

1 [Summary Vacation of Sewer, Water and Utility Easements Within Assessor's Block 2864,  
2 Lot 001 and Sale to Owner of Assessor's Block 2864, Lot 001 Upon Conditions]

3 **Ordinance ordering the summary vacation of six recorded sewer, water and utility**  
4 **easements located within Assessor's Block 2864, Lot 001, on land commonly known as**  
5 **300 Laguna Honda Boulevard, subject to specified conditions; adopting findings**  
6 **pursuant to the California Streets and Highways Code Section 8330 et seq.; adopting**  
7 **findings pursuant to the California Environmental Quality Act; adopting findings that**  
8 **the vacation and sale by quitclaim are consistent with the City's General Plan and Eight**  
9 **Priority Policies of City Planning Code Section 101.1; authorizing the conveyance of**  
10 **the City's interest in the vacated easements to the fee owners of Assessor's**  
11 **Block 2864, Lot 001, upon satisfaction of conditions set forth in companion Ordinance**  
12 **No. \_\_\_\_\_ on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_; and**  
13 **ratifying and authorizing actions in furtherance of the ordinance.**  
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15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Findings. The Board of Supervisors of the City and County of  
17 San Francisco finds, determines and declares as follows:

18 A. Peter Naughton and Bernadette Naughton, as Trustees of the 2004  
19 Peter P. Naughton and Bernadette A. Naughton Revocable Trust (collectively, "Owner") are  
20 the owners in fee title of Lot 001 in Assessor's Block 2864 in the City and County of  
21 San Francisco (the "Owner's Property"). Owner has constructed a three-story over garage,  
22 twenty-two unit building on the lot that makes up the Owner's Property.

23 B. The Owner's Property is encumbered by six recorded public sewer, water  
24 and utility easements, granted by various deeds (the "Easements").  
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1           C.     The Owner has negotiated to purchase the Easements from the City.  
2     Prior to approval of the sale by the Board of Supervisors, however, the Owner filed a lawsuit  
3     against the City seeking to quiet title to the Easements. By companion Ordinance No. \_\_\_\_\_  
4     on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_, the Board of  
5     Supervisors has approved a Settlement of Litigation, Release and Waiver of Claims  
6     ("Settlement Agreement") of that lawsuit and the sale of the Easements pursuant to that  
7     certain Agreement for Sale of Real Estate ("Sale Agreement"), a copy of which is on file with  
8     the Clerk of the Board of Supervisors in File No. \_\_\_\_\_. The settlement of the lawsuit and  
9     the closing of the transaction contemplated in the Sale Agreement are pre-requisites to the  
10    actions approved by this Ordinance. A copy of the Settlement Agreement is on file with the  
11    Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

12           D.     The Department of Public Works has advised the Real Estate Division of  
13    the following: (i) there are no in-place public utility facilities that are in use that would be  
14    affected by the vacation of the Easements, (ii) the Easements have never been used for  
15    sewer, water or utility purposes, and (iii) easements for these purposes in favor of the City are  
16    no longer necessary for present or prospective use because Owner is providing new sewer,  
17    water and/or utility lines.

18           E.     The Easements are shown in Department of Public Works' SUR Map  
19    No. SUR-7003, dated December 2, 2004. A copy of such map is on file with Clerk of the  
20    Board of Supervisors in File No. \_\_\_\_\_.

21           F.     Section 8334 of the California Streets and Highways Code provides that  
22    the legislative body of a local agency may summarily vacate an excess right-of-way of a  
23    street, highway or public easement under certain circumstances. In particular, Section 8333  
24    provides that the legislative body of a local agency may summarily vacate a public easement  
25    that has not been used for the purpose for which it was dedicated or acquired for the five

1 years immediately preceding the proposed vacation, or when an easement has been  
2 superseded. In addition, Section 8334.5 of the California Streets and Highways Code allows  
3 for a summary vacation only if there are no in-place utility facilities that are in use and would  
4 be affected by the vacation.

5 G. The Board of Supervisors finds that the Easements have not been used  
6 for the sewer, water or utility purposes for which they were dedicated, or acquired for the five  
7 years immediately preceding the proposed vacation.

8 H. The Board of Supervisors finds that there are no in-place utility facilities  
9 that are in use and would be affected by the vacation of the Easements.

