALENDAR ITEM NO.: 11
FOR THE MEETING OF: March 8, 2018**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Adopt Code of Conduct for the Salesforce Transit Center.

EXPLANATION:

The Salesforce Transit Center (transit center) is a more than 1,250,000 square-foot public facility, which includes a 5.4-acre rooftop park and roughly 100,000 square feet of retail space. The transit center is designed to serve diverse purposes, including transit, recreation, commercial, and administrative purposes, and will be a destination for visitors that will include area residents, workers, transit riders and tourists. Programs and events will be designed to ensure that the transit center is activated throughout its regular hours of operation. The facility is expected to serve 37,000 people each week day when Phase 1 of the Transbay Program is fully operational.

The TJPA is developing a security program that will support the following goals:

- Create an exceptional visitor experience.
- Facilitate the transportation, retail, and other purposes of the facility.
- Preserve the public's investment in the transit center infrastructure.
- Promote a safe and secure transit center for all users.

The transit center, like other transit facilities, requires rules and regulations to ensure the enjoyment and safety of all visitors and preservation of the public resource. Staff have developed the enclosed proposed Code of Conduct (Code) for normal operating conditions. The Code is generally consistent with the rules and regulations at similar transit facilities throughout the country, and draws specifically on rules and regulations developed for San Francisco International Airport, BART, Golden Gate Transit, SFMTA, and the Port Authority Bus Terminal and Metro-North Railroad in New York, as well as San Francisco Municipal Code and the California Penal Code. The Code references certain specific provisions of state and local law that address a particular topic and is organized as follows:

- (1) Introduction, describing the purpose of the Code.
- (2) Authorities and Definitions, explaining the basis for the TJPA's authority and that federal, state, and local law are applicable to the transit center.
- (3) Expressive Activities, describing the areas where First Amendment-protected expressive activity is permitted in the transit center and identifying certain expressive activities for which a permit is required. The draft expressive activities permit procedures and application documents are enclosed for informational purposes; staff expects that the procedures and application materials will be subject to modification and change by staff as the TJPA develops experience with the operation of the facility.

- (4) Public Use, describing the general terms under which the transit center is available to the public and the regulations describing restricted and prohibited activities and uses. The proposed regulations are generally consistent with the San Francisco Municipal Code and state law.

The Code supplements the Park Rules & Regulations, adopted by the Board in September 2017.

The Code's restrictions on public use of the facility are tailored on an area by area basis to be protective of the public's right to engage in First Amendment-protected expressive activities while addressing concerns related to the safe and efficient functioning of the transit center for its diverse intended public uses, including but not limited to:

- Minimizing delays and congestion in passenger movement, which could also affect the ability of the transit operators to run service on time;
- Reducing transit passengers being held captive to any messaging while occupying areas that are designed for queuing while waiting for transit;
- Fostering public safety and minimizing security risk;
- Minimizing impacts to the transit center that would foster an environment hostile or non-supportive to commercial and retail activity, which is a primary source of revenue for operations of the transit center; and
- Controlling janitorial, maintenance, security, and other costs that would increase the overall cost of operating and maintaining the transit center.

The Code, along with the Municipal Code and other applicable federal, state, and local laws, will be enforced by the TJPA's layered security team of roving ambassadors, private security guards, and law enforcement personnel. The ambassadors, trained in communications and providing social services, will be a friendly presence in the transit center. In addition to providing directions and information about transit center events, the ambassadors will engage visitors to remind them of the Code and other rules, and ask them to follow the rules as necessary. Should prohibited conduct persist, the ambassadors would call on the private security guards, the next level of security. If the security guards do not achieve the desired results, law enforcement personnel stationed in the facility would be called to address the situation. The authority of law enforcement to enforce the Code would be pursuant to applicable federal, state, and local law.

The draft Code has been vetted with and reflects comments and input received from transit operator stakeholders, law enforcement, and the community. Among other things, the TJPA presented the draft Code to the TJPA's Citizen Advisory Committee and sponsored two public meetings in coordination with the East Cut Community Benefit District, with outreach to neighborhood associations, apartment and condo associations, nearby businesses and property owners, and members of the public at two additional public meetings.

Note that special events, rentals, commercial activity, and other similar type events and activities will be permitted through a separate procedure. That procedure and any associated fee schedule is being developed by Lincoln and BRV, and will be presented to the TJPA Board at a later date.

RECOMMENDATION:

Adopt Code of Conduct for the Salesforce Transit Center.

ENCLOSURES:

1. Resolution
2. Code of Conduct
3. Draft expressive activities permit procedures and permit application (for information only)

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, The Transbay Joint Powers Authority (TJPA) is a joint powers agency organized and existing under the laws of the State of California to design, build and operate the Transbay Program (“Program”); and

WHEREAS, The Program includes, among other things, construction and operation of the new transit center (named “Salesforce Transit Center”), including its 5.4-acre rooftop park and about 100,000 square feet of retail space; and

WHEREAS, The transit center is expected to be a destination for visitors that will include area residents and workers, transit riders, and tourists, with programs and events designed to ensure that it is populated throughout the daytime and evening hours of operation; and

WHEREAS, The transit center, like all other transit facilities, requires rules and regulations to ensure the enjoyment and safety of all visitors and preservation of the public resource; and

WHEREAS, TJPA staff have prepared a proposed Code of Conduct for the transit center that is generally consistent with the rules and regulations in place at similar transit centers in the United States and will be enforceable pursuant to applicable federal, state, and local law; and

WHEREAS, The Code of Conduct’s restrictions on public use of the facility are tailored on an area by area basis to be protective of the public’s right to engage in First Amendment-protected expressive activities while addressing concerns related to the safe and efficient functioning of the transit center for its diverse intended public uses, including but not limited to: Minimizing delays and congestion in passenger movement, which could also affect the ability of the transit operators to run service on time; reducing transit passengers being held captive to any messaging while occupying areas that are designed for queuing while waiting for transit; fostering public safety and minimizing security risk; minimizing impacts to the transit center that would foster an environment hostile or non-supportive to commercial and retail activity, which is a primary source of revenue for operations of the transit center; and controlling janitorial, maintenance, security, and other costs that would increase the overall cost of operating and maintaining the transit center; now, therefore, be it

RESOLVED, That the TJPA Board of Directors adopts the Code of Conduct in substantially the form attached hereto; and, be it

FURTHER RESOLVED, That the TJPA Board of Directors authorizes the Executive Director to take all actions and execute all documents as he deems reasonably necessary to implement and effectuate the above approval.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of March 8, 2018.

Secretary, Transbay Joint Powers Authority

Code of Conduct

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Proposed Transbay Joint Powers Authority Code of Conduct

1. Introduction

The Transbay Joint Powers Authority (TJPA) Code of Conduct is intended to support the following programmatic goals for the transit center: create an exceptional visitor experience; facilitate the transportation, retail, and other purposes of the facility; preserve the public’s investment in the transit center infrastructure; and promote a safe and secure transit center for all users.

The TJPA is a “public entity” under California Government Code Section 811.2. The transit center is a “public place” for purposes of the California Penal Code and San Francisco Police Code, a “public transit facility” as defined in California Penal Code Section 171.7, and the “facility . . . of a public transportation system” as defined in California Penal Code Section 640(f). Conduct at the transit center is subject to the TJPA’s security plans, rendering the facility a “sterile area” under California Penal Code Section 171.7.

The Code of Conduct addresses normal operating conditions; emergency or unusual circumstances may necessitate deviations from the Code of Conduct.

The Code of Conduct is subject to update and change.

The Code of Conduct is a supplement to the Park Rules & Regulations, the Tenant Rules & Regulations, all applicable laws, and any other rules and regulations the TJPA may adopt for the operation, management, and safety of the facility and its users.

The rooftop park is generally governed by the Park Rules & Regulations, not the Code of Conduct. Notwithstanding the foregoing, Section 3 of the Code of Conduct, which governs expressive conduct, applies to the entire facility, including the rooftop park.

2. Authorities and Definitions

2.1 TJPA Authority Over Transit Center

The transit center and other property, facilities, and equipment owned by and/or under the jurisdiction, possession, or control of the TJPA, are public facilities of a public agency. The TJPA has authority to control, manage, and direct the transit center, including setting rules, issuing permits, setting operating hours and fees, and designating persons who shall perform all functions for the transit center. Unless otherwise specified, the Code of Conduct applies to all property, facilities, and equipment owned by and/or under the jurisdiction, possession, or control of the TJPA. [*See Cal. Public Resources Code Sec. 5027.1.*]¹

¹ For convenience, the Code of Conduct provides reference to certain specific provisions of federal, state, and local law that address a particular topic. The references are for convenience only and are not intended to limit the scope of applicable law.

2.2 Refusal to Obey Lawful Order of Law Enforcement

It shall be unlawful for any person to refuse to obey the lawful order of law enforcement.

2.3 Rules to Be Obeyed

No person shall willfully disobey or violate any of the rules and regulations of the TJPA governing the use by the public of TJPA property, facilities, and equipment, which rules and regulations, at the time, are posted in some conspicuous place in or near the area to which the rule or regulation applies, are posted at the entrance to the transit center, or are publicly accessible at an information booth or in the offices of the TJPA.

2.4 Signs to Be Obeyed

No person shall willfully disobey the notices, prohibitions, or directions on any sign posted by the TJPA or its designee.

