

FILE NO. 050084

RESOLUTION NO.

1 [Vacation of 22nd Street between Arkansas and Connecticut Streets.]

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3 **Resolution declaring the intention of the Board of Supervisors to vacate the 22nd Street**
4 **right-of-way between Arkansas and Connecticut Streets; setting the hearing date for**
5 **July 19, 2005 at 4:00 p.m. for all persons interested in the proposed vacation of the**
6 **street area; and adopting environmental findings and findings that the vacation is**
7 **consistent with the City's General Plan and the Eight Priority Policies of Planning Code**
8 **Section 101.1.**

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10 WHEREAS, The vacation of the 22nd Street right-of-way between Arkansas and
11 Connecticut Streets (the "Street Area") in the City and County of San Francisco (the "City")
12 has been proposed in order to facilitate (i) the use of the major portion of such area as a
13 community garden and (ii) the sale of the remaining portion of such area (the "Sale Portion")
14 to Michael Lanza, the neighboring landowner (the "Purchaser") pursuant to an Agreement for
15 Sale of Real Estate, which is on file with the Clerk of the Board of Supervisors (the "Clerk") in
16 File No. 050084, which is hereby declared to be a part of this Resolution as if set forth fully
17 herein; and,

18 WHEREAS, The Street Area is shown in the Department of Public Works SUR Map
19 No. 6003, dated July 1, 2004, a copy of which, marked to show the Sale Portion and the
20 Easement Portion (as defined below), is on file with the Clerk in File No. 050084 and is
21 incorporated herein by reference; and,

22 WHEREAS, In a letter dated July 30, 2004 (the "DPW Letter"), the Department of
23 Public Works found that: (i) the Street Area is no longer necessary for the City's present or
24 prospective future street purposes, and (ii) there are no physical public utility facilities within
25 the Street Area except for SBC for telecommunications purposes and Pacific Gas & Electric

1 (“PG&E”) for power and gas transmission purposes. A copy of the DPW Letter is on file with
2 the Clerk in File No. 050084 and is incorporated by reference as though fully set forth herein.
3 The Board of Supervisors adopts as its own and incorporates by reference herein as if fully
4 set forth the recommendations of the Department of Public Works as set forth in the DPW
5 Letter concerning the vacation of the Street Area and other actions in furtherance thereof;
6 and,

7 WHEREAS, The public convenience and necessity require that the City reserve and
8 except from the vacation of the Street Area the non-exclusive easement and right (or license)
9 for the benefit of SBC and PG&E, in, upon, and over those certain portions of the Street Area,
10 except for the Sale Portion, in which PG&E’s in-place and functioning facilities are currently
11 located as described in the map on file with the Clerk in File No. 050084, to the extent
12 necessary to maintain, operate, repair and remove such existing lines of pipe, conduits,
13 cables, wires, poles and other convenient structures, equipment and fixtures for the operation
14 of existing gas pipelines, telegraphic, telecommunication and telephone lines, and existing
15 street lighting facilities, and existing facilities for transportation or distribution of electric
16 energy, and reasonable access to the foregoing facilities for the purposes set forth above;
17 and,

18 WHEREAS, The public convenience and necessity further require that any reserved or
19 excepted easements or licenses for existing utilities described in the preceding paragraph
20 shall be terminated upon the earlier of (i) the termination of any applicable easement, license
21 or similar agreement entered into with PG&E or SBC pursuant to its terms, or (ii) the
22 determination by the Director of Public Works that (A) reasonable alternative utility service has
23 been provided to the areas served by such utilities for the period of service needed or (B) the
24 areas served by the utilities no longer require such service (as may be evidenced by written
25 notice of the owners being served that such service is no longer required); and,

1 WHEREAS, Any removal or relocation of a utility for which an easement or license has
2 been reserved or excepted herein for the benefit of any party shall be performed at no cost or
3 expense to the City, provided that nothing herein shall be deemed to preclude any future
4 owner of any portion of the Street Area from charging a third party for or otherwise causing a
5 third party to bear the costs of such relocation where such charge or cost is otherwise
6 permitted by law; and,

