

1 [Street Acceptance of Lee Ave. and Approval of a Sidewalk Easement for Brighton Ave.]

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3 **Ordinance accepting an irrevocable offer for a public sidewalk easement on the**
4 **Brighton Avenue Extension north of Ocean Avenue and accepting an easement for**
5 **these purposes; accepting an irrevocable offer for improvements and real property**
6 **related to Lee Avenue north of Ocean Avenue and accepting a grant deed for these**
7 **purposes; authorizing the conditionally accepting acceptance of an irrevocable offer**
8 **for sidewalk improvements for Ocean Avenue east of Lee Avenue; declaring such**
9 **areas to be open public right-of-way and dedicating them for right-of-way and roadway**
10 **purposes; accepting maintenance and liability for these areas subject to certain**
11 **limitations; establishing public right-of-way width and sidewalk width for the Lee**
12 **Avenue and the Ocean Avenue sidewalks; approving an interdepartmental transfer of**
13 **property for a portion of Lee Avenue and for a sidewalk area fronting a portion of**
14 **Ocean Avenue; approving and making findings, including environmental findings and**
15 **general plan and priority policy findings; and authorizing official acts in connection**
16 **with this Ordinance.**

17 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
18 **Additions to Codes** are in *single-underline italics Times New Roman font*.
19 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
20 **Board amendment additions** are in double-underlined Arial font.
21 **Board amendment deletions** are in ~~strikethrough Arial font~~.
22 **Asterisks (* * * *)** indicate the omission of unchanged Code
23 subsections or parts of tables.

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

25 Section 1. **Findings.**

(a) On November 18, 2013, Avalon Ocean Avenue LP (“Avalon”) made an irrevocable offer of improvements and real property for right-of-way purposes at Lee Avenue north of

1 Ocean Avenue ("Lee Avenue Offer"), which includes the form of a grant deed for the transfer
2 of such street improvements and real property ("Grant Deed"). On November 18, 2013,
3 Avalon also made an irrevocable offer of a public sidewalk easement over its property for the
4 Brighton Avenue extension north of Ocean Avenue ("Brighton Avenue Offer"), which includes
5 the form of a public sidewalk easement agreement ("Sidewalk Easement Agreement").
6 Copies of said Offers are on file with the Clerk of the Board of Supervisors in File No. 131000
7 and are incorporated herein by reference.

8 (b) In connection with the Lee Avenue Offer, the Department of Public Works ("DPW")
9 has prepared a A-17-168 public right-of-way map and a sidewalk width change map Q-20-
10 697, and DPW Order No. 181894, dated November 20, 2013. The Director of DPW
11 determined and City Engineer certified that the improvements have been constructed in
12 accordance with all City codes, regulations, and standards, and that they are ready for their
13 intended use. Consequently, the Director of DPW recommends that the Board: (1) accept the
14 Lee Avenue Offer, including the Grant Deed; (2) declare this area as open public right-of-way;
15 (3) dedicate this area for right-of-way and roadway purposes; and (4) accept maintenance and
16 liability responsibility for the improvements, subject to certain limitations. The DPW Order
17 also addresses other related elements of public infrastructure in this area as further described
18 in Subsections (c) and (d) below. Copies of the DPW Order, public right-of-way map, and the
19 Lee Avenue sidewalk width change map are on file with the Clerk of the Board of Supervisors
20 File No. 131000 and are incorporated herein by reference.

21 (c) As part of the Phelan Loop relocation project and the creation of Lee Avenue north
22 of Ocean Avenue, the San Francisco Municipal Transportation Agency ("SFMTA") has agreed
23 to an interdepartmental transfer of certain SFMTA property to DPW, as further described in a
24 letter from the SFMTA Director of Transportation to the Director of DPW, dated October 24,
25 2013 ("SFMTA Transfer Letter"). The subject property north of Ocean Avenue, which is part

1 of Lee Avenue, is shown in a diagram that is attached to the above referenced DPW Order.
2 The SFMTA Transfer Letter also is included as an attachment to the DPW Order. The land
3 transfer diagram and the SFMTA Transfer Letter are incorporated herein by reference.