2.5 Definitions

The following definitions apply to the Code of Conduct. Otherwise undefined terms are given the definition utilized in the San Francisco Municipal Code.

“Executive Director” shall mean the Executive Director of the Transbay Joint Powers Authority, or designee.

“Expressive activity” generally includes auditory, visual, or printed communication or conduct that is intended to convey a political, religious, philosophical or ideological message and that is protected by the First Amendment to the US Constitution. Examples may include demonstrating, protesting, leafletting, and displaying signs.

“Exterior sidewalks” shall mean sidewalks within TJPA’s property around the perimeter of TJPA facilities.

“Litter” shall mean the discarding, dropping, or scattering of small quantities of waste matter ordinarily carried on or about the person, including, but not limited to, beverage containers and closures, packaging, wrappers, wastepaper, newspapers, and magazines, in a place other than a place or container for the proper disposal thereof, and including waste matter that escapes or is allowed to escape from a container, receptacle, or package.

“Service Animal” shall mean any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items. Emotional support animals are not recognized as service animals.

“Smoking” or “to smoke” shall mean and include inhaling, exhaling, burning or carrying any lighted smoking equipment for tobacco or any other weed or plant, and shall include use of electronic cigarettes or e-cigarettes. “Electronic cigarette” or “e-cigarette” means

any device with a heating element, a battery, or an electronic circuit that provides nicotine or other vaporized liquids to the user in a manner that simulates smoking tobacco.

“Transbay Program” shall mean the multi-billion dollar program overseen by the TJPA to replace the former Transbay Terminal at First and Mission streets in San Francisco with a modern regional transit station that will connect eight Bay Area counties and the State of California through eleven bus and rail transit systems.

3. Expressive Activities

(Note that while the rooftop park is generally governed by the Park Rules & Regulations, Section 3 of the Code of Conduct, which governs expressive conduct, applies to the entire facility, including the rooftop park.)

3.1 Purpose and Need

The transit center is a more than 1,250,000-square-foot public facility, spread over three city blocks, with four levels above ground and two levels below ground. The facility is designed to serve diverse purposes, including transit, recreation, commercial, and administrative purposes. More than 37,000 people are expected to visit and use the facility each week day when Phase 1 of the Transbay Program is fully operational. Different areas of the transit center are dedicated to different primary uses, and the TJPA finds that tailoring reasonable restrictions on public use of the facility on an area by area basis will allow the transit center to fulfill its functions as a transportation facility; guard the health, safety, and security of the public; and minimize congestion and promote efficient movement of transit users, while facilitating diverse public uses of the facility in a manner that is sensitive to the purposes, physical design, and security needs of specific spaces.

The transit uses of the facility require that passengers be able to readily navigate and move through the facility with all due speed and unencumbered. The TJPA and all of the transit operators utilizing the facility have a strong interest in ensuring that the facility operates effectively, which requires, for example, that transit passengers can timely reach their boarding areas, navigate with luggage, and enter/exit the facility. The facility was specifically designed to facilitate such efficient movement. Delays and congestion in passenger movement could also affect the ability of the transit operators to run transit service on time.

The transit uses of the facility also dictate that certain audiences will be captive to any messaging in areas that are designed for transit passengers to queue while waiting for transit and will therefore not have a choice when using those areas in whether or not to be exposed to visual or verbal expressive activity of other members of the public. The TJPA is particularly concerned about protecting youth riders and not forcing them to be exposed to intrusive conduct or engaged by members of the public.

Based on the large number of people that are expected to visit and use the facility, the types of uses of the facility, and the central location and dramatic design of the facility, the TJPA has a significant interest in public safety and security. Permitted public uses of all areas of the facility must take into account security plans for the facility, which are necessary to protect the safety of the transit center's more than 37,000 anticipated week day users.

Transit riders at the transit center, like passengers at an airport, may be unfamiliar with their immediate surroundings, fatigued, and under time pressure, and consequently, may be subjected to undue pressure, misrepresentation, duress, or even fraud from persons asking for donations, panhandling, or engaged in other solicitations of money.

A primary source of revenue to pay for the operations of the transit center is commercial/retail leasing. Fostering an environment that enhances commercial/retail activity supports the transit and other public amenity goals of the TJPA.

The cost of operating and maintaining the transit center is borne in part by the public transit operators. To the extent sources of operating revenues do not fully cover operating costs, minimizing the operations and maintenance expenses of the facility can help minimize the need for transit operators to increase passenger facility charges and apply public sources to pay for operations. Thus, limiting activities that are likely to disproportionately increase janitorial, maintenance, security, and other costs is in the public interest.

3.2 Open and Closed Areas

In light of the intended purpose and need of the transit center, the TJPA has adopted the following rules and procedures governing expressive activities.

3.2.1 The following areas of the transit center are generally open to expressive activities except as provided in Section 3.2.2 and 3.2.3:

- (1) Exterior sidewalks
- (2) Grand hall
- (3) Rooftop park

3.2.2 The following areas of the transit center are closed to expressive activities:

- (1) Administrative/back of house, building support, security, and other areas not open to the public
- (2) Roadways and thoroughfares for vehicles, including the bus ramp
- (3) Areas dedicated by lease, license, permit or otherwise for use by restaurants, commercial entities, retailers, pop-up retailers/kiosk, special events, private events, and others
- (4) Interior walkways on the second level, which surround areas dedicated to commercial/retail space
- (5) Areas dedicated by lease, license, permit or otherwise for use by transit operators on the bus deck level, in the bus plaza, at the bus storage facility, and on the sidewalks and walkways surrounding such dedicated space

- (6) Shaw Alley and the 2 passageways between Natoma and Minna Streets
- (7) Areas accessible only by paid/ticketed transit passengers

3.2.3 Within the areas of the transit center that are generally open to expressive activities, no expressive activities may occur:

- (1) In restrooms
- (2) In stairwells
- (3) On elevators and escalators
- (4) Within 10 feet of any of the following:
 - (a) Escalator entrances/exits
 - (b) Elevator doors
 - (c) Doorways
 - (d) Interior queues, including at ticketing and baggage check-in areas, food and retail establishments, etc.
 - (e) Automated teller machines (ATMs) and ticket vending machines (TVMs), except that soliciting is prohibited within 20 feet of any ATM or TVM
 - (f) Children's playgrounds
 - (g) Seating dedicated to restaurant, cafe, bar, or similar establishment's use via lease, license, permit, or similar
 - (h) Fixed furniture
 - (i) Safety and security equipment
 - (j) Areas dedicated by lease, license, permit or otherwise for use by restaurants, commercial entities, retailers, pop-up retailers/kiosk, special events, private events, and others
 - (k) Fare gates
- (5) On or within 50 feet of any construction site or construction equipment, except as may be required according to rights established under federal or state labor laws.

3.3 Expressive Activities that Require a Permit

3.3.1 Within the rooftop park, the expressive activities that require a permit are described in the Park Rules & Regulations.

3.3.2 On exterior sidewalks, the following expressive activities are only permitted pursuant to a permit issued by the TJPA:

- (1) Conduct or sponsor a parade involving 25 or more persons.
- (2) Conduct or sponsor or engage in petitioning, leafletting, demonstrating, or soliciting when the number of petitioners, leafletters, demonstrators, or solicitors engaging in one or more of these activities involves 25 or more such persons.
- (3) Sell, barter, or exchange, or offer for sale, barter, or exchange, or bring or cause to be brought for the purpose of sale, barter, or exchange, books, newspapers, periodicals, CDs, DVDs, or other printed materials. Commercial sale, barter, or exchange of goods, wares, merchandise, property, or services of any kind, as well as promoting, advertising, or soliciting sales or business for any commercial enterprise, including but not limited to distributing free product samples or other promotional materials, are prohibited unless licensed through the facility's retail

leasing program or permitted as part of a special event. *[See Cal. Penal Code Sec. 640(b)(6); SF Police Code Sec. 13]*

- (4) Conduct or sponsor any exhibit, promotion, dramatic performance, theatrics, pantomime, dance, fair, circus, festival, juggling or other acrobatics or show of any kind or nature.
- (5) Perform any feat of skill or produce any amusement show, movie or entertainment.
- (6) Make a speech.
- (7) Conduct or sponsor a religious event involving 25 or more persons.
- (8) Conduct or sponsor a concert or musical performance.
- (9) Participate in a picnic, dance or other social gathering involving 15 or more persons.
- (10) Conduct or sponsor any event which utilizes amplified sound equipment.
- (11) Conduct or sponsor an exhibition or art show.
- (12) Station or erect any table, scaffold, stage, platform, rostrum, tower, stand, bandstand, building, fence, wall, monument, dome or other structure for expressive purposes. Only TJPA-issued tables are permitted; tables are not permitted in certain areas.
- (13) Play any percussion instrument, including drums, when a sign has been posted in the area affected to give notice of this prohibition, provided that such prohibition does not unreasonably curtail the playing of such instruments. *[See SF Police Code Sec.49]*

3.3.3 Within the grand hall, only the following expressive activities are permitted and only pursuant to a permit issued by the TJPA:

- (1) Conduct or sponsor or engage in any petitioning, leafletting, or demonstrating
- (2) Make a speech.

