

1 [Hunters View – Street Vacation Order.]

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3 **Ordinance ordering the vacation of portions of Fairfax Avenue and West Point Road**  
4 **and various public service easements; making environmental findings and findings of**  
5 **consistency with the City's General Plan and the priority policies of Planning Code**  
6 **Section 101.1; quitclaiming the City's interest in the vacation areas; reserving**  
7 **easement rights for various utilities, including AT&T, Pacific Gas and Electric**  
8 **Company, and the City; reserving temporary private access easement to adjacent**  
9 **owner; accepting Department of Public Works Order No. 178,144; and authorizing**  
10 **official acts in connection with this Ordinance.**

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12 Note: Additions are *single-underline italics Times New Roman*;  
13 deletions are ~~*strikethrough italics Times New Roman*~~.  
14 Board amendment additions are double underlined.  
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 \_\_\_\_\_, the Board of Supervisors adopted Resolution No.  
18 \_\_\_\_\_, a copy of which is on file with the Clerk of the Board of Supervisors in File No.  
19 \_\_\_\_\_, being a Resolution declaring its intention to order the vacation of portions of  
20 Fairfax Avenue and West Point Road and various public service easements (collectively the  
21 "Vacation Area"); reserving easement rights for AT&T, Pacific Gas and Electric Company, and  
22 the City on West Point Road and reserving easement rights to the Spaulding Estate on Fairfax  
23 Avenue. The location and extent of the Vacation Area and Reservations are shown on the  
24 Department of Public Works' SUR Map Nos. 1009, 2009, 3009, 4009 and 5009, dated April  
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1 15, 2009, copies of such maps are on file with the Clerk of the Board of Supervisors in File  
2 No. \_\_\_\_\_ and are 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 \_\_\_\_\_, 2009,  
9 sometime after 2:30 P.M., the Board heard all persons interested in such vacation.

10 (d) The vacation of the Vacation Area is part of an action to implement the Hunters  
11 View Project. The Hunters View Project will subdivide land into 22 developable lots with new  
12 public streets and will provide 354 affordable housing units.

13 (e) In accordance with the actions contemplated herein, this Board adopted  
14 Resolution No. \_\_\_\_\_, concerning findings pursuant to the California Environmental  
15 Quality Act (California Public Resources Code sections 21000 et seq.). A copy of said  
16 Resolution is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is  
17 incorporated herein by reference.

18 (f) In a letter dated December 10, 2008 (the "Planning letter"), the City Planning  
19 Department determined that the proposed vacations and other actions contemplated herein  
20 are consistent with the General Plan and the priority policies of Planning Code Section 101.1.  
21 A copy of said letter is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_  
22 and is incorporated by reference as though fully set forth herein. The Board of Supervisors  
23 adopts as its own the consistency findings of the Planning Letter.

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1 (g) In DPW Order No. 178,144, dated April 15, 2009, a copy of which is on file with the  
2 Clerk of the Board of Supervisors in File No. \_\_\_\_\_, the Director of the Department  
3 of Public Works determined: (i) the Vacation Area is no longer necessary for the City's present  
4 or prospective future public street and sidewalk purposes, (ii) in accordance with Streets and  
5 Highways Code Section 892 and 8314, the right-of-ways and parts thereof proposed for  
6 vacation are no longer useful as a nonmotorized transportation facility, as defined in Section  
7 887, because the design of the Hunters View Project contains new facilities for bicycle and  
8 pedestrian movement that are equal to or in excess of what may currently exist, (iii) the  
9 proposed quitclaim of public right-of-way is consistent with the Hunters View Project and (iv)  
10 the value of such exchange for future public right-of-way and other public benefits is equal or  
11 in favor of the City, and (v) there are no physical public or private utility facilities within the  
12 Vacation Area except for AT&T for telecommunication purposes, Pacific Gas and Electric  
13 Company for gas and power transmission purposes, other City Utilities and Spaulding Estate  
14 for temporary private access purposes . A copy of the DPW Order is on file with the Clerk of  
15 the Board of Supervisors in File No. \_\_\_\_\_. The Board of Supervisors adopts as its  
16 own and incorporates by reference herein as if fully set forth, the recommendations of the  
17 Director of the Department of Public Works as set forth in DPW Order No. 178,144 concerning  
18 the vacation of the Vacation Area, reservations of easements and other actions in furtherance  
19 thereof.

20 (h) The vacation of the Vacation Area is being taken pursuant to California Streets and  
21 Highways Code sections 8300 et seq. and Public Works Code section 787(a).

