

1 [Vacation of 22<sup>nd</sup> Street between Arkansas and Connecticut Streets.]

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3 **Resolution declaring the intention of the Board of Supervisors to vacate the 22<sup>nd</sup> Street**  
4 **right-of-way between Arkansas and Connecticut Streets; setting the hearing date for all**  
5 **persons interested in the proposed vacation of the street area; and adopting**  
6 **environmental findings and findings that the vacation is consistent with the City's**  
7 **General Plan and the Eight Priority Policies of Planning Code Section 101.1.**

8

9 WHEREAS, The vacation of the 22<sup>nd</sup> Street right-of-way between Arkansas and  
10 Connecticut Streets (the "Street Area") in the City and County of San Francisco (the "City")  
11 has been proposed in order to facilitate (i) the use of the major portion of such area as a  
12 community garden and (ii) the sale of the remaining portion of such area (the "Sale Portion")  
13 to Michael Lanza, the neighboring landowner (the "Purchaser") pursuant to an Agreement for  
14 Sale of Real Estate, which is on file with the Clerk of the Board of Supervisors (the "Clerk") in  
15 File No. \_\_\_\_\_, which is hereby declared to be a part of this Resolution as if set forth  
16 fully herein; and,

17 WHEREAS, The Street Area is shown in the Department of Public Works SUR Map  
18 No. 6003, dated July 1, 2004, a copy of which, marked to show the Sale Portion and the  
19 Easement Portion (as defined below), is on file with the Clerk in File No. \_\_\_\_\_ and is  
20 incorporated herein by reference; and,

21 WHEREAS, In a letter dated July 30, 2004 (the "DPW Letter"), the Department of  
22 Public Works found that: (i) the Street Area is no longer necessary for the City's present or  
23 prospective future street purposes, and (ii) there are no physical public utility facilities within  
24 the Street Area except for SBC for telecommunications purposes and Pacific Gas & Electric  
25 ("PG&E") for power and gas transmission purposes. A copy of the DPW Letter is on file with

1 the Clerk in File No. \_\_\_\_\_ and is incorporated by reference as though fully set forth  
2 herein. The Board of Supervisors adopts as its own and incorporates by reference herein as if  
3 fully set forth the recommendations of the Department of Public Works as set forth in the DPW  
4 Letter concerning the vacation of the Street Area and other actions in furtherance thereof;  
5 and,

6 WHEREAS, The public convenience and necessity require that the City reserve and  
7 except from the vacation of the Street Area the non-exclusive easement and right (or license)  
8 for the benefit of SBC and PG&E, in, upon, and over those certain portions of the Street Area,  
9 except for the Sale Portion, in which PG&E's in-place and functioning facilities are currently  
10 located as described in the map on file with the Clerk in File No. \_\_\_\_\_, to the extent  
11 necessary to maintain, operate, repair and remove such existing lines of pipe, conduits,  
12 cables, wires, poles and other convenient structures, equipment and fixtures for the operation  
13 of existing gas pipelines, telegraphic, telecommunication and telephone lines, and existing  
14 street lighting facilities, and existing facilities for transportation or distribution of electric  
15 energy, and reasonable access to the foregoing facilities for the purposes set forth above;  
16 and,

17 WHEREAS, The public convenience and necessity further require that any reserved or  
18 excepted easements or licenses for existing utilities described in the preceding paragraph  
19 shall be terminated upon the earlier of (i) the termination of any applicable easement, license  
20 or similar agreement entered into with PG&E or SBC pursuant to its terms, or (ii) the  
21 determination by the Director of Public Works that (A) reasonable alternative utility service has  
22 been provided to the areas served by such utilities for the period of service needed or (B) the  
23 areas served by the utilities no longer require such service (as may be evidenced by written  
24 notice of the owners being served that such service is no longer required); and,

25

1           WHEREAS, Any removal or relocation of a utility for which an easement or license has  
2 been 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 Street Area from charging a third party for or otherwise causing a  
5 third party to bear the costs of such relocation where such charge or cost is otherwise  
6 permitted by law; and,

7           WHEREAS, Except as specifically provided above, the public convenience and  
8 necessity require no easements or other rights be reserved for any public utility facilities that  
9 are in place in the Street Area and that any rights based on any such public utility facilities be  
10 extinguished; and,