No other expressive activities are permitted in the grand hall. The use of amplified equipment is prohibited in the grand hall. *[See Cal. Penal Code Sec. 640(b)(d), (d)(1)]*
No person shall station or erect any scaffold, stage, platform, rostrum, tower, stand, bandstand, building, fence, wall, monument, dome, prop or other structure for expressive purposes in the grand hall. Only TJPA-issued tables are permitted in the grand hall.

3.3.4 For those expressive activities that are only permitted pursuant to a permit issued by the TJPA, no person shall engage in such activities without obtaining a permit in advance from the TJPA.

3.3.5 For those expressive activities that are only permitted pursuant to a permit issued by the TJPA, the TJPA has determined that only certain sub-areas within the open areas of the transit center provide a reasonable opportunity for such expressive activities while not impeding the use of the transit center for its intended purpose. The TJPA shall designate those areas where such expressive activities may occur. The TJPA may move, remove, or reduce the size of any previously designated area, as needed, to respond to construction-in-progress, changes in pedestrian flow, evolving security requirements, or other appropriate circumstances.

3.4 Application Procedures for Expressive Activity Permit

The procedures for applying for an expressive activity permit shall be established by the TJPA, kept on file with the TJPA, and made available to the public.

3.5 Bases for Denial of Expressive Activity Permit

The Executive Director shall approve an expressive activity permit application, unless one or more of the following conditions apply:

- (1) The proposed activities would impede the operation of the transit center as a transportation facility or are inconsistent with the purpose for which the facility or area has been established or designated.
- (2) The proposed activities would interfere with the ability of others to hear transit center announcements or see transit center signage, or interfere unreasonably with the ability of transit operators, concessionaires and other tenants and permittees to conduct their business in an orderly manner.
- (3) The proposed activities would hinder pedestrian flows, create congestion or block efficient movement within and around the transit center.
- (4) An application for a permit (expressive activity permit, special event permit, or private event permit) to use the same or a nearby location at the same time has been previously received and approved, authorizing an activity which does not reasonably permit multiple occupancy of the area and/or would unreasonably interfere with transit center use and enjoyment by participants in such activities.
- (5) A program sponsored by the TJPA (or designee) to use the same or a nearby location at the same time has been previously scheduled, planning an activity which does not reasonably permit multiple occupancy of the area and/or would unreasonably interfere with transit center use and enjoyment by participants in such activities.
- (6) The Executive Director has reasonable cause to conclude that the applicant or any person or persons participating in the proposed activity will, in connection with that activity, cause physical injury to a person or substantial damage to property; provided, however, that in determining whether such reasonable cause exists the Executive Director shall not consider the content of expression that is proposed or anticipated.
- (7) The applicant has previously failed to comply with the terms and conditions of a permit issued by the TJPA or violated the Code of Conduct, and was given notice of such failures and/or violations by the Executive Director.
- (8) The applicant fails to obtain necessary approvals, permits, or licenses from other governmental departments or agencies having jurisdiction.
- (9) The applicant fails or refuses to post a cash performance bond (security deposit) when reasonably required to do so by the Executive Director.
- (10) The applicant fails or refuses to provide insurance when reasonably required to do so by the Executive Director.
- (11) The applicant fails or refuses to execute an agreement to defend the TJPA (and its additional insureds) against, and indemnify and hold the TJPA (and its additional insureds) harmless from, any liability to any person caused by, or arising out of,

- the permitted activity, when reasonably required to do so by the Executive Director.
- (12) The application contains misrepresentations of material fact.
 - (13) The proposed activity is prohibited by federal, state, or local law, or the Code of Conduct.
 - (14) The applicant refuses to comply with conditions reasonably imposed on approval of the permit application by the Executive Director to help ensure that public or private property is not damaged and that the comfort, convenience, safety and welfare of the public are not disturbed.
 - (15) The application is incomplete or illegible.
 - (16) The application is not timely submitted.
 - (17) The proposed activities are scheduled to occur more than 30 days after the date of the application.
 - (18) The proposed activities include sale, barter, or exchange of books, newspapers, periodicals, CDs, DVDs, or other printed materials for expressive purposes, and the applicant (individual or group) has already received 5 days of permits in the same calendar month for activities that include sales.
 - (19) The proposed activities include sale, barter, or exchange of goods, wares, merchandise, property or services for commercial purposes, or promotion, advertising, or solicitation of sales or business for a commercial enterprise.

Whenever a permit application is denied, the Executive Director shall timely inform the applicant of the reason for the denial. When a change in application (such as location, date, or time) would allow approval, the Executive Director shall make reasonable efforts to identify such changes/offer such alternatives.

3.6 Permit Conditions for Expressive Activities

- 3.6.1** For those expressive activities that are only permitted pursuant to a permit issued by the TJPA, the Executive Director may impose reasonable conditions on approval of a permit application to help ensure that public or private property is not damaged and that the comfort, convenience, safety or welfare of the public is not disturbed. Permit conditions are designed to secure for permit holders an opportunity fully to exercise the rights conferred upon them by the permit without unreasonably interfering with the rights of other members of the public to use the transit center or to engage in First Amendment activities. The TJPA shall in no event impose permit conditions which are designed to limit the content of First Amendment expression engaged in by persons affected by the permit or which unreasonably interfere with the right of free speech.
- 3.6.2** The Executive Director may impose conditions as a condition of approval of the permit application, or after the permit application has been approved if information is received by TJPA after such approval which would provide reasonable grounds for the conclusion that further conditions are necessary, including the condition that the location of the proposed activity be changed.

3.6.3 The conditions which may be imposed on permit applicants include, but are not limited to, the following requirements:

- (1) Obtaining necessary approvals, permits, or licenses from other governmental departments or agencies having jurisdiction.
- (2) Posting a cash performance bond (security deposit) to help ensure that property is restored and cleaned at the conclusion of the permitted activity. Notwithstanding the foregoing, where an applicant produces evidence that providing a cash performance bond would be impossible or so financially burdensome that it would preclude the applicant from using transit center property for the proposed activity, the Executive Director shall accept property in lieu of a cash performance bond so long as the property offered is of a type which will reasonably insure restoration and cleaning of the property to be used by the applicant at the conclusion of the permitted activity.
- (3) Providing insurance to protect the TJPA (and its additional insureds) from liability from any harm that may arise from or be related to the permitted activity. Notwithstanding the foregoing, where an applicant produces evidence that providing insurance would be impossible or so financially burdensome that it would preclude the applicant from using transit center property for the proposed activity, the Executive Director may waive the requirement.
- (4) Agreeing to defend the TJPA (and its additional insureds) against, and indemnify and hold the TJPA (and its additional insureds) harmless from, any liability to any person resulting from any damage or injury caused by, or arising out of, the permitted activity or any person who was or reasonably should have been, under the permittee's control.

3.7 Duties of Expressive Activity Permittee

3.7.1 It shall be the duty of every recipient of an expressive activity permit to do the following:

- (1) To obey all federal, state, and local laws, and the Code of Conduct, and conform with information provided in the application/permit, including any conditions
- (2) To clean the area used after the permitted activity is over and to restore the area and property used to the same condition as existed prior to the activity
- (3) To reimburse the TJPA for any extraordinary costs incurred by the TJPA caused by, or arising out of, the permitted activity, or any person who was, or reasonably should have been, under the permittee's control; such extraordinary costs may include restoring damage to property, janitorial, and security. Notwithstanding the foregoing, where a permittee produces evidence that covering such extraordinary costs would be impossible or excessively financially burdensome, such as to discourage future use of the transit center for expressive activity for similarly situated groups or individuals, the Executive Director may waive the requirement.
- (4) To carry their permit on their person when engaged in the activity requiring the permit. At the request of TJPA staff, facility manager, security, or law enforcement, the permittee must produce a valid permit for the date, time, and location of the expressive activity.

- 3.7.2** A permittee may not assign an expressive activities permit issued by the TJPA, and any attempt to do so shall be void.
- 3.7.3** Any person who is allowed to engage in expressive activity authorized under the Code of Conduct and TJPA procedures shall do so at his or her own risk. TJPA does not guarantee additional security or safety or privileges by issuing a permit under these procedures.

3.8 Revocation of Expressive Activity Permit

Whenever a permittee or any person who was or reasonably should have been, under the permittee's control, violates any federal, state, or local law, any provision of the Code of Conduct, or any information provided in the application/permit, including any conditions, the Executive Director may revoke the permit; revocation may occur in advance of or during the course of the expressive activity. The Executive Director shall issue a written notice of the revocation, which shall include the reason or reasons for revocation. The revocation shall be effective immediately upon personal delivery of the notice to the permittee or certified mailing of the notice to the address provided on the permit application.

3.9 General Regulation of Expressive Activity

- 3.9.1** Except as specified in this Code of Conduct, no permit is required to engage in expressive activity.
- 3.9.2** All expressive activities shall be conducted in compliance with federal, state, and local law; consistent with the Code of Conduct; and according to the requirements of any permit.
- 3.9.3** Expressive activity is presumed to be conduct, activity, and events that are offered at no charge to the public. Activities and events for which an entrance fee or tickets are required for entry, including artistic performances, religious events, public speeches, musical performances, and other activities, are governed by Section 4 of the Code of Conduct. *[See Cal. Penal Code Sec. 640(b)(6)]*

3.10 Petitioning, Leafletting, Demonstrating, or Soliciting

In addition to and not in substitution of any other provisions of the Code of Conduct, including Section 3, the following shall also apply:

- (1) It shall be unlawful for any person to engage in petitioning, leafletting, demonstrating, or soliciting in such a manner as to substantially obstruct any traffic of pedestrians or vehicles after being warned by a peace officer or the TJPA not to do so.
- (2) No person shall solicit in an aggressive manner.
- (3) No person shall solicit within twenty (20) feet of any ATM or TVM, except with permission of the TJPA. Provided, however, that when an ATM is located within an ATM facility, such distance shall be measured from the entrance or exit of the facility.

