

1 [Ordering vacation of the Ingleside Path.]

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3 **Ordinance ordering the vacation of the Ingleside Path right-of-way between Ocean**  
4 **Avenue and Corona Street and Urbano and Head Streets subject to reservations of**  
5 **certain utility easements in the vacated area; authorizing the quit claim of the City's**  
6 **interest in the vacated right-of-way pursuant to the terms of various sale agreements;**  
7 **adopting environmental findings and findings that such actions are consistent with the**  
8 **City's General Plan and the priority policies of Planning Code Section 101.1; and**  
9 **authorizing official acts in connection with this Ordinance.**

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

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

16 Section 1. Findings.

17 (a) On \_\_\_\_\_, 2005, the Board of Supervisors of the City and County of San  
18 Francisco (the "City") adopted Resolution No. \_\_\_\_\_ (the "Resolution of Intention"), a copy  
19 of which is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is  
20 incorporated by reference herein, being a Resolution of declaring the Board's intent to order  
21 the vacation of the Ingleside Path right-of-way between Ocean Avenue and Corona Street and  
22 Urbano and Head Streets (the "Vacation Area"). The location and extent of the Vacation Area  
23 is shown in the Department of Public Works SUR Map No. \_\_\_\_\_, dated \_\_\_\_\_, 2005, a  
24 copy of which is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and  
25 incorporated by reference herein.

1 (b) The Clerk of the Board of Supervisors did transmit to the Director of the  
2 Department of Public Works a certified copy of the Resolution of Intention, and the Director of  
3 the Department of Public Works did cause notice of adoption of such resolution to be posted  
4 and published in the manner required by law.

5 (c) When such matter was considered as scheduled by the Board of Supervisors at  
6 its regular meeting held in the City Hall, San Francisco, on \_\_\_\_\_, 2005, beginning at  
7 approximately \_\_\_\_\_ p.m., the Board heard all persons interested in such vacation.

8 (d) The vacation of the Vacation Area is being sought in order to facilitate (a)  
9 improved safety of adjacent residents and citizens and appropriate treatment for substantial  
10 existing private encroachments on the Ingleside Path and (b) a quit claim of the City's interest  
11 in the Path to the abutting property owners pursuant to the terms of sale agreements and quit  
12 claim deeds substantially in the form attached hereto. Copies of said sale agreements and  
13 quit claim deeds are on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_, and  
14 are hereby declared to be a part of this Ordinance by reference herein.

15 (e) In a letter dated \_\_\_\_\_, 2005 (the "Planning Department Letter"), the City  
16 Planning Department determined that (a) the vacation and other actions in furtherance  
17 thereof, including, without limitation, the vacation of the Vacation Area and quit claim of the  
18 City's interest therein, are, on balance, in conformity with the General Plan and Planning Code  
19 Section 101.1 and (b) the actions contemplated in this Ordinance are in compliance with the  
20 California Environmental Quality Act (California Public Resources Code Sections 21000 et  
21 seq.). A copy of the Planning Department Letter is on file with the Clerk of the Board of  
22 Supervisors in File No. \_\_\_\_\_ and is incorporated by reference herein. The Board of  
23 Supervisors adopts as its own the Planning Department's determination under the California  
24 Environmental Quality Act and the consistency findings as set forth in the Planning  
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1 Department Letter in connection with the vacation of the Vacation Area and other actions in  
2 furtherance thereof.

3 (f) In a letter dated \_\_\_\_\_, 2005 (the "DPW Letter"), the Department of  
4 Public Works found that: (a) the Vacation Area is no longer necessary for the City's present or  
5 prospective future right-of-way purposes, and (b) there are no physical public utility facilities  
6 within the Vacation Area except for Pacific Gas & Electric ("PG&E") for electric transmission  
7 purposes. A copy of the DPW Letter is on file with the Clerk of the Board of Supervisors in  
8 File No. \_\_\_\_\_ and is incorporated by reference herein. The Board of Supervisors adopts as  
9 its own the recommendations of the Department of Public Works as set forth in the DPW  
10 Letter concerning the vacation of the Vacation Area and other actions in furtherance thereof.

11 (g) In a letter dated \_\_\_\_\_, 2005 (the "Real Estate Letter"), the City's Director  
12 of Property found that the purchase price set forth in the sale agreements are fair market  
13 value for the portion of the Vacation Area to be conveyed thereunder. A copy of the Real  
14 Estate Letter is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is  
15 incorporated by reference herein.

