

1 [Summary Vacation of Public Utility Easements at the intersection of Crescent Way and  
2 Executive Park Boulevard.]

3 **Ordinance ordering the summary vacation of unused and unnecessary public utility**  
4 **easements located at the intersection of Crescent Way and Executive Park Boulevard in**  
5 **San Francisco (within Assessor’s Block 4991); making findings pursuant to the**  
6 **California Streets and Highways Code Sections 8330 et seq.; adopting findings**  
7 **pursuant to the California Environmental Quality Act; adopting findings that the**  
8 **vacation is consistent with the City’s General Plan and Eight Priority Policies of City**  
9 **Planning Code Section 101.1; authorizing the conveyance of the vacated public utility**  
10 **easements to Top Vision Development, LLC; and authorizing other actions in**  
11 **furtherance of this ordinance.**

12 Note: Additions are *single-underline italics Times New Roman*;  
13 deletions are ~~*strikethrough italics Times New Roman*~~.  
14 Board amendment additions are double underlined.  
15 Board amendment deletions are ~~strikethrough normal~~.

16 Be it ordained by the People of the City and County of San Francisco.

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

19 A. Top Vision Development, LLC, a California limited liability company (“Top  
20 Vision”) has requested that the Board of Supervisors vacate certain public utility easements  
21 (“Easements”) lying within Assessor’s Block 4991 in San Francisco, more particularly  
22 described in Exhibits B and C to that certain Agreement for the Sale of Real Estate  
23 (“Agreement”) by and between Top Vision and the City and County of San Francisco. A copy  
24 of such Agreement is on file with the Clerk of the Board of Supervisors in File No.  
25 \_\_\_\_\_ and is incorporated herein by reference.

B. The Agreement facilitates the residential development of Top Vision’s

1 remainder property as depicted in Exhibit A of the Agreement.

2 C. Section 8333(c) of the California Streets and Highways Code provides that  
3 the legislative body of a local agency may summarily vacate a public service easement if it  
4 has been superseded by relocation or determined to be excess by the easement holder. In  
5 addition, in order to authorize a summary vacation, Section 8334.5 of the California Streets  
6 and Highways Code requires a finding that there are no in-place public utility facilities that are  
7 in use or would be affected by the vacation.

8 D. The only property owner abutting the Easements is Top Vision.

9 E. The vacation and transfer of the Easements are necessary in order to  
10 facilitate residential construction in the area of Crescent Way and Executive Park Boulevard.  
11 in conformity with the General Plan and with the Eight Priority Policies of Section 101.1 of the  
12 Planning Code.

13 F. In letters dated August 11, 2004 and July 17, 2007 from the Director of  
14 Planning to the Bureau of Street Use and Mapping of the Department of Public Works, the  
15 Planning Department found that the vacation and quitclaim of the Easements are categorically  
16 exempt from environmental review pursuant to the California Environmental Quality Act and  
17 are consistent with the City's General Plan and the Eight Priority Policies of City Planning  
18 Code Section 101.1. A copy of the above letters are on file with the Clerk of the Board of  
19 Supervisors in File No. \_\_\_\_\_ and are incorporated herein by reference.

20 G. The Department of Public Works has advised the Real Estate Division that  
21 there are no in-place public utility facilities that are in use and would be affected by the  
22 vacation of the Easements.

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1 H. Pursuant to Public Utilities Commission ("PUC") Resolution No.  
2 \_\_\_\_\_, the PUC authorized the quitclaim of the Easements to Top Vision Development,  
3 LLC, the owner of the underlying fee interest in the property.

4 I. In accordance with the PUC Resolution and pursuant to the terms and  
5 conditions of the Agreement, Top Vision has agreed to a purchase price of \$21,426.34, which  
6 purchase price was determined to include a nominal value for the Easements and full cost  
7 recovery of the processing of the request as approved by the Director of Property.

8 Section 2. Additional Findings for Summary Vacation. Based on the findings in  
9 Section 1 above, the Board of Supervisors of the City and County of San Francisco further  
10 finds, determines, and declares as follows:

11 A. The Easements have never been used for public facilities,  
12 and the only private abutting property owner, Top Vision, consented to their  
13 vacation.

14 B. There are no in-place public utility facilities that are in use or  
15 would be affected by the vacation of the Easements.

16 C. The Easements are unnecessary for present or prospective  
17 public use.

18 Section 3. The Board of Supervisors adopts as its own and incorporates by reference  
19 as though fully set forth herein the findings of the Planning Department's letters dated August  
20 11, 2004, and July 17, 2007, respectively, that the proposed vacation of the Easements are  
21 categorically exempt from environmental Review under the California Environmental Quality  
22 Act and are, on balance, in conformity with the General Plan and with the Eight Priority  
23 Policies of Section 101.1 of the Planning Code.

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1           Section 4. Pursuant to California Streets and Highways Code, Sections 8330 et seq.  
2 (Public Streets, Highways, and Service Easements Law, Summary Vacation), the Board of  
3 Supervisors hereby orders the summary vacation of the easement area referred to in Section  
4 1 above and as described in the Department of Public Works' SUR Map No. SUR-4007, dated  
5 November 5, 2007. Said maps are on file with the Clerk of the Board of Supervisors in File  
6 No. \_\_\_\_\_ and are incorporated herein by reference. Furthermore, as of the date of  
7 recordation of this Ordinance, such Easements will no longer constitute a public utility  
8 easement.

9           Section 5. The public convenience and necessity require that no easements or other  
10 rights be reserved for any public utility facilities in the Easements and that any rights based  
11 upon the Easement shall be extinguished automatically upon the effectiveness of the vacation  
12 hereunder.

13           Section 6. The Board of Supervisors hereby authorizes the Director of Property, on  
14 behalf of the City and County of San Francisco, to execute: 1) the Agreement with Top Vision;  
15 2) a quitclaim deed conveying the City's interest in the Easements to Top Vision pursuant to  
16 the terms and conditions of the Agreement; and 3) all other documents and instruments  
17 necessary to effectuate the vacation and sale of the Easements to Top Vision.

18           Section 7. The Board of Supervisors hereby directs its Clerk to transmit to the  
19 Recorder, the Director of Public Works, and the Director of Property, a certified copy of this  
20 Ordinance, and such officials are hereby directed to proceed thereafter as required by law.

21           Section 8. The Mayor, Clerk of the Board, Director of Property, and Director of Public  
22 Works are hereby authorized and directed to take any and all actions which they or the City  
23 Attorney may deem necessary or advisable in order to effectuate the purpose and intent of  
24 this Ordinance (including, without limitation, confirmation of satisfaction of any of the  
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1 conditions to the effectiveness of the vacation of the Easements hereunder and to convey the  
2 Easements to Top Vision in accordance with the terms and conditions of the Agreement).

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4 RECOMMENDED:

5 \_\_\_\_\_  
6 Amy L. Brown  
7 Director of Property

\_\_\_\_\_

Ed Reiskin  
Director of Public Works

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

11 By: \_\_\_\_\_  
12 John D. Malamut  
13 Deputy City Attorney

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