- (4) The regulations described in the San Francisco Police Code at Article 9.6 relating to solicitation for charitable purposes shall apply to exterior sidewalks to the extent not inconsistent with this Code of Conduct.

[See Cal. Penal Code Sec. 640(d)(4), 647(c); SF Police Code Article 9.6, Sec. 120-2(d)]

4. Public Use of the Transit Center

4.1 Hours of Operation

The hours of operation for the transit center shall be established by the TJPA, and are subject to change at the TJPA's discretion. No person shall enter or use any portion of the transit center during the hours of closure without permission of the TJPA.

4.2 Public May Be Excluded and Additional Rules May Be Imposed

In case of an emergency, or when in the judgment of the Executive Director the public interest demands it, any portion of the transit center or buildings, structures, equipment, apparatus, or appliances therein may be closed to the public until such area or building, structure, equipment, apparatus, or appliance is reopened to the public by the Executive Director; and/or the Executive Director may impose additional restrictions to address or prevent unsafe conditions and to maintain pedestrian flow within the facility; provided, however, that nothing in this Section shall authorize the Executive Director to close any portion of the transit center or buildings, structures, equipment, apparatus, or appliances therein or impose additional restrictions because of the content or viewpoint of expressive activities, existing or anticipated, to the extent such expressive activities are protected by the First Amendment to the United States Constitution.

4.3 Persons May Be Excluded Under Certain Circumstances

TJPA is authorized to order any person to stay out of or to leave the transit center or any building, structure, equipment, apparatus, or appliance therein, when it has reasonable cause to conclude that the person so ordered:

- (1) Is under the influence of intoxicating liquor, any drug, or any "controlled substance" as that term is defined and described in the California Health and Safety Code, or any combination of any intoxicating liquor, drug, or controlled substance, and is in such a condition that he or she is unable to exercise care for his or her own safety or the safety of others or interferes with or obstructs or prevents the free use of transit center property.
- (2) Is consuming alcoholic beverages in violation of this Code of Conduct.
- (3) Is using any drug or controlled substance or any combination of any intoxicating liquor, drug, or controlled substance.
- (4) Is doing any act injurious to the transit center or any building, structure, equipment, apparatus, or appliance therein.
- (5) Is taking any action in violation of any law or this Code of Conduct.

4.4 Regulation of Certain Activities

4.4.1 The following conduct and activities are prohibited in the transit center, except with prior permission of the Executive Director:

- (1) Provide food to persons, except that no permission is required when a person participating in a picnic or social gathering consistent with this Code of Conduct provides food to others who are also participating in the picnic or social gathering. *[See Cal. Penal Code Sec. 640(b)(6)]*
- (2) Engage in commercial photography, filming, or recording. *[See Cal. Penal Code Sec. 640(b)(6)]*
- (3) Conduct a farmers market. *[See Cal. Penal Code Sec. 640(b)(6)]*
- (4) Participate in any athletic activity in the transit center, including but not limited to volleyball, baseball, soccer, football or lacrosse, or in the individual activities of roller skating, roller blading, bicycle riding, kite or drone flying, or skateboarding.
- (5) Provide instruction in any activity, including athletic or artistic, for compensation. *[See Cal. Penal Code Sec. 640(b)(6)]*
- (6) Conduct a wedding ceremony.
- (7) Hold any activity or event for which an entrance fee or tickets are required for entry, including artistic performances, religious events, public speeches, musical performances, and other activities. For regulations pertaining to expressive activities that are offered for free to the public, see Section 3 of the Code of Conduct. *[See Cal. Penal Code Sec. 640(b)(6)]*
- (8) Bring or causing to be brought, for the purposes of sale, barter, or exchange, or having for sale, barter, or exchange, or selling, bartering, or exchanging, or offering for sale, barter, or exchange any goods, wares, merchandise, property, or services. Promote, advertise, or solicit sales or business for any commercial enterprise, including but not limited to distributing free product samples or other promotional materials. *[See Cal. Penal Code Sec. 640(b)(6)]*

4.4.2 The TJPA shall have the authority to require a permit for additional activities in the transit center when such a requirement furthers the purposes set forth in the Code of Conduct. A list of the additional activities for which permits are required shall be posted in the transit center, filed with the TJPA, and made available to the public upon request.

4.4.3 For those activities that are only permitted pursuant to a permit issued by the TJPA, no person shall engage in such activities without obtaining a permit in advance from the TJPA.

4.4.4 The procedures for applying for and receiving permission to engage in the activities described in Section 4.4, and any fees associated therewith, shall be established by the TJPA, kept on file with the TJPA, and made available to the public.

4.5 Prohibited Activities and Conduct

4.5.1 Intoxication by Alcohol or Drugs

State law provides that any person in a public place who is under the influence of

intoxicating liquor, drugs or certain specified substances and endangers himself or others or interferes with the free use of a public right of way is guilty of disorderly conduct. No person shall engage in such disorderly conduct. *[See Cal. Penal Code Sec. 647(f)]*

4.5.2 Wheeled Equipment

No person, other than employees or agents of the TJPA or its contracts, transit operators, and tenants of the transit center, when on duty, shall bring any wheeled conveyances, including but not limited to trucks, cars, skateboards, roller skates, roller blades, and scooters, into the transit center. Notwithstanding the foregoing, (a) wheelchairs and strollers for preschool children, (b) wheeled luggage and carts no greater than carry-on size as defined by the Federal Aviation Administration, and (c) luggage larger than carry-on size only as necessary to reach the bag-check of one of the transit operators operating from the transit center, may be brought into the transit center without a permit. Notwithstanding the foregoing, the particular rules for bicycles are addressed in Section 4.5.28 of the Code of Conduct. *[See Cal. Penal Code Sec. 640(b)(5); Cal. Vehicle Code Sec. 407.5]*

4.5.3 Smoking

No person shall smoke in the transit center, either in enclosed or unenclosed areas, or any TJPA property. *[See SF Health Code Sec. 1009.81, Article 19N; Cal. Penal Code Sec. 640(b)(3); Cal. Gov. Code Sec. 7597]*

4.5.4 Fighting, Disturbing Peace, Offensive Words

No person shall engage in unlawful fighting, the malicious and willful disturbance of others by loud and unreasonable noise, or the use of offensive words which are inherently likely to provoke an immediate violent reaction. *[See Cal. Penal Code Sec. 640(b)(2), (d)(1); SF Police Code Sec. 49]*

4.5.5 Malicious Destruction of Property

No person shall maliciously deface, damage, or destroy real or personal property, or willfully tamper with, remove, displace, injure, or destroy any part of the transit center. *[See Cal. Penal Code Sec. 594, 625c, 640(d)(5)]*

4.5.6 Human Body Substances

No person shall emit, eject, or cause to be deposited any excreta of the human body, except in a proper receptacle designated for such purpose. *[See Cal. Penal Code Sec. 640(b)(4), (d)(3); SF Police Code Sec. 153]*

4.5.7 Entrance to Controlled Areas

No person shall enter the transit center or its facilities by means other than at designated public entrances. No person shall enter administrative/back of house, building support, security, roadways and thoroughfares for vehicles, and other areas of the transit center not open to the public unless granted permission by the TJPA. No person shall enter transit center facilities where a “No Admittance” or “Employees Only” sign is posted unless granted permission by the TJPA. No person shall gain or attempt admittance to the transit center or its facilities where a charge is made, without paying that charge.

