

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

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Ordinance ordering the summary street vacation of a portion of San Jose Avenue, between 27th Street and Cesar Chavez Street; rescinding an existing encroachment permit; adopting environmental findings pursuant to the California Environmental Quality Act and findings that the action contemplated herein are consistent with the San Francisco General Plan and eight priority policies of San Francisco Planning Code Section 101.1; and authorizing official acts in connection with this ordinance.

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

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

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

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

1 (b) The location and extent of the Vacation Area is shown on the Department of
2 Public Works' ("DPW") SUR Map No. _____, dated _____. A copy of
3 this map is on file with the Clerk of the Board of Supervisors in File No. _____ and is
4 incorporated herein by reference.

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

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

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

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

3 (g) Pursuant to San Francisco Charter Section 4.105, on _____,
4 2012, the City Planning Commission conducted a duly noticed public hearing on various
5 actions related to the Near-Term Projects proposed in CPMC's Long Range Development
6 Plan, including on the proposed vacation of the Vacation Area. The Planning Commission
7 found by Motion No. _____ that the street vacation was consistent with the City's
8 General Plan, as proposed to be amended, and the eight priority policies of Planning Code
9 Section 101.1. A copy of said motion is on file with the Clerk of the Board of Supervisors in
10 File No. _____. The Board of Supervisors adopts said consistency findings as its
11 own, finds the proposed vacation of San Jose Avenue is, on balance, consistent with the
12 General Plan, as proposed to be amended, and with the eight Priority Policies of Planning
13 Code Section 101.1, for the reasons set forth in Planning Commission Motion
14 No. _____, and the Board hereby incorporates such findings by reference as though
15 fully set forth herein.

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

1 uninterrupted functioning and capacity of such facilities will not be affected. Any one of these
2 reasons would be sufficient to find that there are no public utility facilities that are in use that
3 would be affected by the vacation. The DPW Director also found that the conveyance of the
4 Vacation Area to CPMC is a policy matter for the Board of Supervisors. A copy of the DPW
5 Order is on file with the Clerk of the Board of Supervisors in File No. _____ and is
6 incorporated herein by reference.

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

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

24 (k) The Board of Supervisors adopts as its own, the recommendations of the DPW
25 Director as set forth in DPW Order No. _____ concerning the vacation of the

1 Vacation Area and other actions in furtherance thereof and the Board hereby incorporates
2 such recommendations and findings by reference as though fully set forth herein.

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

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

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

10 (o) California Environmental Quality Act. At its hearing on _____,
11 2012, the Planning Commission certified by Motion No. _____ a Final Environmental
12 Impact Report ("FEIR") for the LRDP pursuant to the California Environmental Quality Act
13 (California Public Resources Code Section 21000 et seq.) ("CEQA"), the CEQA Guidelines
14 (14. Cal. Code Reg. Section 15000 et seq.) and Chapter 31 of the Administrative Code. A
15 copy of Planning Commission Motion No. _____ is on file with the Clerk of the Board
16 of Supervisors in File No. _____. In accordance with the actions contemplated
17 herein, this Board has reviewed the FEIR, and adopts and incorporates by reference as
18 though fully set forth herein the findings, including the statement of overriding considerations
19 and mitigation monitoring and reporting program, adopted by the Planning Commission on
20 _____, 2012 pursuant to CEQA, in Motion No. _____.
21 Said Motion is on file with the Clerk of the Board of Supervisors in File No. _____, and
22 is incorporated herein by reference.

23 Section 2.

24 (a) The Vacation Area, as shown on SUR Map No. _____, is hereby
25 ordered vacated upon satisfaction of the conditions described in this Ordinance and pursuant

1 to California Street and Highways Code Section 8300 et seq. and Public Works Code Section
2 787(a), and the encroachment permit is ordered rescinded upon such vacation.

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

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

10 (2) A determination by the City's DPW Director that both (i) a particular
11 existing utility service is no longer required and (ii) either (a) reasonable alternative services
12 have been provided to areas served by the existing utilities, or (b) the areas served by the
13 applicable utility facilities no longer require the service.

14 Section 3.

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

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

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

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

11 By: _____
12 Audrey Williams Pearson
13 Deputy City Attorney