4 (d) As part of the Phelan Loop relocation project, the development of a Mayor's Office
5 of Housing sponsored affordable housing project ("Housing Project") by 1100 Ocean Avenue
6 Limited Partnership, a California limited partnership ("Housing Developer") on the property
7 commonly known as 1100 Ocean Avenue, and the creation of a public sidewalk on the
8 northern portion of Ocean Avenue east of Lee Avenue fronting the Housing Project, SFMTA
9 has agreed to an interdepartmental transfer of certain SFMTA property to DPW for sidewalk
10 purposes, as described in the SFMTA Transfer Letter. The subject property ("Future Ocean
11 Avenue Sidewalk") is on the northern portion of Ocean Avenue, east of Lee Avenue, ~~and is~~
12 ~~shown on map Q-20-697 as described above.~~

13 (e) The actions contemplated in this Ordinance were addressed in the Environmental
14 Impact Report for the Balboa Park Station Area Plan (State Clearinghouse No. 2006072114)
15 ("EIR"), which was affirmed by the Board of Supervisors in its actions related to Balboa Park
16 Station Area Plan in Ordinance Nos. 58-09, 59-09, 60-09, and 61-09, copies of which are on
17 file with the Clerk of the Board of Supervisors File Nos. 90179, 90178, 90180, and 90181,
18 respectively, and are incorporated herein by reference. The subject EIR was a programmatic
19 analysis of the Balboa Park Station Area Plan and related General Plan and zoning legislation
20 and a project specific analysis of the Avalon Bay development project at 1150 Ocean Avenue
21 adjacent to the new Lee Avenue and running westward along Ocean Avenue. As part of the
22 Board of Supervisors action on the Balboa Park Station Area Plan, it adopted, in Ordinance
23 No. 60-09, environmental findings and a mitigation monitoring and reporting program as
24 required by the California Environmental Quality Act ("CEQA", Public Resources Code
25 Section 21000 et seq.). These findings, which include a rejection of alternatives and a

1 statement of overriding benefits, and the mitigation program are on file with the Clerk of the
2 Board of Supervisors in File No. 90180 and are incorporated herein by reference. The Board
3 of Supervisors, in Ordinance No. 49-11, took various actions related to the Housing Project,
4 including adoption of CEQA findings. A copy of this Ordinance and supporting documents,
5 including the CEQA findings, are on file with the Clerk of the Board of Supervisors in File No.
6 110115 and are incorporated herein by reference. In connection with approval of the Housing
7 Project, the Planning Commission, on July 22, 2010, approved a Conditional Use Application
8 No. 2009-1117C and adopted certain CEQA mitigation measures for the Project in its Motion
9 No. 18153. The Board of Supervisors, in Resolution No. 301-13, approved a ground lease for
10 this Housing Project and made CEQA findings as part of those actions. Copies of the
11 Planning Commission Motion, Board Resolution, and supporting documents, including the
12 CEQA findings, are file with the Clerk of the Board of Supervisors in File No. 130745 and are
13 incorporated herein by reference.

14 (f) The Board of Supervisors has reviewed and considered the EIR, the environmental
15 findings, and all other environmental documents on file with the Clerk and referred to above.
16 Based on this review, the Board of Supervisors finds that no substantial changes have
17 occurred in relation to the actions proposed for approval under this Ordinance (the "Project")
18 that will require revisions in the EIR due to the involvement of new significant environmental
19 effects or a substantial increase in the severity of previously identified significant effects. The
20 Board of Supervisors also finds that no substantial changes have occurred with respect to the
21 circumstances under which the Project is undertaken which will require major revisions to the
22 EIR due to the involvement of new environmental effects or a substantial increase in the
23 severity of effects identified in the EIR and no new information of substantial importance to the
24 actions as proposed for approval in the Ordinance has become available which indicates that
25 (1) the Project will have significant effects not discussed in the EIR, (2) significant

1 environmental effects will be substantially more severe, (3) mitigation measure or alternatives
2 found not feasible which would reduce one or more significant effects have become feasible
3 or (4) mitigation measures or alternatives which are considerably different from those in the
4 EIR would substantially reduce one or more significant effects on the environment.