4.5.8 Polluting Waters

No person shall throw or place, or cause to be thrown or placed, any garbage, trash, refuse, paper, container, or noxious or offensive matter into any toilet, sink, drinking fountain, or similar equipment, except in the manner such equipment was designed to be used. *[See Cal. Penal Code Sec. 374.4, 640(d)(5); SF Police Code Sec. 33]*

4.5.9 Littering, Dumping, and Abandonment of Waste Matter and Personal Property

No person shall litter, dump, or dispose of garbage, bottles, cans, paper, waste matter, or personal property anywhere other than in designated trash receptacles. The prohibition shall also include the abandonment of written materials and other property utilized in engagement of expressive conduct. Baggage, containers, or other receptacles that are leaking are not permitted in the transit center. Baggage, containers, or other receptacles that are producing or are capable of producing an offensive odor are not permitted in the transit center. Trash receptacles placed in the transit center may be used to deposit casual litter such as food, wrappers, and lunch bags; no person shall deposit any household garbage, refuse, waste, sweepings, or dirt collected within any residential, commercial, or office building in, on top of, or alongside such trash receptacles. *[See Cal. Penal Code Sec. 374.4, 640(d)(5); SF Police Code Sec. 33, 35(a), 87]*

4.5.10 Obstructing Any Sidewalk, Passageway, or Other Public Way

In addition to and not in substitution of any provisions of Section 3 of the Code of Conduct, no person shall willfully and substantially obstruct the free passage of any person or persons on any sidewalk, passageway, or other places in the transit center. Notwithstanding the foregoing, (a) it is not intended that this Section shall apply where its application would result in an interference with or inhibition of any exercise of the constitutionally protected right of freedom of speech or assembly, and (b) nothing contained herein shall be deemed to prohibit persons from sitting on public benches or other public structures, equipment, apparatus, appliances, or facilities provided for such purpose. *[See SF Police Code Sec. 22, 23, 24; Cal. Penal Code Sec. 640(d)(4)]*

4.5.11 Obstructing Public View of Any TJPA Sign or Interfering with Announcements

- (1) No person shall engage in conduct that obstructs public view of any TJPA or transit operator signage, including but not limited to schedule boards and signage containing emergency information.
- (2) No person shall create noise at a volume that interferes with the ability of members of the public to hear TJPA announcements. *[See Cal. Penal Code Sec. 640(b)(2); SF Police Code Sec. 49]*

4.5.12 Interfering with Facility's Transportation Function

No person shall obstruct the use of the transit center for its intended purpose as a transportation facility or interfere with the rapid, orderly and efficient movement of persons throughout the transit center. *[See Cal. Penal Code Sec. 640(d)(4)]*

4.5.13 Gambling

No person shall gamble or conduct or engage in any game of chance at the transit center unless such game of chance is permitted by local state and federal law and has been approved by the Executive Director. *[See SF Police Code Article 3]*

4.5.14 Animals

No person shall bring any animal into the transit center that is not in a carrying case manufactured specifically for carrying a pet, except that dogs on leash are permitted in the bus plaza, exterior sidewalks, Shaw Alley, and the 2 passageways between Natoma and Minna Streets without a permit. Notwithstanding the foregoing, service animals shall be permitted to accompany individuals with disabilities in the transit center. *[See Cal. Civil Code Sec. 54.2; 49 C.F.R. 37.3, 37.167(d); Federal Transit Administration Circular FTA C 4710.1]*

4.5.15 Consumption of Alcohol

No person shall consume alcoholic beverages of any kind in the transit center, except as follows:

- (1) Alcohol may be consumed at businesses with permission of the TJPA. All alcoholic drinks and their containers must remain within the businesses' premises.
- (2) Alcohol may be served in conjunction with events in the transit center, with permission of the TJPA.

[See Cal. Penal Code Sec. 640(b)(1); SF Police Code Sec. 21]

For purposes of this section of the Code of Conduct, the transit center's sidewalks, walkways, and stairways are "public street[s], avenue[s], sidewalk[s], stairway[s], alley[s], or thoroughfare[s] within the City and County of San Francisco" as defined in San Francisco Police Code Section 21.

4.5.16 Weapons and Fireworks

- (1) No person shall fire or carry firearms of any size or description, or possess any instrument, appliance, or substance designed, made, or adopted for use primarily as a weapon including, but not limited to, slingshots, clubs, swords, razors, billies, explosives, dirk knives, bowie knives, or similar knives, with the exception that this Section shall not apply to sworn law enforcement officers or with the permission of the TJPA.
- (2) No person shall fire or carry any firecracker, rocket, torpedo, or any other fireworks of any description, except with permission of the TJPA.
- (3) No person shall carry a sign or placard attached to a rod or stick in any interior space in the transit center, except with permission of the TJPA.

[See Cal. Penal Code Sec. 171.7, 640(d)(2)]

4.5.17 Camping

No person shall construct or maintain or inhabit any structure, tent, or any other thing that may be used for housing accommodations or camping, nor shall any person construct or maintain any device that can be used for cooking. No person shall modify the landscape in any way in order to create a shelter or accumulate household furniture or appliances or construction debris. *[See Cal. Penal Code 647(e)]*

4.5.18 Lying Down; Sleeping

No person shall lie down or sit on the floor, ledges, platforms, steps or escalators in the transit center. Furniture shall only be used in the manner for which it was intended. No person shall sleep in any part of the transit center without permission. *[See Cal. Penal Code 647(e)]*

4.5.19 Children

No parent, guardian, or custodian of a minor shall permit or allow such minor to do any act or thing in the transit center prohibited by this Code of Conduct.

4.5.20 Climbing

No person shall climb or lie upon any landscaping, monument, wall, fence, railing, shelter, fountain, statue, building, structure, equipment, apparatus, appliance, or construction, except with permission of the TJPA.

4.5.21 Posting of Signs

No person shall post or affix to any tree, shrub, plant, fence, building, structure, equipment, apparatus, appliance, monument, wall, post, vehicle, bench, or other physical object within the transit center any written or printed material, including, but not limited to, signs, notices, handbills, circulars, and pamphlets, except with permission of the TJPA. *[See Cal. Penal Code Sec. 640(d)(5)]*

4.5.22 Throwing or Propelling Objects

No person shall throw or propel objects of a potentially dangerous nature, including, but not limited to, stones, bottles, glass, cans, or crockery within the transit center, except with permission of the TJPA. *[See Cal. Penal Code Sec. 640(d)(1)]*

4.5.23 Fire

No person shall make, kindle, maintain, or in any way use a fire, including but not limited to recreational fires, fire dancing, and fire twirling, except with permission of the TJPA. *[See Cal. Penal Code Sec. 640(d)(2)]*

4.5.24 Certain Exposure of Body

- (1) No person shall expose his or her genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region or any portion of the female breast at or below the areola thereof, except that this Section shall not apply to children under the age of five (5) years. *[See SF Police Code Sec. 154]*
- (2) All persons entering the interior parts of the transit center must wear shoes.

4.5.25 Graffiti

No person shall possess, carry, use or keep graffiti or etching tools, etching cream, or slap tags. No person shall deface with graffiti or other inscribed material any portion of the public transit facility property. For purposes of this subsection:

- (1) “Graffiti or etching tools” means a masonry or glass drill bit, a glass cutter, a grinding stone, an awl, a chisel, a carbide scribe, an aerosol paint container, or any permanent marker with a nib (marking tip) one-half inch or more at its largest dimension and that is capable of defacing property with permanent, indelible, or waterproof ink, paint or other liquid.
- (2) “Etching cream” means any caustic cream, gel, liquid, or solution capable, by means of chemical action, of defacing, damaging, or destroying hard surfaces in a manner similar to acid.
- (3) “Slap tag” means any material including but not limited to, decals, stickers, posters, or labels which may be affixed upon any structural component of any building, structure, equipment, apparatus, appliance, post, pole, or other facility, which contains a substance commonly known as adhesive glue.
- (4) “Graffiti or other inscribed material” includes any unauthorized inscription, word, figure, mark, or design, that is written, marked, etched, scratched, drawn, or painted.

[See Cal. Penal Code Sec. 594, 594.2, 640(d)(5), 640.5]

4.5.26 Use of Restrooms

- (1) No person shall bathe, shower, shave, launder or change clothes, or remain undressed in any public restroom, sink, or any other area within the transit center.
- (2) Only one person over the age of 13 may occupy a urinal or toilet booth at one time. This shall not preclude an individual responsible for the care of a small child or a disabled person from assisting such child or disabled person in the use of such a urinal or toilet booth. *[See SF Police Code Sec. 124.3]*
- (3) No person shall loiter or linger in the restrooms. *[See SF Police Code 124.2]*

4.5.27 Hazardous Materials

- (1) No material designated as a hazardous material by the United States Department of Transportation pursuant to the Hazardous Materials Transportation Act of 1994, as amended, 49 U.S.C §§ 5101-5128, in interstate transportation shall be brought into the transit center unless such material is in the quantity and package as prescribed by the Hazardous Materials Transportation Act of 1994, as amended, 49 U.S.C §§ 5101- 5128, and the regulations promulgated thereunder.
- (2) The following materials and substances not in interstate commerce shall not be brought into the transit center except with permission of, and under such conditions set forth by, the TJPA: any explosives, acids, inflammables, compressed gases or articles or materials having or capable of producing strong offensive odors, any signal flare or any container filled with or which has been emptied or partially emptied of oil, gas petroleum products, paint or varnish or articles or materials likely to endanger persons or property.

[See Cal. Penal Code Sec. 640(d)(2)]

4.5.28 Bicycles

- (1) Bicycles are permitted to be locked up only in designated bicycle parking areas.
- (2) Bicycles are not permitted in the interior parts of the transit center.
Notwithstanding the foregoing, bicycles are permitted to be walked on the bus deck level of the transit center, which may be accessed by persons with bicycles from street-level elevators only. Bicycles are not permitted on stairs or escalators.
- (3) Bicycles are permitted on exterior sidewalks, the bus plaza, and passageways between Natoma and Minna Streets.
- (4) Bicycles are not permitted in the restrooms at any time.

[See Cal. Penal Code Sec. 640(b)(5)]

4.5.29 Interference with TJPA Employees and Agents

No person shall, with malice, interfere with or in any manner hinder any employee or agent of the TJPA or a duly authorized contractor while that person is engaged in constructing, repairing, maintaining, or operating the transit center, or is otherwise engaged in the discharge of such employee's agents, or contractor's duties.