22 (i) From all the evidence submitted at the public hearing noticed in the Resolution No.  
23 \_\_\_\_\_ and the associated materials on file with the Clerk of the Board in File No.  
24 \_\_\_\_\_, the Board of Supervisors finds that the Vacation Area, as described in said  
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1 Resolution, is no longer necessary for the City's use for public streets or as bicycle  
2 transportation facilities as defined in Streets and Highways Code Sections 890, et seq.,  
3 subject to the reservations and conditions described in this Ordinance.

4 (j) The public interest, convenience and necessity require that the City reserve from  
5 the vacation of the Vacation Area solely the following: (i) a non-exclusive easement for the  
6 benefit of AT&T (ii) a non-exclusive easement for the benefit of PG&E (iii) a non-exclusive  
7 temporary private access easement for the benefit of the Spaulding Estate (iv) a non-  
8 exclusive easement for other City Utilities in, upon, and over that certain portion of the  
9 Vacation Area, in which their respective in-place and functioning facilities are located, to the  
10 extent necessary to maintain, operate, repair and remove existing lines of pipe, conduits,  
11 cables, wires, poles, and other convenient structures, equipment and fixtures for the operation  
12 of AT&T for telecommunications facilities; PG&E for power and gas transmission purposes;  
13 and various City utilities, together with reasonable access to the foregoing facilities for the  
14 purposes set forth above. The public interest, convenience and necessity does not require  
15 that the City reserve from the vacation of the Vacation Area any other easements except as  
16 mentioned above; and,

17 (k) The public interest and convenience require that the vacation be done as declared  
18 in the Resolution No. \_\_\_\_\_.

19 Section 2. Except as set forth in Section 3 below, the Vacation Area, as shown on  
20 SUR Map No. 1009 is hereby ordered vacated in the manner described in the Resolution No.  
21 \_\_\_\_\_, as modified herein, and pursuant to California Streets and Highways Code  
22 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 the  
24 following (i) a non-exclusive easement for the benefit of AT&T (ii) a non-exclusive easement  
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1 for the benefit of PG&E (iii) a non-exclusive temporary easement for the benefit of the  
2 Spaulding Estate (iv) a non-exclusive easement for other City Utilities, in, upon, and over that  
3 certain portion of the Vacation Area, in which its in-place and functioning facilities are located,  
4 to the extent necessary to maintain, operate, repair and remove existing lines of pipe,  
5 conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the  
6 operation of AT&T for telecommunications facilities; PG&E for power and gas transmission  
7 purposes; and various City utilities, together with reasonable access to the foregoing facilities  
8 for the purposes set forth above and shall terminate with the dedication and acceptance of  
9 replacement facilities. The temporary private access easement to the Spaulding Estate shall  
10 terminate with the conveyance or acquisition of said land to the San Francisco  
11 Redevelopment Agency, San Francisco Housing Authority or City and County of San  
12 Francisco.

13 Section 4. Notwithstanding the provisions of Administrative Code Chapter 23, the  
14 Board of Supervisors hereby authorizes the Director of Property to execute a City quitclaim  
15 deed(s) to the San Francisco Housing Authority and San Francisco Redevelopment Agency  
16 for the Vacation Area, including therein the reservations of the non-exclusive easements for  
17 AT&T for telecommunications purposes, PG&E for gas and power transmissions purposes  
18 and other City utilities on behalf of the City and the non-exclusive temporary private access  
19 easement for the Spaulding Estate subject to the terms and conditions set forth herein.

20 Section 5. The Board of Supervisors hereby directs the Clerk of the Board of  
21 Supervisors to transmit to the Director of Public Works a certified copy of this Ordinance, and  
22 the Board of Supervisors hereby urges the Director of Public Works to proceed in the manner  
23 required by law. The Clerk of the Board also is hereby directed to transmit to the Director of  
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1 Public Works a certified copy of this Ordinance so that this Ordinance may be recorded  
2 together with any other documents necessary to effectuate this Ordinance.

3 Section 6. The Mayor, Clerk of the Board, Director of Property, and Director of Public  
4 Works are hereby authorized and directed to take any and all actions which they or the City  
5 Attorney may deem necessary or advisable in order to effectuate the purpose and intent of  
6 this Ordinance (including, without limitation, the filing of the Ordinance in the Official Records  
7 of the City and County of San Francisco and confirmation of satisfaction of any of the  
8 conditions to the effectiveness of the vacation of the Vacation Area hereunder and  
9 confirmation of the granting of the easements reserved hereunder pursuant to Section 3 of  
10 this Ordinance and execution and delivery of any evidence of the same, which shall be  
11 conclusive as to the satisfaction of such conditions upon signature by any such City official or  
12 his or her designee).

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

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

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