11           WHEREAS, The public convenience and necessity require that the City reserve a non-  
12 exclusive temporary easement over a 18' by 125' portion of the Street Area immediately  
13 adjacent to Purchaser's lots and Arkansas Street, as marked on the map on file with the Clerk  
14 in File No. \_\_\_\_\_ (the "Easement Portion"), to provide Purchaser with pedestrian and  
15 vehicular access to Puchaser's interior lot, which otherwise would not be accessible from the  
16 public right-of-way upon the vacation of the Street Area, such easement to terminate upon the  
17 consummation of the sale of the Sale Portion to Purchaser; and,

18           WHEREAS, The public convenience and necessity further require that the reserved  
19 easement described in the preceding paragraph shall be terminated upon the consummation  
20 of the sale of the Sale Portion to Purchaser and the execution and delivery of a quitclaim deed  
21 relating to the Sale Portion pursuant to the terms of the Sale Agreement, provided that if such  
22 quitclaim deed is not executed and delivered then such easement shall remain in full force  
23 and effect; and,

24           WHEREAS, On December 22, 2003, the Director of City Planning (the "Director of  
25 Planning") sent a letter, a copy of which is on file with the Clerk in File No. \_\_\_\_\_ and

1 incorporated herein by reference, wherein the Director of Planning (i) found that the proposed  
2 vacation of the Street Area is, on balance, in conformity with the City's General Plan and  
3 consistent with the priority policies of Planning Code Section 101.1 and (ii) determined that  
4 the actions contemplated in this Resolution are in compliance with the California  
5 Environmental Quality Act (California Public Resources Code sections 21000 et seq.); and,

6 WHEREAS, Section 787(a) of the San Francisco Public Works Code provides that the  
7 City will follow the procedure for vacating streets as set forth in State law in the California  
8 Streets and Highways Code Sections 8300 et seq. and such rules and conditions as are  
9 adopted by the Board of Supervisors; now therefore, be it

10 RESOLVED, That the vacation proceeding of the Street Area is conducted under the  
11 general vacation procedures of the Public Streets, Highways and Service Easements  
12 Vacation Law (California Streets and Highways Code Section 8300 et seq.); and, be it

13 FURTHER RESOLVED, That under Sections 8300 et seq. of the California Streets and  
14 Highways Code, the Board of Supervisors hereby declares that it intends to order the vacation  
15 of the Street Area, as described in SUR Map No. 6003 referred to above; and, be it

16 FURTHER RESOLVED, That the vacation of the Street Area shall be conditioned upon  
17 and shall not become effective until the Clerk records or causes to be recorded a certified  
18 copy of the Ordinance ordering such vacation as provided in Section 8325(a) of the California  
19 Streets and Highways Code, and thereupon such vacation shall be effective without any  
20 further action by the Board of Supervisors; and, be it

21 FURTHER RESOLVED, That notice is hereby given that on the \_\_\_\_ day of \_\_\_\_\_,  
22 2005, beginning at \_\_\_\_ in the Legislative Chambers of the Board of Supervisors, all persons  
23 interested in or objecting to the proposed vacation will be heard; and, be it

24 FURTHER RESOLVED, That the Board of Supervisors adopts as its own and  
25 incorporates by reference herein as though fully set forth, the findings in the Director of

1 Planning's letter referred to above, including the determination of compliance with the  
2 California Environmental Quality Act and findings that the proposed vacation of the Street  
3 Area and sale of a portion thereof are consistent with the General Plan and the Eight Priority  
4 Policies of Planning Code Section 101.1; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk to transmit to  
6 the Department of Public Works a certified copy of this resolution, and the Board of  
7 Supervisors urges the Director of Public Works to publish or post this resolution promptly in  
8 the manner required by law and to give notice of the hearing of such contemplated action in  
9 the manner required by law.

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11 RECOMMENDED:

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14 \_\_\_\_\_  
15 Steve Legnitto  
16 Director of Property

17 \_\_\_\_\_  
18 Robert P. Beck  
19 Deputy Director of Engineering

20  
21 \_\_\_\_\_  
22 Edwin M. Lee  
23 Director of Public Works  
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