4.5.30 Use and Interference with TJPA Systems and Equipment

No person shall do or permit to be done anything which may interfere with the effectiveness or accessibility of the fire protection system, sprinkler system, drainage system, alarm system, telephone system, public announcement and intercommunication system, plumbing system, air-conditioning system, ventilation system, fire hydrants, hoses, fire extinguishers, towing equipment or other mechanical system, facility or equipment installed or located at the transit center, including closed circuit television cameras and monitors, signs and notices; nor shall any person operate, adjust or otherwise handle or manipulate, without permission, any of the aforesaid systems or portions thereof, or any machinery, equipment or other devices installed or located at the transit center. *[See Cal. Penal Code Sec. 640(d)(1)]*

4.5.31 Misrepresentation of Affiliation

No person shall misrepresent his or herself to be a representative of, or affiliated with, the TJPA, its agents, or any transit operator.

4.5.32 Peace and Order

No person shall engage in any activity or conduct in any other than a peaceful and orderly manner, without physical harm, threat, or harassment to others, and without obscenities, violence, breach of the peace, damage to property, or violation of federal, state, or local law. No person shall willfully disturb others by engaging in boisterous or unruly behavior. *[See Cal. Penal Code Sec. 594, 640(b)(2), (d)(1), (d)(5)]*

5. Other

5.1 See Something, Say Something

All persons using the transit center should immediately report unsafe conditions or activity to transit center management.

5.2 Lost Articles

- (1) The TJPA is not responsible for unattended personal items such as purses, backpacks, luggage, bicycles, skateboards, and other items. Leaving these items unattended will be considered prohibited abandonment of property as described in Section 4.5.9.
- (2) All persons finding lost articles at the transit center are requested to contact transit center management.
- (3) Articles unclaimed by the owner and found by TJPA employees shall be disposed of pursuant to applicable law and such general TJPA rules and operating procedures as are established for the disposition of such unclaimed property.

Permit Procedure for Expressive Activity

1. Introduction

The transit center is a more than 1,250,000 square-foot facility that is expected to serve more than 37,000 people each week day when Phase 1 of the program is fully operational. Its primary purpose is to serve as a public transportation facility, but it is also designed to serve diverse purposes, including recreation, commercial, and administrative. The TJPA finds that tailoring reasonable restrictions on public use of the facility, including expressive activities, on an area by area basis will address concerns related to the safe and efficient functioning of the transit center for its diverse intended public uses, including but not limited to:

- (A) Minimizing delays and congestion in passenger movement, which could also affect the ability of the transit operators to run service on time;
- (B) Reducing transit passengers being held captive to any messaging while occupying areas that are designed for queuing while waiting for transit;
- (C) Fostering public safety and minimizing security risk;
- (D) Minimizing impacts to the transit center that would foster an environment hostile or non-supportive to commercial and retail activity, which is a primary source of revenue for operations of the transit center; and
- (E) Controlling janitorial, maintenance, security, and other costs that would increase the overall cost of operating and maintaining the transit center.

2. General Requirements re Expressive Activities

“Expressive activity” generally includes auditory, visual, or printed communication or conduct that is intended to convey a political, religious, philosophical or ideological message and that is protected by the First Amendment to the US Constitution. Examples may include demonstrating, protesting, leafletting, and displaying signs.

In light of the intended purposes and needs of the transit center, the TJPA has adopted the following rules and procedures governing expressive activities.

- (A) The following areas of the transit center are generally open to expressive activities – see attached map:
 - (1) Exterior sidewalks that are within TJPA’s property and around the perimeter of the transit center
 - (2) Grand hall
 - (3) Rooftop park

- (B) The following areas of the transit center are closed to expressive activities:
 - (1) Administrative/back of house, building support, security, and other areas not open to the public
 - (2) Roadways and thoroughfares for vehicles, including the bus ramp

- (3) Areas dedicated by lease, license, permit or otherwise for use by restaurants, commercial entities, retailers, pop-up retailers/kiosk, special events, private events, and others
 - (4) Interior walkways on the second level, which surround areas dedicated to commercial/retail space
 - (4) Areas dedicated by lease, license, permit or otherwise for use by transit operators on the bus deck level, in the bus plaza, and at the bus storage facility, and the on sidewalks and walkways surrounding such dedicated space
 - (5) Shaw Alley and the 2 passageways between Natoma and Minna Streets
 - (6) Areas accessible only by paid/ticketed transit passengers.
- (C) Within the areas of the transit center that are generally open to expressive activities, no expressive activities may occur:
- (1) In restrooms;
 - (2) In stairwells;
 - (3) On elevators and escalators
 - (4) Within 10 feet of any of the following:
 - (a) Escalator entrances/exits
 - (b) Elevator doors
 - (c) Doorways
 - (d) Interior queues, including at ticketing and baggage check-in areas, food and retail establishments, etc.
 - (e) Automated teller machines (ATMs) and ticket vending machines (TVMs), except that soliciting is prohibited within 20 feet of any ATM or TVM;
 - (f) Children's playgrounds
 - (g) Seating dedicated to restaurant, cafe, bar, or similar establishment's use via lease, license, permit, or similar;
 - (h) Fixed furniture
 - (i) Safety and security equipment
 - (j) Areas dedicated by lease, license, permit or otherwise for use by restaurants, commercial entities, retailers, pop-up retailers/kiosk, special events, private events, and others
 - (k) Fare gates.
 - (5) On or within 50 feet of any construction site or construction equipment, except as may be required according to rights established under federal or state labor laws.
- (D) Within the rooftop park and on the exterior sidewalks, the following expressive activities are only permitted pursuant to a permit issued by the TJPA:
- (1) Conduct or sponsor a parade involving
 - (a) 50 or more persons in the rooftop park; or
 - (b) 25 or more persons in the exterior sidewalks.
 - (2) Conduct or sponsor or engage in petitioning, leafletting, demonstrating, or soliciting when the number of petitioners, leafletters, demonstrators, or solicitors engaging in one or more of these activities involves

- (a) 50 or more such persons within an area circumscribed by a 500-foot radius in the rooftop park; or
- (b) 25 or more such persons in the exterior sidewalks.
- (3) Sell, barter, or exchange, or offer for sale, barter, or exchange, or bring or cause to be brought for the purpose of sale, barter, or exchange, books, newspapers, periodicals, CDs, DVDs, or other printed materials. Commercial sales, barter, or exchange of goods, wares, merchandise, property, or services of any kind, as well as promoting, advertising, or soliciting sales or business for any commercial enterprise, including but not limited to distributing free product samples or other promotional materials, are prohibited unless licensed through the facility's retail leasing program or permitted as part of a special event.
- (4) Conduct or sponsor any exhibit, promotion, dramatic performance, theatrics, pantomime, dance, fair, circus, festival, juggling or other acrobatics or show of any kind or nature.
 - (a) For the rooftop park, a permit is required only if the activity has been publicized 4 hours or more in advance.
 - (b) For exterior sidewalks, a permit is required in all instances.
- (5) Perform any feat of skill or produce any amusement show, movie or entertainment.
 - (a) For the rooftop park, a permit is required only if the activity has been publicized 4 hours or more in advance.
 - (b) For exterior sidewalks, a permit is required in all instances.
- (6) Make a speech.
 - (a) For the rooftop park, a permit is required only if the speech has been publicized 4 hours or more in advance.
 - (b) For exterior sidewalks, a permit is required in all instances.
- (7) Conduct or sponsor a religious event involving
 - (a) 50 or more persons in the rooftop park; or
 - (b) 25 or more persons in the exterior sidewalks.
- (8) Conduct or sponsor a concert or musical performance.
 - (a) For the rooftop park, a permit is required only if the activity (1) has been publicized 4 hours or more in advance, (2) utilizes sound amplification, or (3) involves a band or orchestra.
 - (b) For exterior sidewalks, a permit is required in all instances.
- (9) Participate in a picnic, dance or other social gathering involving
 - (a) 25 or more persons in the rooftop park; or
 - (b) 15 or more persons in the exterior sidewalks.
- (10) Conduct or sponsor any event which utilizes amplified sound equipment.
- (11) Conduct or sponsor an exhibition or art show.
- (12) Station or erect any table, scaffold, stage, platform, rostrum, tower, stand, bandstand, building, fence, wall, monument, dome or other structure for expressive purposes. Only TJPA-issued tables are permitted; tables are not permitted in certain areas.
- (13) Play any percussion instrument, including drums, when a sign has been posted in the area affected to give notice of this prohibition, provided that such prohibition does not unreasonably curtail the playing of such instruments.

- (E) Within the grand hall, only the following expressive activities are permitted and only pursuant to a permit issued by the TJPA:
 - (1) Conduct or sponsor or engage in any petitioning, leafletting, or demonstrating.
 - (2) Make a speech.
 No other expressive activities are permitted in the grand hall. The use of sound amplification is prohibited in the grand hall. No person shall station or erect any scaffold, stage, platform, rostrum, tower, stand, bandstand, building, fence, wall, monument, dome, prop or other structure for expressive purposes in the grand hall. Only TJPA-issued tables are permitted in the grand hall.
- (F) For those expressive activities that are only permitted pursuant to a permit issued by the TJPA, no person shall engage in such activities without giving at least 72 hours prior written notice to, and obtaining a permit from, the TJPA. Expressive activity permits are not available more than 30 days in advance of the activity.
- (G) For those expressive activities that are only permitted pursuant to a permit issued by the TJPA, the TJPA has determined that only certain sub-areas within the open areas of the transit center provide a reasonable opportunity for such expressive activities while not impeding the use of the transit center for its intended purpose. The TJPA shall designate those areas where such expressive activities may occur; see attached map. The TJPA may move, remove, or reduce the size of any previously-designated area, as needed, to respond to construction-in-progress, changes in pedestrian flow, evolving security requirements, or other appropriate circumstances.
- (H) Within the rooftop park and exterior sidewalks, and except as specified above, no permit is required to engage in expressive activities.
- (I) All expressive activities shall be conducted in compliance with federal, state, and local law; consistent with the Code of Conduct; and according to the requirements of any permit.
- (J) Expressive activity is presumed to be conduct, activity, and events that are offered at no charge to the public.

