

1 [Street Vacation of a Portion of The Embarcadero.]

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3 **Resolution declaring the intention of the Board of Supervisors to vacate a portion of**
4 **The Embarcadero just north of Mission Street; setting the hearing date/for all persons**
5 **interested in the proposed vacation of the street areas; and adopting findings that the**
6 **vacation is consistent with the City's General Plan and Eight Priority Policies of City**
7 **Planning Code Section 101.1.**

8
9 WHEREAS, The Board of Supervisors, by Resolution 664-00, approved a joint project
10 by the San Francisco Municipal Railway and Mission & Steuart Hotel Partners to construct a
11 hotel at the northeast corner of Mission and Steuart Street, including the construction of an
12 outdoor café in front of the hotel and along The Embarcadero; and

13 WHEREAS, The Department of Public Works has begun the process for the vacation
14 of a certain street area, the general location and extent of which is a portion of The
15 Embarcadero as further described below (the "Street Area"), and the San Francisco Port
16 Commission, by Resolution No. 01-34, has authorized the Port's Executive Director or his
17 designee to take all further actions necessary to complete such street vacation; and,

18 WHEREAS, The Street Area is shown in the Department of Public Works'
19 SUR Map No. 7001, dated May 7, 2001, and is more particularly described in the legal
20 description attached to such map, a copy of which map and accompanying legal description is
21 on file with the Clerk of the Board of Supervisors in File No. 010811; and,

22 WHEREAS, The Board recognizes DPW Order No. 72,952 recommending the
23 vacation of the Street Area; and,

24 WHEREAS, The Street Area underlies a site that is designated for an outdoor café as
25 part of the Mission-Steuart project pursuant to the Board of Supervisors Resolution No. 644-

1 00 and San Francisco Municipal Railways' Municipal Transportation Agency Resolution 00-
2 0066; and,

3 WHEREAS, The vacation of the Street Area is necessary to fulfill the objectives of the
4 Mission-Steuart Hotel project; and,

5 WHEREAS, Subject to the reservations and conditions specified in this resolution
6 below, the Street Area is unnecessary for present or prospective public street use; and,

7 WHEREAS, The public convenience and necessity require that the City reserve and
8 except from the vacation of the Street Area solely the following: the non-exclusive easement
9 for the benefit of the Department of Telecommunications and Information Services ("DTIS")
10 and Pacific Gas & Electric Company ("PG&E"), in, upon, and over those certain portions of the
11 Street Area in which their respective in-place and functioning facilities are located as
12 described in the maps on file with the Clerk of the Board of Supervisors in File No.

13 010811, to the extent necessary to maintain, operate, repair and remove such
14 existing lines of pipe, conduits, cables, wires, poles, and other appurtenant structures, and
15 existing facilities for the transportation or distribution of electric energy, and reasonable
16 access to the foregoing facilities for the purposes set forth above; and,

17 WHEREAS, The public convenience and necessity further require that the Port grant to
18 DTIS and PG&E the easements described in the preceding paragraph; and,

19 WHEREAS, The public convenience and necessity further require that any reserved or
20 excepted easements for existing utilities described in the preceding paragraphs shall be
21 terminated in whole or in part, as appropriate, upon the earliest of (i) the termination of the
22 easement under an instrument (if any) executed by DTIS or PG&E, or (ii) the determination by
23 the Director of Public Works or the Port's Chief Harbor Engineer (if within Port jurisdiction) that
24 (A) reasonable alternative utility service has been provided to the areas served by such
25 utilities for the period of service needed or (B) the areas served by the utilities no longer

1 require such service (as may be evidenced by written notice of the owners being served that
2 such service is no longer required); and that any new public utilities shall be placed in a
3 dedicated street pursuant to then applicable franchise rights or other applicable requirements
4 of controlling local, state or federal statutes, or otherwise in locations and on terms and
5 conditions reasonably satisfactory to the City's Director of Public Works or the Port's
6 Executive Director (if within Port jurisdiction), including without limitation, the location, term,
7 width, scope, access rights and maintenance rights of the new utilities; and,

8 WHEREAS, Except as specifically provided above and subject to the conditions set
9 forth below, the public convenience and necessity require no easements or other rights be
10 reserved for any public utility facilities that are in place in the Street Area and that any rights
11 based upon any such public utility facilities be extinguished upon the effectiveness of the
12 vacation; and,

13 WHEREAS, Any removal, relocation or abandonment of any in-place utilities required
14 or permitted to be performed in connection with the development of the outdoor café shall be
15 done at no cost or expense to the Port or City (with the exception of DTIS,) provided that
16 nothing herein shall be deemed to preclude any future owner or lessee of the Street Area from
17 charging a private party for or otherwise causing a private party to bear the costs of such
18 relocation where such charge or cost is otherwise permitted by law; and,

19 WHEREAS, The vacation of the Street Area shall be subject to satisfaction of the
20 certain conditions precedent on or before the effective date of the vacation, as set forth below;
21 and,

22 WHEREAS, On April 18, 2001 the Director of City Planning signed a letter, a copy of
23 which is on file with the Clerk of the Board of Supervisors in File No. 010811,
24 wherein the Director found that the proposed vacation of the Street Area is consistent with the
25

1 City's General Plan, including the street vacation criteria set forth in the Urban Design
2 Element, and with the Eight Priority Policies of City Planning Code Section 101.1; and,

3 WHEREAS, Before approving the vacation of the Street Area, the Board of Supervisors
4 will consider the information contained in the Final Environmental Impact Report (EIR) for the
5 Mission-Steuart Hotel project certified by the Planning Commission on June 1, 2000, and
6 make any findings required by the California Environmental Quality Act and applicable
7 regulations; and,

8 WHEREAS, Section 787(a) of the San Francisco Public Works Code provides that the
9 City and County will follow the procedure for vacating streets set forth in State law in the
10 Streets and Highways Code and such rules and conditions as are adopted by the Board of
11 Supervisors; now, therefore, be it

12 RESOLVED, That under Public Streets, Highways and Service Easements Vacation
13 Law (Streets and Highway Code Sections 8320 et seq.), the Board of Supervisors hereby
14 declares that it intends to order the vacation of the Street Area, as described in the map
15 referred to above on file with the Clerk of the Board of Supervisors in File No.