10 I. The vacation of the Easements is necessary in connection with Owner's  
11 residential project on Assessor's Block 2864, Lot 001. The City proposes to quitclaim and  
12 convey the Easements to Owner concurrently with the satisfaction of the conditions to the  
13 effectiveness of the vacation contemplated herein and subject to conditions set forth in the  
14 Sale Agreement and the Settlement Agreement.

15 J. The Director of Planning, by letter dated August 25, 2003, found that the  
16 vacation of the Easements and conveyance are categorically exempt from environmental  
17 review and are in conformance with the City's General Plan, which letter is on file with Clerk of  
18 the Board of Supervisors under File No. \_\_\_\_\_.

19 K. The San Francisco Public Utilities Commission approved the summary  
20 vacation of the Easements and subsequent quitclaim to Owner by Resolution No. 03-0128.  
21 Said resolution is on file with Clerk of the Board of Supervisors under File No. \_\_\_\_\_ and is  
22 incorporated herein by this reference.

23 Section 2. The public conveyance and necessity require that no easements or other  
24 rights be reserved for any public utility facilities and that any rights based upon any such  
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1 public utility facilities shall be extinguished automatically upon the effectiveness of the  
2 vacation hereunder.

3 Section 3. The public interest and convenience require that the vacation be done as  
4 declared in this Ordinance.

5 Section 4. The Board of Supervisors hereby finds that the vacation and sale of the  
6 Easements is in conformity with the General Plan and is consistent with the Eight Priority  
7 Policies of Planning Code Section 101.1 for the same reasons as set forth in the letter of the  
8 Director of Planning dated August 25, 2003, and hereby incorporates such findings by  
9 reference as though fully set forth in this Ordinance.

10 Section 5. Pursuant to California Streets and Highways Code Sections 8330 et seq.  
11 (Public Streets, Highways, and Service Easement Vacation Law, Summary Vacation) and  
12 Section 787 of the San Francisco Public Works Code and upon satisfaction of the conditions  
13 set forth in companion Ordinance No. \_\_\_\_\_, a copy of which is on file with Clerk of the  
14 Board of Supervisors in File No. \_\_\_\_\_, the Easements are hereby ordered summarily  
15 vacated in the manner described in this Ordinance, subject to and effective upon the  
16 satisfaction of the following conditions: (i) the City shall have determined that all of the  
17 conditions precedent to the City's conveyance of the Easements to the Owner under the Sale  
18 Agreement (other than the effectiveness of the vacation hereunder) and the Settlement  
19 Agreement have been satisfied or waived by the City pursuant thereto, and (ii) the transaction  
20 contemplated in the Sale Agreement has been consummated to City's satisfaction. The Clerk  
21 of the Board of Supervisors and the Director of Property shall be authorized, and the Clerk  
22 shall be directed, to record or cause to be recorded a certified copy of the Ordinance ordering  
23 such vacation as provided in Section 8335(a) of the California Streets and Highways Code,  
24 and thereupon such vacation shall be effective without any further action by the Board of  
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1 Supervisors. Furthermore, from and after the date this Ordinance is recorded, the Easements  
2 will no longer constitute a public easement.

3 Section 6. Upon satisfaction of the conditions set forth in companion Ordinance  
4 No. \_\_\_\_\_, which is on file with Clerk of the Board of Supervisors in File No. \_\_\_\_\_, the  
5 Director of Property is hereby authorized to enter into the Sale Agreement and is hereby  
6 authorized and directed to do any and all things to execute and deliver the Sale Agreement  
7 and the Settlement Agreement and all other documents with respect to the Sale Agreement  
8 and the Settlement Agreement that the Director of Property or the City Attorney may deem  
9 necessary to effectuate the purpose or intent of the conveyance of the Easements.

10 Section 7. All actions heretofore taken by the officers of the City with respect to the  
11 vacation of the Easements are hereby approved, confirmed and ratified, and the Mayor, Clerk  
12 of the Board, Director of Property, and Director of Public Works are hereby authorized and  
13 directed to take any and all actions that they or the City Attorney may deem necessary or  
14 advisable in order to effectuate the purpose and intent of this Ordinance.

15 APPROVED:

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18 \_\_\_\_\_  
19 Amy L. Brown  
20 Director of Property

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23 Dr. Fred Abadi  
24 Director of Public Works  
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Robert P. Beck  
Deputy Director for Engineering

APPROVED AS TO FORM:

DENNIS J. HERRERA  
City Attorney

By: \_\_\_\_\_  
Deputy City Attorney