3. Permit Application Procedure

Within the areas of the transit center that are generally open to expressive activities, certain expressive activities are only permitted pursuant to a permit issued by the TJPA. For such activities, the following procedures govern application for and issuance of a permit.

- (A) Permit applications must be made using the TJPA's form, and include all required information; incomplete or illegible applications will not be accepted or approved.
- (B) Permit applications must be submitted in writing, either hard copy delivered in person or electronic copy delivered via the transit center website, as specified on the application during the office hours specified on the application, excluding holidays. Applicants

submitting their application via the transit center website will be notified of receipt of their application by an electronic return receipt.

If the application is delivered in person during office hours, the application is deemed received upon receipt. If the application is delivered electronically during office hours, the application is deemed received when the application was sent (as confirmed by electronic return receipt). Applications submitted outside of office hours (either in hard copy or electronically) will be considered received on the next occurring office hours.

- (C) Permit applications must be received at least 72 hours prior to the start of the proposed expressive activities; the 72 hour period begins when the application is deemed received during office hours. For example, an application submitted on a Friday afternoon during office hours will be deemed received at that time and the permitted activity may occur beginning on Monday afternoon. But an application submitted on a Friday evening after office hours will be deemed received at the start of office hours the following Monday morning, the 72 hour period will begin at the start of office hours on that Monday morning, and the permitted activity may occur no sooner than Thursday morning. The 72 hour review period will be extended by 24 hours for each holiday day that falls within the review period.

Prior notice and approval is required in order to ensure that adequate measures may be taken to protect the public health, security, safety and order, to assure efficient and orderly use of transit center facilities for their primary purpose, and to assure equal opportunity for expression. The TJPA may reduce or waive the 72 hour prior written notice requirement if the permit applicant can show that the event or events giving rise to the proposed expressive activities did not reasonably allow the applicant time to make an application within the time prescribed and that enforcement of the notice requirement would place an unreasonable restriction on expressive activity.

Any individual or group shall be allotted a maximum of 5 days of permits per calendar month for activities that include the Sale of books, newspapers, periodicals, or other printed materials for expressive purposes. There is no cap on the number of permits per calendar month for expressive activities that do not include the Sale of items for expressive purposes.

Expressive activity permits are not available more than 30 days in advance of the activity.

- (D) The TJPA Executive Director (or designee) shall approve or deny a permit application within 72 hours after it is deemed received. The TJPA Executive Director (or designee) shall approve a permit application, unless one or more of the following apply:
 - (1) The proposed activities would impede the operation of the transit center as a transportation facility or are inconsistent with the purpose for which the facility or area has been established or designated.
 - (2) The proposed activities would interfere with the ability of others to hear transit center announcements or see transit center signage, or interfere unreasonably with

- the ability of transit operators, concessionaires and other tenants and permittees to conduct their business in an orderly manner.
- (3) The proposed activities would hinder pedestrian flows, create congestion or block efficient movement within and around the transit center.
 - (4) An application for a permit (expressive activity permit, special event permit, or private event permit) to use the same or a nearby location at the same time has been previously received and approved, authorizing an activity which does not reasonably permit multiple occupancy of the area and/or would unreasonably interfere with transit center use and enjoyment by participants in such activities.
 - (5) A program sponsored by the TJPA (or designee) to use the same or a nearby location at the same time has been previously scheduled, planning an activity which does not reasonably permit multiple occupancy of the area and/or would unreasonably interfere with transit center use and enjoyment by participants in such activities.
 - (6) The Executive Director has reasonable cause to conclude that the applicant or any person or persons participating in the proposed activity will, in connection with that activity, cause physical injury to a person or substantial damage to property; provided, however, that in determining whether such reasonable cause exists the Executive Director shall not consider the content of expression that is proposed or anticipated.
 - (7) The applicant has previously failed to comply with the terms and conditions of a permit issued by the TJPA or violated the Code of Conduct, and was given notice of such failures and/or violations by the Executive Director or designee.
 - (8) The applicant fails to obtain necessary approvals, permits, or licenses from other governmental departments or agencies having jurisdiction.
 - (9) The applicant fails or refuses to post a cash performance bond (security deposit) when reasonably required to do so by the Executive Director.
 - (10) The applicant fails or refuses to provide insurance when reasonably required to do so by the Executive Director.
 - (11) The applicant fails or refuses to execute an agreement to defend the TJPA (and its additional insureds) against, and indemnify and hold the TJPA (and its additional insureds) harmless from, any liability to any person caused by, or arising out of, the permitted activity, when reasonably required to do so by the Executive Director.
 - (12) The application contains misrepresentations of material fact.
 - (13) The proposed activity is prohibited by federal, state, or local law, or the Code of Conduct.
 - (14) The applicant refuses to comply with conditions reasonably imposed on approval of the permit application by the Executive Director to help ensure that public or private property is not damaged and that the comfort, convenience, safety and welfare of the public are not disturbed.
 - (15) The application is incomplete or illegible.
 - (16) The application is not timely submitted.
 - (17) The proposed activities are scheduled to occur more than 30 days after the date of the application.

- (18) The proposed activities include sale, barter, or exchange of books, newspapers, periodicals, CDs, DVDs, or other printed materials for expressive purposes, and the applicant (individual or group) has already received 5 days of permits in the same calendar month for activities that include Sales.
- (19) The proposed activities include sale, barter, or exchange of items for purely commercial purposes.
- (E) Whenever a permit application is denied, the TJPA Executive Director (or designee) shall timely inform the applicant of the reason for the denial. When a change in application (such as location, date, or time) would allow approval, the Executive Director shall make reasonable efforts to identify such changes/offer such alternatives.
- (F) The TJPA Executive Director (or designee) will designate a location for the permitted activities (see attached map) based on the following considerations:
 - (1) Safety and security requirements;
 - (2) Pedestrian flows, potential congestion, and areas needed to be kept clear for efficient movement of persons throughout the transit center;
 - (3) Operational requirements of the transit center;
 - (4) Reasonable access to the desired audience; and
 - (5) Availability of the requested location.
- (G) Where two or more persons or groups request permission to use the same location at the same date and time, the Director shall issue permits on a “first-come first-served” basis.
- (H) Permits shall be valid only as specified on the permit, including the identify of permittee, the location of the activity, the date and time of the activity, the time of the activity, and the maximum number of participants in the activity.

4. Permit Conditions

- (A) For those expressive activities that are only permitted pursuant to a permit issued by the TJPA, the TJPA Executive Director (or designee) may impose reasonable conditions on approval of a permit application to help ensure that public or private property is not damaged and that the comfort, convenience, safety or welfare of the public is not disturbed. Permit conditions are designed to secure for permit holders an opportunity fully to exercise the rights conferred upon them by the permit without unreasonably interfering with the rights of other members of the public to use the transit center or to engage in First Amendment activities. The TJPA shall in no event impose permit conditions which are designed to limit the content of First Amendment expression engaged in by persons affected by the permit or which unreasonably interfere with the right of free speech.
- (B) The TJPA Executive Director (or designee) may impose conditions as a condition of approval of the permit application, or after the permit application has been approved if information is received by TJPA after such approval which would provide reasonable grounds for the conclusion that further conditions are necessary, including the condition

that the location of the proposed activity be changed.

- (C) The conditions which may be imposed on permit applicants include, but are not limited to, the following requirements:
- (1) Obtaining necessary approvals, permits, or licenses from other governmental departments or agencies having jurisdiction.
 - (2) Posting a cash performance bond (security deposit) to help ensure that property is restored and cleaned at the conclusion of the permitted activity. Notwithstanding the foregoing, where an applicant produces evidence that providing a cash performance bond would be impossible or so financially burdensome that it would preclude the applicant from using transit center property for the proposed activity, the TJPA Executive Director (or designee) shall accept property in lieu of a cash performance bond so long as the property offered is of a type which will reasonably insure restoration and cleaning of the property to be used by the applicant at the conclusion of the permitted activity.
 - (3) Providing insurance to protect the TJPA (and its additional insureds) from liability from any harm that may arise from or be related to the permitted activity. Notwithstanding the foregoing, where an applicant produces evidence that providing insurance would be impossible or so financially burdensome that it would preclude the applicant from using transit center property for the proposed activity, the TJPA Executive Director (or designee) may waive the requirement.
 - (4) Agreeing to defend the TJPA (and its additional insureds) against, and indemnify and hold the TJPA (and its additional insureds) harmless from, any liability to any person resulting from any damage or injury caused by, or arising out of, the permitted activity or any person who was or reasonably should have been, under the permittee's control.