5 **Section 2. Adoptions and Approvals.**

6 (a) The Board of Supervisors has reviewed and approves DPW Order No. 181894,
7 dated November 20, 2013, which includes the City Engineer's certification and Director's
8 recommendation concerning the acceptance of the Offers dated November 18, 2013;
9 acceptance of the Brighton Avenue extension public sidewalk easement; acceptance of
10 improvements and real property for the Lee Avenue public right-of-way for street and roadway
11 purposes and for City maintenance and liability responsibilities; and other related actions.

12 (b) On May 21, 2009, the Planning Commission in Motion No. 17885, found that the
13 Avalon Bay development project on Ocean Avenue and related infrastructure, including Lee
14 Avenue and the Brighton Street extension, were, on balance, consistent with the General Plan
15 and the eight priority policies on Planning Code Section 101.1. On July 22, 2010, the
16 Planning Commission, in the abovementioned Motion No. 18153, found that the Housing
17 Project and its related infrastructure, including the future Ocean Avenue sidewalk fronting this
18 development, were, on balance, consistent with the General Plan and the eight priority
19 policies on Planning Code Section 101.1. Said Motions are on file with the Clerk with the
20 Clerk of the Board of Supervisors in File No. 131000 and 130745, and are incorporated herein
21 by reference. For purposes of the actions contemplated in this Ordinance, the Board adopts
22 the Planning Commission findings as its own for the reasons set forth in the Commission
23 Resolutions.

1 Section 3. **Acceptance of Improvements and Real Property and Assumption of**
2 **Maintenance Responsibilities for Lee Avenue, Including Establishment of Grade and**
3 **Street Width; Acceptance of Brighton Avenue Extension Public Sidewalk Easement.**

4 (a) The Board of Supervisors accepts the Lee Avenue Offer for improvements and real
5 property for street and roadway purposes, including the acceptance of the Grant Deed. The
6 Board of Supervisors also accepts the Brighton Avenue Offer for a public sidewalk easement,
7 including the Sidewalk Easement Agreement. The Board of Supervisors hereby delegates
8 authority to the Director of Property to accept the Grant Deed for a portion of Lee Avenue and
9 to execute the Sidewalk Easement Agreement, and to enter into any amendments or
10 modifications to the Sidewalk Easement Agreement (including without limitation, the exhibits)
11 that the Director of Property determines, in consultation with the City Attorney and the Director
12 of DPW, are in the best interest of the City, do not materially increase the obligations or
13 liabilities of the City, are necessary or advisable to effectuate the purposes of the Sidewalk
14 Easement Agreement or this Ordinance, and are in compliance with all applicable laws,
15 including the City's Charter.

16 (b) Pursuant to California Streets and Highways Code Section 1806 and San
17 Francisco Administrative Code Sections 1.51 et seq., the Board of Supervisors hereby
18 dedicates the improvements described in the Lee Avenue Offer to public use; names this
19 public right-of-way "Lee Avenue"; designates such improvements for street and roadway
20 purposes; and accepts such improvements for City maintenance and liability purposes,
21 subject to the conditions listed in subsection (d).

22 (c) Notwithstanding California Streets and Highways Code Sections 8000 et seq. and
23 San Francisco Administrative Code Sections 1.51 et seq., the Board of Supervisors hereby
24 establishes the street grade for Lee Avenue as shown on Public Improvement Permit 091E-
25 0693, dated May 26, 2011, a copy of which is on file with the Department of Public Works and

1 incorporated herein by reference. The Board also approves Map A-17-168 for purposes of
2 establishing the width of the Lee Avenue public right-of-way.