7 WHEREAS, Except as specifically provided above, the public convenience and
8 necessity require no easements or other rights be reserved for any public utility facilities that
9 are in place in the Street Area and that any rights based on any such public utility facilities be
10 extinguished; and,

11 WHEREAS, The public convenience and necessity require that the City reserve a non-
12 exclusive temporary easement over a 18' by 125' portion of the Street Area immediately
13 adjacent to Purchaser's lots and Arkansas Street, as marked on the map on file with the Clerk
14 in File No. 050084 (the "Easement Portion"), to provide Purchaser with pedestrian and
15 vehicular access to Puchaser's interior lot, which otherwise would not be accessible from the
16 public right-of-way upon the vacation of the Street Area, such easement to terminate upon the
17 consummation of the sale of the Sale Portion to Purchaser; and,

18 WHEREAS, The public convenience and necessity further require that the reserved
19 easement described in the preceding paragraph shall be terminated upon the consummation
20 of the sale of the Sale Portion to Purchaser and the execution and delivery of a quitclaim deed
21 relating to the Sale Portion pursuant to the terms of the Sale Agreement, provided that if such
22 quitclaim deed is not executed and delivered then such easement shall remain in full force
23 and effect; and,

24 WHEREAS, On December 22, 2003, the Director of City Planning (the "Director of
25 Planning") sent a letter, a copy of which is on file with the Clerk in File No. 050084 and

1 incorporated herein by reference, wherein the Director of Planning (i) found that the proposed
2 vacation of the Street Area is, on balance, in conformity with the City's General Plan and
3 consistent with the priority policies of Planning Code Section 101.1 and (ii) determined that
4 the actions contemplated in this Resolution are in compliance with the California
5 Environmental Quality Act (California Public Resources Code sections 21000 et seq.); and,

6 WHEREAS, Section 787(a) of the San Francisco Public Works Code provides that the
7 City will follow the procedure for vacating streets as set forth in State law in the California
8 Streets and Highways Code Sections 8300 et seq. and such rules and conditions as are
9 adopted by the Board of Supervisors; now therefore, be it

10 RESOLVED, That the vacation proceeding of the Street Area is conducted under the
11 general vacation procedures of the Public Streets, Highways and Service Easements
12 Vacation Law (California Streets and Highways Code Section 8300 et seq.); and, be it

13 FURTHER RESOLVED, That under Sections 8300 et seq. of the California Streets and
14 Highways Code, the Board of Supervisors hereby declares that it intends to order the vacation
15 of the Street Area, as described in SUR Map No. 6003 referred to above; and, be it

16 FURTHER RESOLVED, That the vacation of the Street Area shall be conditioned upon
17 and shall not become effective until the Clerk records or causes to be recorded a certified
18 copy of the Ordinance ordering such vacation as provided in Section 8325(a) of the California
19 Streets and Highways Code, and thereupon such vacation shall be effective without any
20 further action by the Board of Supervisors; and, be it

21 FURTHER RESOLVED, That notice is hereby given that on the 19th day of July, 2005,
22 beginning at 4:00 p.m. in the Legislative Chambers of the Board of Supervisors, all persons
23 interested in or objecting to the proposed vacation will be heard; and, be it

24 FURTHER RESOLVED, That the Board of Supervisors adopts as its own and
25 incorporates by reference herein as though fully set forth, the findings in the Director of

1 Planning's letter referred to above, including the determination of compliance with the
2 California Environmental Quality Act and findings that the proposed vacation of the Street
3 Area and sale of a portion thereof are consistent with the General Plan and the Eight Priority
4 Policies of Planning Code Section 101.1; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk to transmit to
6 the Department of Public Works a certified copy of this resolution, and the Board of
7 Supervisors urges the Director of Public Works to publish or post this resolution promptly in
8 the manner required by law and to give notice of the hearing of such contemplated action in
9 the manner required by law.

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RECOMMENDED:

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13 See original for signatures

14 Steve Legnitto
Director of Property

Robert P. Beck
Deputy Director of Engineering

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17 _____
Edwin M. Lee

18 Director of Public Works

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