16 010811; and, be it

17 FURTHER RESOLVED, That the vacation proceeding of the Street Area is conducted
18 under the general vacation procedures of Sections 8320 et seq. of the California Streets and
19 Highway Code and, be it

20 FURTHER RESOLVED, That the vacation of the Street Area shall be conditioned upon
21 and shall not become effective until (1) the Port's Executive Director has been authorized and
22 directed to grant and has granted, and the Director of Property has been authorized and
23 directed to accept and has accepted, an easement for the benefit of DTIS as described
24 above, and (2) the Clerk of the Board of Supervisors has been authorized and directed to
25 record (or cause to be recorded) a certified copy of the Ordinance ordering such vacation as

1 provided in Section 8325(a) of the California Streets and Highways Code, and thereupon such
2 vacation shall be effective without any further action by the Board of Supervisors; and, be it

3 FURTHER RESOLVED, That notice is hereby given that on the 30th day of
4 July, 2001, beginning at 3:00 p.m. in the Legislative Chambers of the Board
5 of Supervisors, all persons interested in or objecting to the proposed vacation will be heard;
6 and, be it

7 FURTHER RESOLVED, That the San Francisco Board of Supervisors adopts as its
8 own and incorporates by reference herein as though fully set forth, the findings in the Director
9 of Planning's letter referred to above that the proposed vacation of the Street Area is in
10 conformity with the City's General Plan and is consistent with the Eight Priority Policies of
11 Planning Code Section 101.1; and, be it

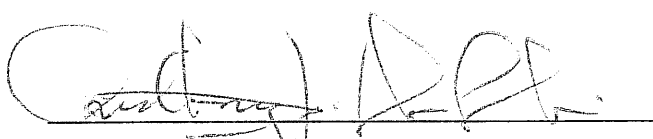
12 FURTHER RESOLVED, That the San Francisco Board of Supervisors adopts as its
13 own and incorporates by reference herein as though fully set forth, the DPW Order No.
14 172,952 recommending vacation of the Street Area; and be it

15 FURTHER RESOLVED, That the San Francisco Board of Supervisors adopts as its
16 own and incorporates by reference herein as though fully set forth San Francisco Port
17 Commission Resolution No. 01-34, in support of the vacation of the Street Area;
18 and be it

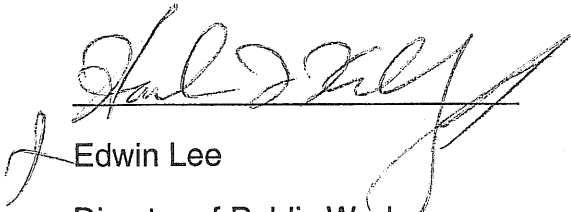
19 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board
20 to transmit to the Department of Public Works a certified copy of this resolution, and the Board
21 of Supervisors urges the Director of Public Works to publish and post this resolution promptly
22 in the manner required by law and to give notice of the hearing of such contemplated action in
23 the manner required by law.

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25 RECOMMENDED:

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Director of Real Estate



Edwin Lee

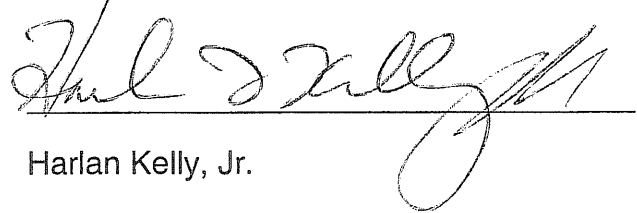
Director of Public Works

(see file for signature)

Douglas F. Wong

Director of Port

DESCRIPTIONS APPROVED/CHECKED:



Harlan Kelly, Jr.

City Engineer.



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Resolution

File Number: 010811

Date Passed:

Resolution declaring the intention of the Board of Supervisors to vacate a portion of The Embarcadero just north of Mission street; setting the hearing date on July 30, 2001 at 3:00 p.m. for all persons interested in the proposed vacation of the street areas; and adopting findings that the vacation is consistent with the City's General Plan and eight priority policies of Planning Code Section 101.1.

June 25, 2001 Board of Supervisors — ADOPTED

Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,
Newsom, Peskin, Sandoval

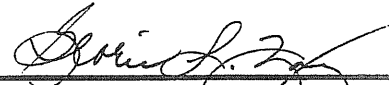
Absent: 1 - Yee

File No. 010811

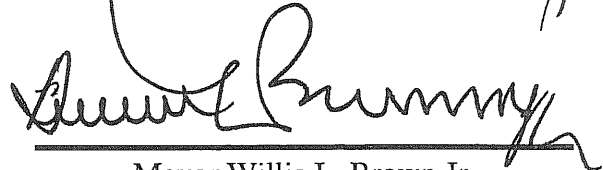
I hereby certify that the foregoing Resolution was ADOPTED on June 25, 2001 by the Board of Supervisors of the City and County of San Francisco.

JUL 06 2001

Date Approved



Gloria L. Young
Clerk of the Board



Mayor Willie L. Brown Jr.