3 (d) The Lee Avenue improvements accepted by the Board pursuant to Subsections (a)
4 - (b) are subject to the following: (1) the portions of Lee Avenue being accepted for right-of-
5 way and roadway purposes are constructed from back of sidewalk to back of sidewalk, unless
6 specified otherwise, (2) acceptance of the improvements for City maintenance and liability
7 purposes is from back of curb to back of curb, unless specified otherwise, (3) encroachments
8 that are permitted, not permitted, or both are excluded from acceptance, and (4) the
9 acceptance of the street does not obviate, amend, alter, or in any way affect existing
10 maintenance agreements between the City and parties to such agreements.

11 Section 4. **Establishing Sidewalk Width Change on a Portion of Lee Avenue and a**
12 **Portion of Ocean Avenue.**

13 (a) ~~Lee Avenue Sidewalk and Future Ocean Avenue Sidewalk.~~ In accordance with
14 DPW's Order No. 181894, Board of Supervisors Ordinance No. 1061, entitled "Regulating the
15 Width of Sidewalks," a copy of which is in the Clerk of the Board of Supervisors Book of
16 General Ordinances, in effect May 11, 1910, is hereby amended by adding thereto a new
17 section to read as follows:

18 Section 1600 . The official sidewalk width on portions of Ocean Avenue and Lee Avenue north
19 of Ocean Avenue shall be as shown on Department of Public Works drawing Q-20-697, a copy of
20 which is on file with the Clerk of the Board of Supervisors in File No.131000.

21 (b) Because the Housing Developer will construct the Future Ocean Avenue Sidewalk
22 as part of its development of the Housing Project, the Board of Supervisors hereby delegates
23 to the Director of DPW the authority to conditionally accept an offer for the improvements
24 when the Future Ocean Avenue Sidewalk is constructed in accordance with DPW Order No.
25 181894, ~~a copy of which is on file with the Clerk of the Board of Supervisors File No. 131000~~

1 ~~and is incorporated herein by reference,~~ and all City codes, regulations, and standards, and is
2 ready for its intended purposes as certified by the City Engineer, dedicate such area for public
3 use, designate such area for street and roadway purposes, and establish the official sidewalk
4 width for such area. As part of these actions, the Director of DPW shall prepare a Q-20 map,
5 place it in the City and County of San Francisco's Official Records for sidewalk widths, and
6 condition the acceptance of the offer of sidewalk improvements on an agreement with the
7 lessee of the Housing Project to assume responsibility over sidewalk maintenance as
8 identified below. In accordance with the City lease associated with the Housing Project as
9 approved in Board Resolution No. 301-13, the Housing Developer will be responsible to
10 maintain the subject sidewalk in accordance with the requirements of the Public Works Code.

11 **Section 5. Interdepartmental Transfer of Property for a Portion of Lee Avenue.**

12 Notwithstanding the provisions of Administrative Code Chapter 23, the Board of
13 Supervisors hereby authorizes the interdepartmental transfer of property from SFMTA to DPW
14 for a portion of the new Lee Avenue right-of-way and, at the time the Director of DPW accepts
15 an offer for the sidewalk improvements, for a sidewalk on the Future Ocean Avenue Sidewalk.

16 **Section 6. Authorization for Implementation.**

17 All actions heretofore taken by the officers of the City with respect to such Ordinance
18 are hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board, Director of
19 Property and Director of Public Works are hereby authorized and directed to take any and all
20 actions which they or the City Attorney may deem necessary or advisable in order to
21 effectuate the purpose and intent of this Ordinance, including, but not limited to, recordation of
22 the Grant Deed and Sidewalk Easement Agreement and inclusion of this Ordinance and the
23 accompanying Q-20 and A-17 Maps in the Official Records of the City and County of San
24 Francisco for the width of public right-of-way and sidewalks.

1 Section 7. **Effective Date.** This Ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the Ordinance, the Mayor returns the
3 Ordinance unsigned or does not sign the Ordinance within ten days of receiving it, or the
4 Board of Supervisors overrides the Mayor's veto of the Ordinance.

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6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By: _____
9 John D. Malamut
 Deputy City Attorney

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