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2 **APPEAL OF PROPOSED TREE REMOVAL**

3 **SAN FRANCISCO PUBLIC UTILITIES COMMISSION**  
4 **CITY AND COUNTY OF SAN FRANCISCO**

5 **IN THE MATTER OF** )  
6 **THE PROPOSED REMOVAL OF STREET** )  
7 **TREE AT CLEMENT STREET AND** ) **HEARING OFFICER’S DECISION**  
8 **39TH AVENUE** ) **ON APPEAL**  
9 \_\_\_\_\_ )

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11 The San Francisco Public Utilities Commission (“SFPUC”) proposes removal of one street tree  
12 at Clement Street and 39th Avenue under Section 806 of the Public Works Code in connection with  
13 the SFPUC’s Westside Recycled Water Project. As part of the Westside Recycled Water Project,  
14 SFPUC proposes to install a distribution line and air gap to Lincoln Park Golf Course at Clement  
15 and 39th Avenue and seeks to remove a New Zealand Christmas Tree at that location to  
16 accommodate installation of this infrastructure. Pursuant to Public Works Code Section 806(a)(3),  
17 Joshua Klipp filed objections to the proposed removal. Nancy Hom, the Deputy Chief Financial  
18 Officer at SFPUC, held a hearing to consider Mr. Klipp’s objections. Following the hearing,  
19 Hearing Officer Hom issued a decision on February 24, 2022, approving the removal of the tree.  
20 Joshua Klipp and Lee and Liz Heidhues filed timely appeals of that decision pursuant to the SFPUC  
21 Acting General Manager’s April 13, 2021 memorandum concerning street tree removal by SFPUC,  
22 Public Works Code Section 806(a)(3)(C), and Charter Section 4.106. SFPUC Deputy General  
23 Manager Michael Carlin designated the undersigned to hear the appeal.  
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25 On April 27, 2022, I notified the parties of a briefing schedule and set an appeal hearing to be  
26 held on May 27, 2022. The parties timely submitted appeal briefs and exhibits, which I reviewed  
27 thoroughly. On May 27, 2022, I convened the hearing on the appeals. The parties presented  
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1 testimony and documentary evidence. The public was provided the opportunity to comment.

2 Lee and Liz Heidhues appeal the February 24, 2022 Decision arguing that the tree should not  
3 be removed. Mr. Klipp's appeal argument is predominantly that the SFPUC did not consider  
4 alternatives that would not require removal of the tree. SFPUC testimony at the hearing  
5 acknowledged that there may be such alternatives but staff did not have sufficient information to  
6 present regarding the viability of such alternatives.

7 Following the hearing, on June 1, 2022, I requested the SFPUC to submit supplemental  
8 information concerning alternatives for installation of the air gap that would not require removal of  
9 trees. On June 14, SFPUC provided a timely and complete supplemental information package. On  
10 June 17, Mr. Klipp provided comments and on June 22, Lee and Liz Heidhues both submitted  
11 comments. I have reviewed the supplemental information and the comments.  
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13 The supplemental information SFPUC provided analyzed three alternatives to the proposed  
14 project. All alternatives would avoid complete removal of the subject tree. Alternative 3, placing  
15 the airgap inside Lincoln Park, would require removal a non-street tree. Alternative 2 would create  
16 an obstruction in the travel way. Alternative 1 would move the air gap to a location outside the drip  
17 line of the subject tree and would not require removal of the tree but would require relocation of a  
18 fire hydrant. Additionally, Alternative 1 would not substantially increase the cost of the project to  
19 the SFPUC, nor would it require additional permits or require additional approvals outside of  
20 SFPUC.  
21

22 Based on the foregoing, the undersigned hereby **GRANTS** the appeal and **DENIES** the permit  
23 to remove the subject tree on the basis that there exists at least one viable and reasonable alternative  
24 to the air gap installation project that would not require removal of the subject tree. Accordingly, the  
25 undersigned finds that it is in the public interest to deny a permit authorizing removal of the tree at  
26 this time. SFPUC is reminded that if it conducts excavation, construction, or street work within the  
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1 dripline of the subject tree or other covered trees, it must prepare a Tree Protection Plan pursuant to  
2 Public Works Code Section 808(c)(4) to be submitted to the Director of Public Works for  
3 informational purposes and posted to the project's public information web page.

4 This is a final administrative decision that may be challenged by filing a petition for writ  
5 mandate in the San Francisco Superior Court pursuant to Section 1094.5 et seq. of the California  
6 Code of Civil Procedure.

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8  
9 **DATE:** July 6, 2022

\_\_\_\_\_  
10 **Greg Lyman**  
11 **Hearing Officer**

1 **PROOF OF SERVICE**

2 I, **NAME**, declare as follows:

3 I am a citizen of the United States, over the age of eighteen years and not a party to the above-  
4 entitled action. I am employed at the San Francisco Public Utilities Commission, 525 Golden Gate  
Ave. San Francisco, CA 94102.

5 On **DATE**, I served the following document:

6 **HEARING OFFICER'S DECISION ON APPEAL**

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8 on the following persons at the locations specified:

9 Joshua Klipp  
10 884 Kansas Street  
San Francisco, CA 94107

11  
12 Lee and Liz Heidhues  
566 40th Avenue  
13 San Francisco, CA 94121

14 Barbara Palacios  
15 San Francisco Public Utilities Commission  
525 Golden Gate Ave.  
16 San Francisco, CA 94102

17 in the manner indicated below:

18  **BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of  
19 the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with  
20 the United States Postal Service. I am readily familiar with the practices of the San Francisco Fire Department for  
collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for  
collection would be deposited, postage prepaid, with the United States Postal Service that same day.

21  **BY PERSONAL SERVICE:** I sealed true and correct copies of the above documents in addressed  
22 envelope(s) and caused such envelope(s) to be delivered by hand at the above locations by a professional  
messenger service. A declaration from the messenger who made the delivery  
23  is attached or  will be obtained separately.

24 I declare under penalty of perjury pursuant to the laws of the State of California that the  
25 foregoing is true and correct. Executed on August 17, 2021, at San Francisco, California.

26  
27 **NAME** \_\_\_\_\_  
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