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

18 (i) From all the evidence submitted at the public hearing noticed in the Resolution  
19 of Intention and the materials on file with the Clerk of the Board of Supervisors in File No.  
20 \_\_\_\_\_, the Board of Supervisors finds that the Vacation Area, as described in such Resolution, is no  
21 longer necessary for the City's use as a public right-of-way, subject to the reservations and  
22 conditions described in this Ordinance.

23 (j) The public interest, convenience, and necessity require that the City reserve and  
24 except from the vacation of the Street Area solely a non-exclusive easement for the benefit of  
25 PG&E in, upon, and over that certain portion of the Vacation Area in which PG&E's in-place

1 and functioning facilities are currently located as shown on said SUR Map No. , to the  
2 extent necessary to maintain, operate, repair and remove existing lines of pipe, conduits,  
3 cables, wires, poles, and other convenient structures, equipment and fixtures for the operation  
4 of PG&E for power and gas transmission purposes, together with reasonable access to the  
5 foregoing facilities for the purposes set forth above. The public interest, convenience and  
6 necessity require that, except as specifically provided in this Ordinance above, no other  
7 easements or other rights be reserved for any public utility facilities that are in place in such  
8 Vacation Area and that any rights based upon any such public utility facilities are  
9 extinguished.

10 (k) The public convenience and necessity further require that any reserved or  
11 excepted easements or licenses for existing utilities described in the preceding paragraph  
12 shall be terminated upon the earlier of (a) the termination of any applicable easement, license  
13 or similar agreement entered into with PG&E pursuant to its terms, or (b) the determination by  
14 the Director of Public Works that (1) reasonable alternative utility service has been provided to  
15 the areas served by such utilities for the period of service needed or (2) the areas served by  
16 the utilities no longer require such service (as may be evidenced by written notice of the  
17 owners being served that such service is no longer required).

18 (l) The public interest and convenience require that the vacation be done as  
19 declared in the Resolution of Intention.

20 Section 2. Except as set forth in Section 3 below, the Vacation Area is hereby ordered  
21 vacated in the manner described in the Resolution of Intention and pursuant to California  
22 Streets and Highways Code Sections 8300 et seq. and Public Works Code Section 787(a).

23 Section 3. The vacation of the Vacation Area is conditioned upon the reservation of a  
24 non-exclusive easement for the benefit of PG&E on the terms and conditions described in  
25 Section 1 above.

1           Section 4. Any removal or relocation of a utility for which an easement has been  
2 reserved or excepted herein for the benefit of any party shall be performed at no cost or  
3 expense to the City, provided that nothing herein shall be deemed to preclude any future  
4 owner of any portion of the Vacation Area from charging a third party for or otherwise causing  
5 a third party to bear the costs of such relocation where such charge or cost is otherwise  
6 permitted by law.

7           Section 5. The Board of Supervisors hereby authorizes the Director of Property to  
8 execute the sale agreements and quit claim deeds substantially in the form attached hereto  
9 that convey the City's interest in the Vacation Area and all other documents and instruments  
10 necessary to effectuate the vacation and sale of the Vacation Area to the abutting property  
11 owners.

12           Section 6. The Board of Supervisors hereby directs the Clerk of the Board of  
13 Supervisors to transmit to the Director of Public Works a certified copy of this Ordinance, and  
14 the Board of Supervisors hereby urges the Director of Public Works to proceed in the manner  
15 required by law.

16           Section 7. All actions heretofore taken by the officers of the City with respect to this  
17 Ordinance are hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board,  
18 Director of Property, and Director of Public Works are hereby authorized and directed to take  
19 any and all actions which they or the City Attorney may deem necessary or advisable in order  
20 to effectuate the purpose and intent of this Ordinance (including, without limitation, the filing of  
21 the Ordinance in the Official Records of the City and County of San Francisco and  
22 confirmation of satisfaction of any of the conditions to the effectiveness of the vacation and  
23 quit claim of the City's interest in the Vacation Area).

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RECOMMENDED:  
DEPARTMENT OF PUBLIC WORKS

By: \_\_\_\_\_  
Edwin M. Lee  
Director of Public Works

RECOMMENDED:  
DEPARTMENT OF PUBLIC WORKS

By: \_\_\_\_\_  
Robert P. Beck  
Deputy Director of Engineering

RECOMMENDED:  
DIRECTOR OF PROPERTY

By: \_\_\_\_\_  
Steve Legnitto  
Director of Property

APPROVED AS TO FORM:  
DENNIS J. HERRERA  
City Attorney

By: \_\_\_\_\_  
John D. Malamut  
Deputy City Attorney