5. Duties of Permittee

- (A) It shall be the duty of every permittee:
- (1) To obey all federal, state, and local laws, and the Code of Conduct, and conform with information provided in the application/permit, including any conditions;
 - (2) To clean the area used after the permitted activity is over and to restore the area and property used to the same condition as existed prior to the activity;
 - (3) To reimburse the TJPA for any extraordinary costs incurred by the TJPA caused by, or arising out of, the permitted activity, or any person who was, or reasonably should have been, under the permittee's control; such extraordinary costs may include restoring damage to property, janitorial, and security. Notwithstanding the foregoing, where a permittee produces evidence that covering such extraordinary costs would be impossible or excessively financially burdensome, such as to discourage future use of the transit center for expressive activity for similarly situated groups or individuals, the TJPA Executive Director (or designee) may waive the requirement.
 - (4) To carry their permit on their person when engaged in the activity requiring the permit. At the request of TJPA staff, facility manager, security, or law

enforcement, the permittee must produce a valid permit for the date, time, and location of the expressive activity.

- (B) A permittee may not assign an expressive activities permit issued by the TJPA, and any attempt to do so shall be void.
- (C) In addition to and not in substitution of any other provisions herein, the following shall also apply:
 - (1) It shall be unlawful for any person to engage in petitioning, leafletting, demonstrating, or soliciting in such a manner as to substantially obstruct any traffic of pedestrians or vehicles after being warned by a peace officer or the TJPA not to do so.
 - (2) No person shall solicit in an aggressive manner.
 - (3) No person shall solicit within twenty (20) feet of any automated teller machine (ATM) or ticket vending machine (TVM), except with permission of the TJPA. Provided, however, that when an ATM is located within an ATM facility, such distance shall be measured from the entrance or exit of the facility.
- (D) Any person who is allowed to engage in expressive activity authorized under the terms of these procedures shall do so at his or her own risk. TJPA does not guarantee additional security or safety or privileges by issuing a permit under these procedures.

6. Revocation of Permits

Whenever a permittee or any person who was or reasonably should have been, under the permittee's control, violate any federal, state, or local law, any provision of the Code of Conduct, or any information provided in the application/permit, including any conditions, the TJPA Executive Director (or designee) may revoke the permit; revocation may occur in advance of or during the course of the expressive activity. The Executive Director shall issue a written notice of the revocation, which shall include the reason or reasons for revocation. The revocation shall be effective immediately upon personal delivery of the notice to the permittee or certified mailing of the notice to the address provided on the permit application.

7. Public May Be Excluded

Notwithstanding the TJPA's recognition of certain areas of the transit center as generally open to expressive activities, in case of an emergency, or when in the judgment of the TJPA Executive Director (or designee) the public interest demands it, any portion of the transit center or buildings, structures, equipment, apparatus, or appliances therein may be closed to the public until such area or building, structure, equipment, apparatus, or appliance is reopened to the public by the Executive Director and/or the Executive Director or designee may impose additional restrictions to address or prevent unsafe conditions and to maintain pedestrian flow within the facility; provided, however, that nothing in this Section shall authorize the Executive Director to close any portion of the transit center or buildings, structures, equipment, apparatus, or appliances therein or impose additional restrictions because of the content or viewpoint of expressive activities, existing or anticipated, to the extent such expressive activities are protected by the First Amendment to the United States Constitution.

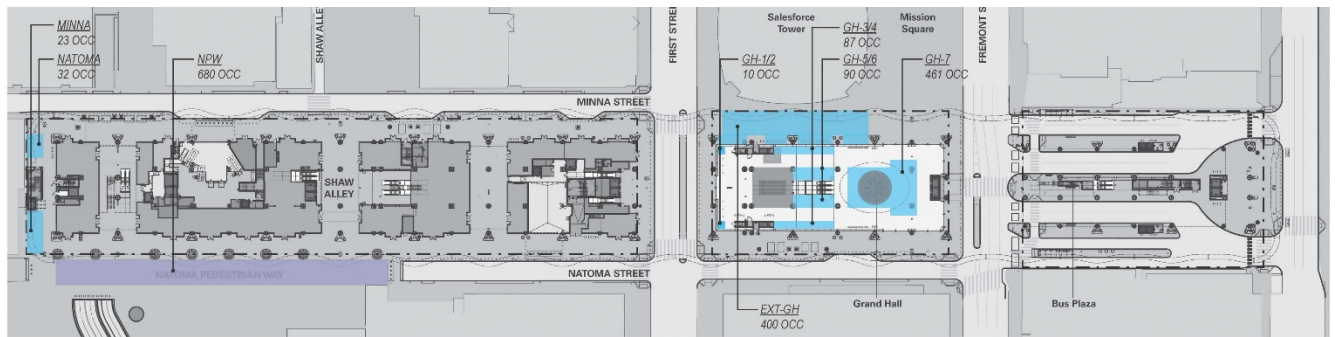
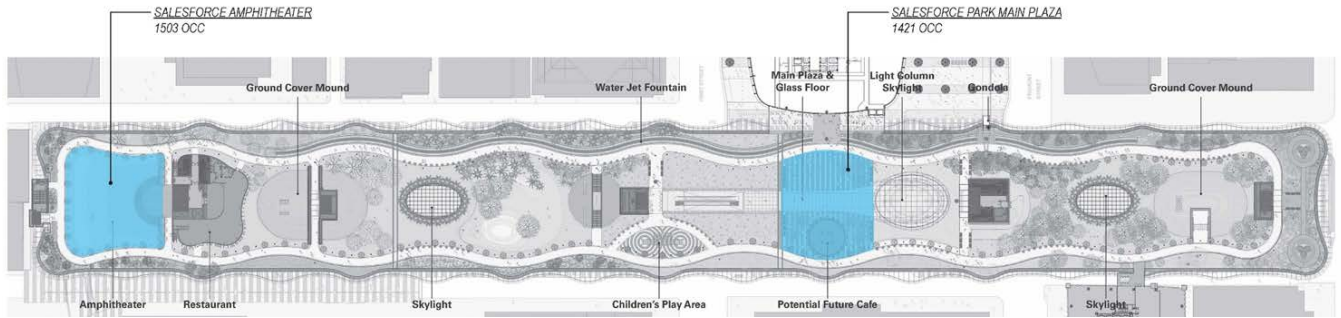


SITES FOR EXPRESSIVE ACTIVITY



POTENTIAL SITE FOR EXPRESSIVE ACTIVITY

--- PROPERTY LINES



PERMIT APPLICATION FOR EXPRESSIVE ACTIVITY

Within the areas of the transit center that are generally open to expressive activities, certain expressive activities are only permitted pursuant to a permit issued by the TJPA. Except for those activities that expressly require a permit, no permit is required so long as the activities are conducted in compliance with federal, state, and local law, and consistent with the Code of Conduct.

Permit application must be submitted and received at least 72 hours and no more than 30 days prior to the date and time of the proposed activity.

Submit completed permit application during office hours either in person or via email to:

Lincoln Property Company
Salesforce Transit Center
permits@salesforcetransitcenter.com
Office hours: 9 a.m. to 5 p.m., Monday – Friday, excluding holidays

1. Applicant Name: _____
(Please Print)

If applicant is an organization, name of representative who is in charge of the activity (the designated individual must be present during the activity): _____
(Please Print)

2. Address: _____
(Street)

(City) (State) (Zip Code)

3. Telephone: _____
(Mobile # of person who will be present during activity) (Secondary #)

E-Mail: _____

4. Preferred location (must be within an area of the transit center open to expressive conduct):

1st choice: _____

2nd choice: _____

5. Preferred date(s) & time(s) of proposed activity: _____

6. Duration of proposed activity: _____

7. Description of proposed activity:

8. Approximate number of people who will participate in the activity: _____

9. Description (including size and volume) of any items to be handed out, displayed, or used in the proposed activity (attach additional pages if more space is needed):

10. Is a table requested (note that only TJPA-provided tables may be used)? Yes _____ No _____

11. Additional Information (attach additional pages if more space is needed) (optional):

12. The undersigned acknowledges receipt of the **Salesforce Transit Center Code of Conduct** and **Salesforce Transit Center Permit Procedure for Expressive Activities** and has read and agrees to their terms.

Signature of Applicant

Date

Below this line for Salesforce Transit Center staff use only

The Application is:

Approved

Denied

Signature of Director or Designee

Date

Once a final determination on the application has been made by the Director or designee, a complete copy shall be provided to the applicant. The original will remain with the TJPA.

If the permit application is approved, a list of any applicable conditions shall be attached.

If the permit application is denied, an explanation informing the applicant of the reason(s) for the denial, making references to the bases for denial listed in Section 3.D of the **Salesforce Transit Center Permit Procedure for Expressive Activity** guidance document, shall be attached.

For Office Use/Internal Tracking Only

RECEIPT OF APPLICATION

Date and Time Received: _____

Received From: _____

Is the requested space available at the requested time? _____

Number of participants permitted in requested area: _____

OFFICIAL DETERMINATION ON APPLICATION

Approved

Denied

Reviewed by: _____

(Please Print)

Signature

Date

Location, if approved: _____

Basis for denial, if denied: _____

Notes, including conditions of approval, if applicable: _____

NOTIFICATION TO APPLICANT

Person Notified: _____

Date and Time of Notification: _____

Notes documenting notification efforts (optional): _____