

1 [Street Vacation Order and Jurisdictional Transfer - Mandan Avenue and a Portion of Cayuga  
2 Avenue]

3 **Ordinance: 1) ordering the vacation of an approximately 8,490 square foot portion of**  
4 **public right-of-way located on Cayuga Avenue, west of Naglee Avenue; 2) approving**  
5 **the jurisdictional transfer of such portion of public right-of-way from the Department of**  
6 **Public Works to the Recreation and Park Department; 3) approving the jurisdictional**  
7 **transfer of Mandan Avenue and portion of Cayuga Avenue, previously vacated by**  
8 **Board of Supervisors Resolution No. 5468, from the Department of Public Works to the**  
9 **Recreation and Park Department; 4) adopting environmental findings and findings that**  
10 **the actions contemplated herein are consistent with the City's General Plan and**  
11 **Planning Code Section 101.1; and 5) authorizing official acts in connection with this**  
12 **Ordinance.**

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

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

19 Section 1. Findings

20 (a) On \_\_\_\_\_, 2011, the Board of Supervisors adopted Resolution  
21 No. \_\_\_\_\_, a copy of which is on file with the Clerk of the Board of Supervisors in  
22 File No. \_\_\_\_\_, being a Resolution declaring its intention to order the vacation of a  
23 portion of the public right-of-way located on Cayuga Avenue, west of Naglee Avenue (the  
24 "Vacation Area"). The location and extent of the Vacation Area is shown on the Department  
25 of Public Works' ("DPW") SUR Map No. 2011, dated March 17, 2011. A copy of this map is

1 on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is  
2 incorporated herein by reference.

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

7 (c) When such matter was considered as scheduled by the Board of Supervisors at its  
8 regular meeting held in the City Hall, San Francisco, on \_\_\_\_\_, 2011, beginning at  
9 approximately \_\_\_\_\_ P.M., the Board heard all persons interested in such vacation.

10 (d) The Vacation Area is at Cayuga Park's southeastern border. Cayuga Park is a  
11 126,990-square foot park generally bounded by Naglee Avenue to the northeast, Cayuga  
12 Avenue and Alemany Boulevard to the southeast, Whipple Avenue to the southwest, and I-  
13 280 to the northwest in the Outer Mission Neighborhood.

14 (e) The Recreation and Park Department crafted the Cayuga Park Renovation Plan.  
15 The Renovation Plan involves incorporation of the 8,490-square foot Vacation Area into the  
16 Park, transfer of the Vacation Area and the "paper" streets within the Park from the  
17 Department of Public Works to Recreation and Park Department jurisdiction, demolition of the  
18 existing clubhouse and construction of a new expanded clubhouse, new irrigation and  
19 stormwater drainage systems to serve the field sports play area and other park facilities, tree  
20 planting, and reorganizing park elements to switch locations of the existing children's play  
21 area and basketball court. Copies of the Renovation Plan are on file with the Clerk of the  
22 Board of Supervisors in File No. \_\_\_\_\_ and are incorporated herein by reference.

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1 (f) The vacation of the Vacation Area is necessary to implement the Renovation Plan  
2 that will incorporate the dead-end section of Cayuga Avenue into the Park's open space to  
3 provide additional community use of the Park.

4 (g) The City Planning Department in a letter dated March 11, 2011, found that the  
5 street vacation and other actions contemplated herein were consistent with the General Plan  
6 and the eight priority policies of Planning Code Section 101.1. A copy of this letter is on file  
7 with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated by  
8 reference as though fully set forth herein. The Board of Supervisors adopts as its own said  
9 consistency findings.

10 (h) On April 29, 2011, the Planning Department determined that the Cayuga Park  
11 Renovation was exempt under Categorical Exemption, Class 1, 3, and 4 in conformance with  
12 the State CEQA Guidelines Sections 15301, 15303, and 15304. Said determination is on file  
13 with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated  
14 herein by reference.

15 (i) In DPW Order No. \_\_\_\_\_, dated \_\_\_\_\_, 2011, the Director of the  
16 Department of Public Works ("DPW Director") determined: (1) the Vacation Area is  
17 unnecessary for the City's present or prospective public street, sidewalk, and service  
18 easement purposes; (2) jurisdictional transfer of the Vacation Area and paper street portions  
19 of Cayuga and Mandan Avenues from the Department of Public Works to the Recreation and  
20 Park Department at no cost, subject to certain conditions, is a policy matter for the Board; (3)  
21 there are no physical public or private utilities affected by the vacation of the Vacation Area  
22 except as stated below; (4) the Recreation and Park Department is working with the San  
23 Francisco Public Utilities Commission ("PUC") to develop a Memorandum of Agreement  
24 concerning PUC access to and maintenance of sewer utilities in Cayuga Avenue; and (5) the  
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1 vacation is subject to the creation of private easements for sewer later connections to 5  
2 properties backing on to the Vacation Area as described further herein. A copy of the DPW  
3 Order is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is  
4 incorporated herein by reference.

5 (j) As part of this vacation action, the DPW Director recognizes that private sewer  
6 laterals exist within the Vacation Area and the PUC has sewer utilities in the Vacation Area  
7 and in the paper street portion of Cayuga Avenue currently within the boundaries of Cayuga  
8 Park. The DPW Director recommends that the street vacation should be subject to: (1)  
9 approval of private easements to the five properties bordering on Cayuga Avenue for access  
10 to and maintenance of their sewer laterals and (2) establishment of a Memorandum of  
11 Agreement between the PUC and Recreation and Park Department for access to and  
12 maintenance of PUC utilities in the former and existing portions of Cayuga Avenue that will be  
13 within Cayuga Park. A copy of a draft easement for the private sewer laterals is on file with  
14 the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein  
15 by reference.

