

1 [Summary Street Vacation - Portion of San Jose Avenue Between 27th Street and Cesar
2 Chavez Street - California Pacific Medical Center: St. Luke's Campus]

3 **Ordinance ordering the summary street vacation of a portion of San Jose Avenue,**
4 **between 27th Street and Cesar Chavez Street, as shown on Department of Public**
5 **Works SUR Map No. 2012-001, dated May 14, 2012; rescinding an existing**
6 **encroachment permit; making findings pursuant to the California Streets and Highways**
7 **Code, Chapter 4, Sections 8330 et seq; adopting environmental findings pursuant to**
8 **the California Environmental Quality Act, and findings that the actions contemplated**
9 **herein are consistent with the General Plan and the eight priority policies of Planning**
10 **Code, Section 101.1; and authorizing official acts in connection with this Ordinance.**

11 NOTE: Additions are *single-underline italics Times New Roman*;
12 deletions are *strike-through italics Times New Roman*.
13 Board amendment additions are double-underlined;
Board amendment deletions are ~~strike through normal~~.

14 Be it ordained by the People of the City and County of San Francisco:

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

17 (a) Pursuant to Resolution No. _____, this Board approved the City's
18 execution and delivery of an Agreement for Transfer of Real Estate (the "Agreement")
19 between the City and Sutter West Bay Hospitals, doing business as California Pacific Medical
20 Center ("CPMC"). The Agreement provides for the transfer of the portion of the public right-
21 of-way located on San Jose Avenue, between 27th Street and Cesar Chavez Street (the
22 "Vacation Area") to CPMC. The Agreement is on file with the Clerk of the Board of
23 Supervisors in File No. 120363, and incorporated herein by reference.

24 (b) The location and extent of the Vacation Area is shown on the Department of
25 Public Works' ("DPW") SUR Map No. 2012-001, dated May 14, 2012. A copy of this map is

1 on file with the Clerk of the Board of Supervisors in File No. 120361 and is incorporated herein
2 by reference.

3 (c) The transfer of the Vacation Area under the Agreement is subject to satisfaction
4 of various express conditions, including the completion of the Street Vacation which is the
5 subject of this Ordinance, and the Street Vacation being effective, after the relocation or
6 replacement of existing utility facilities in the Vacation Area.

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

10 (e) The Vacation Area is located within a portion of CPMC's St. Luke's Campus.
11 The Vacation Area is gated at its northern end where it meets Cesar Chavez Street and has
12 not been open to through traffic since at least 1968. CPMC currently uses the Vacation Area
13 under a street encroachment permit recorded May 15, 1968, as instrument No. Q 63257, in
14 Book B 241, Page 991 (the "Encroachment Permit"). The Vacation Area is not necessary for
15 street purposes as (1) all properties that abut the Vacation Area are owned by CPMC as part
16 of the St. Luke's Campus, (2) the Vacation Area does not continue through the St. Luke's
17 Campus or end touching the property of another, and (3) the St. Luke's Campus is fully
18 served by other roadways. As part of the plan for redevelopment of the St. Luke's Campus,
19 CPMC has filed a lot line adjustment application to merge the three existing parcels on the St.
20 Luke's Campus, together with the Vacation Area, to create one parcel.

21 (f) The vacation of the Vacation Area will allow for the transfer of the Vacation Area
22 to CPMC and the opportunity to redevelop the St. Luke's Campus, including a new St. Luke's
23 Hospital and associated entry plaza and pedestrian pathway, portions of which would be
24 located on the Vacation Area.

1 (g) Pursuant to San Francisco Charter Section 4.105, on May 23, 2013, the City
2 Planning Commission conducted a duly noticed public hearing on various actions related to
3 the Near-Term Projects proposed in CPMC's Long Range Development Plan, including on the
4 proposed vacation of the Vacation Area. The Planning Commission found by Motion Nos.
5 18883 and 18887 that the CPMC LRDP and the street vacation were consistent with the City's
6 General Plan, as proposed to be amended, and the eight priority policies of Planning Code
7 Section 101.1. Copies of said motions are on file with the Clerk of the Board of Supervisors in
8 File No. 120361. The Board of Supervisors adopts said consistency findings as its own, finds
9 the proposed vacation of San Jose Avenue is, on balance, consistent with the General Plan,
10 as proposed to be amended, and with the eight Priority Policies of Planning Code Section
11 101.1, for the reasons set forth in Planning Commission Motion Nos. 18883 and 18887, and
12 the Board hereby incorporates such findings by reference as though fully set forth herein.

13 (h) In DPW Order No. 180254, dated May 11, 2012, the Director of the Department
14 of Public Works (the "DPW Director") determined: (1) the Vacation Area is unnecessary for
15 the City's present or prospective public street, sidewalk, and service easement purposes; and
16 (2) there will be no physical public or private utilities affected by the vacation of the Vacation
17 Area, based on the absence of any objections from any utility company, the consents
18 obtained and agreements in place for relocation of existing facilities to the satisfaction of the
19 Director of DPW and of all utility operators before the effective date of the vacation as set forth
20 below, and on the requirement that this street vacation not occur until the installation of
21 replacement facilities outside the Vacation Area to allow for the abandonment of existing
22 utilities facilities in the Vacation Area. Therefore, the continued and uninterrupted functioning
23 and capacity of such facilities will not be affected. Any one of these reasons would be
24 sufficient to find that there are no public utility facilities that are in use that would be affected
25 by the vacation. The DPW Director also found that the conveyance of the Vacation Area to

1 CPMC is a policy matter for the Board of Supervisors. A copy of the DPW Order is on file with
2 the Clerk of the Board of Supervisors in File No. 120361 and is incorporated herein by
3 reference.