16 (k) The DPW Director recommends that the public interest, convenience, and  
17 necessity require that, except as specifically provided above, no other easements or other  
18 rights should be reserved for any public or private utilities or facilities that are in place in such  
19 Vacation Area and that any rights based upon any such public or private utilities or facilities  
20 should be extinguished.

21 (l) The DPW Director also recommends that the vacation of the Vacation Area should  
22 be conditioned upon the following restriction: the Vacation Area can be used only to fulfill the  
23 mandate of the City's 2008 "Clean and Safe" Park Bond for Cayuga Park.

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1 (m) Pursuant to the California Streets and Highways Code Section 892, the DPW  
2 Director also finds that the Vacation Area is currently not necessary for non-motorized  
3 transportation, though the Vacation Area, once incorporated into Cayuga Park, would be  
4 available for non-motorized transportation.

5 (n) The Board of Supervisors adopts as its own, the recommendations of the Director  
6 of the Department of Public Works as set forth in DPW Order No. \_\_\_\_\_ concerning the  
7 vacation of the Vacation Area and other actions in furtherance thereof.

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

10 (p) From all the evidence submitted at the public hearing noticed in the Resolution No.  
11 \_\_\_\_\_ and the associated materials on file with the Clerk of the Board in File No.  
12 \_\_\_\_\_, the Board of Supervisors finds that the Vacation Area, as described in SUR  
13 Map No. 2011, is unnecessary for present or prospective public use, subject to the conditions  
14 described in this Ordinance.

15 (q) With the exception of the private easements for sewer laterals and the  
16 Memorandum between the PUC and Recreation and Park Department for PUC utilities, the  
17 public interest, convenience and necessity require that no other easements or other rights be  
18 reserved for any public or private utilities or facilities that are in place in the Vacation Area and  
19 that any rights based upon any such public or private utilities or facilities are extinguished.

20 (r) The public interest and convenience require that the vacation be done as declared  
21 in this Ordinance.

22 (s) On \_\_\_\_\_, 2011, the Recreation and Park Commission adopted  
23 Resolution No. \_\_\_\_\_, a copy which is on file with the Clerk of the Board in File  
24 No. \_\_\_\_\_, recommending that the Board of Supervisors approve the jurisdictional transfer  
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1 of the Vacation Area and the Transfer Area, as described below, to the Recreation and Park  
2 Department. A copy of this Resolution is on file with the Clerk of the Board of Supervisors in  
3 File No. \_\_\_\_\_ and is incorporated herein by reference.

4 Section 2. Except as set forth in Section 3 below, the Vacation Area, as shown on  
5 SUR Map No. 2011, is hereby ordered vacated and pursuant to California Streets and  
6 Highways Code Sections 8300 et seq. and Public Works Code Section 787(a).

7 Section 3. The vacation of the Vacation Area is conditioned upon the following  
8 restrictions: (a) that the Vacation Area can be used only to fulfill the mandate of the City's  
9 2009 "Clean and Safe" Park Bond for Cayuga Park, (b) approval of private easements for  
10 sewer laterals for 5 properties with sewer facilities in the Vacation Area, and (c) establishment  
11 of a Memorandum of Agreement between the PUC and Recreation and Park Department  
12 concerning access to and maintenance of PUC facilities in the Vacation Area and in former  
13 Cayuga Avenue. For purposes of (b) above, the Board of Supervisors hereby approves the  
14 sewer lateral easements in substantially the form on file with the Clerk of the Board of  
15 Supervisors and hereby delegates to the Director of Property the authority to complete, sign,  
16 and record the easements on behalf of the City.

17 Section 4. Transfer of Formerly Vacated Portions of Mandan and Cayuga Avenues  
18 and the Vacation Area. (a) On May 6, 1946, the Board of Supervisors adopted Resolution  
19 No. 5468, a copy of which is on file with the Clerk of the Board of Supervisors in File No.  
20 \_\_\_\_\_, being a Resolution declaring the vacation of a portion of the public right-of-way  
21 located on Mandan Avenue and a portion of Cayuga Avenue ( the "Transfer Area"). The  
22 location and extent of the Transfer Area is shown on the Department of Public Works' SUR  
23 Map No. 2011.

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1 (b) The Board of Supervisors hereby determines that the Vacation Area and Transfer  
2 Area can be used most advantageously by the Recreation and Park Department and  
3 therefore approves the transfer of jurisdiction of the Vacation Area and Transfer Area from  
4 DPW to the Recreation and Park Department at no cost, subject to use restrictions specified  
5 above.

6 Section 5. All actions heretofore taken by the officers of the City with respect to this  
7 Ordinance are hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board,  
8 Director of the Division of Real Estate, County Surveyor, and DPW Director are hereby  
9 authorized and directed to take any and all actions which they or the City Attorney may deem  
10 necessary or advisable in order to effectuate the purpose and intent of this Ordinance  
11 (including, without limitation, finalizing, signing, and recording the private easements for sewer  
12 laterals; the finalization of the jurisdictional transfers for the Vacation Area and the Transfer  
13 Area, the filing of the Ordinance in the Official Records of the City and County of San  
14 Francisco; and confirmation of satisfaction of any of the conditions to the effectiveness of the  
15 vacation of the Vacation Area hereunder and execution and delivery of any evidence of the  
16 same, which shall be conclusive as to the satisfaction of such conditions upon signature by  
17 any such City official or his or her designee).

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

22 By: \_\_\_\_\_  
23 John D. Malamut  
24 Deputy City Attorney

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