4 (i) The DPW Director recommends that the effectiveness of the street vacation and
5 order rescinding the encroachment permit for the Vacation Area and any conveyance of real
6 property for the Vacation Area be conditioned on (1) the removal of existing utility facilities in
7 the Vacation Area, and (2) the installation of replacement facilities outside the Vacation Area
8 to the satisfaction of the DPW Director so that the existing facilities in the Vacation Area can
9 be abandoned. Based thereon, the public interest, convenience, and necessity require that
10 no easements or other rights be reserved for any public or private utilities or facilities that are
11 in place in the Vacation Area. Any rights based upon any such existing public or private
12 utilities or facilities are unnecessary and would be extinguished with the Street Vacation.

13 (j) Pursuant to California Streets and Highways Code Section 892, the DPW
14 Director also finds that the Vacation Area is currently not necessary for non-motorized
15 transportation, as there are multiple streets surrounding the Vacation Area that remain
16 available for such transportation and those members of the public availing themselves of non-
17 motorized transportation will not be inconvenienced by the Street Vacation, the Vacation Area
18 has not been used for street purposes for many years, and the public convenience necessity
19 and welfare would be enhanced by the proposed St. Luke's Campus Hospital, which will
20 include a large entry plaza and pedestrian access.

21 (k) The Board of Supervisors adopts as its own, the recommendations of the DPW
22 Director as set forth in DPW Order No. 180254 concerning the vacation of the Vacation Area
23 and other actions in furtherance thereof and the Board hereby incorporates such
24 recommendations and findings by reference as though fully set forth herein.

1 (l) The vacation of the Vacation Area is being taken pursuant to California Streets
2 and Highways Code Section 8300 et seq. and San Francisco Public Works Code
3 Section 787(a).

4 (m) The Board of Supervisors finds that the Vacation Area, as described in SUR
5 Map No. 2012-001 is unnecessary for present or prospective public use, subject to the
6 conditions described in this Ordinance.

7 (n) The public interest and convenience require that the vacation be done as
8 declared in this Ordinance.

9 (o) California Environmental Quality Act. At a hearing on April 26, 2012, by Motion
10 No. 18588, the Planning Commission certified as adequate, accurate and complete the Final
11 Environmental Impact Report ("FEIR") for the CPMC LRDP. On March 12, 2013, the Board of
12 Supervisors, in Motion No. M13-042, affirmed the decision of the Planning Commission to
13 certify the FEIR and rejected the appeal of the FEIR certification. Copies of Planning
14 Commission Motion No. 18588 and Board of Supervisors Motion No. M13-042 are on file with
15 the Clerk of the Board of Supervisors in File Nos. 120459 and 120550. In accordance with
16 the actions contemplated herein, this Board has reviewed the FEIR, and the FEIR Addendum
17 for the revised CPMC LRDP Project, and adopts and incorporates by reference, as though
18 fully set forth herein, the findings, including a statement of overriding considerations and the
19 mitigation monitoring and reporting program, pursuant to the California Environmental Quality
20 Act (California Public Resources Code Section 21000 et seq.) ("CEQA"), 14 California Code
21 of Regulations Section 15000 et seq., and Chapter 31 of the San Francisco Administrative
22 Code, adopted by the Planning Commission on May 23, 2013, in Motion No. 18880. A copy
23 of said motion is on file with the Clerk of the Board of Supervisors in File No. 120357.

24 Section 2.
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1 (a) The Vacation Area, as shown on SUR Map No. 2012-001, is hereby ordered
2 vacated upon satisfaction of the conditions described in this Ordinance and pursuant to
3 California Street and Highways Code Section 8300 *et seq.* and San Francisco Public Works
4 Code Section 787(a), and the encroachment permit is ordered rescinded upon such vacation.

5 (b) The Street Vacation shall be effective automatically and without the requirement
6 for further action whatsoever, as to all of the Vacation Area, upon satisfaction of the following,
7 with respect to all the existing public and private utility facilities in the Vacation Area:

8 (1) City's DPW Director and affected utility operator's acceptance, for
9 purposes of operation and use, of replacement facilities, which provide substantially
10 equivalent service as the existing facilities in the Vacation Area in the reasonable judgment of
11 the Director or affected utility operator; or

12 (2) A determination by the City's DPW Director that each existing utility
13 facility in the Vacation Area is no longer required because either (i) reasonable alternative
14 facilities have been provided to serve areas served by the existing utilities, or (ii) the areas
15 served by the applicable utility facilities no longer require the service provided.

16 Section 3.

17 (a) All actions heretofore taken by the officers of the City with respect to this
18 Ordinance are hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board,
19 Director of the Division of Real Estate, County Surveyor, and DPW Director are hereby
20 authorized and directed to take any and all actions which they or the City Attorney may deem
21 necessary or advisable in order to effectuate the purpose and intent of this Ordinance
22 (including, without limitation, the filing of this Ordinance in the Official Records of the City and
23 County of San Francisco; and confirmation of satisfaction of the conditions to the
24 effectiveness of the vacation of the Vacation Area hereunder and execution and delivery of
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1 any evidence of the same, which shall be conclusive as to the satisfaction of the conditions
2 upon signature by any such City official or his or her designee).

3 (b) Immediately upon the effective date of this vacation, this Ordinance shall be
4 recorded.

5 Section 4. This section is uncodified. Effective Date and Operative Date. This
6 Ordinance shall become effective 30 days from the date of passage. This Ordinance shall
7 become operative only on (and no rights or duties are affected until) the later of (a) 30 days
8 from the date of its passage, or (b) the date that Ordinance _____ becomes effective. A
9 copy of said Ordinance is on file with the Clerk of the Board of Supervisors in File No. 130510.

10
11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By: _____
14 AUDREY PEARSON
15 Deputy City Attorney

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