

1 [Resolution of Intent - Street Vacation - San Francisco Wholesale Produce Market - Portions
2 of Jerrold and Kirkwood Avenues, Selby, Rankin, and Milton I. Ross Streets, and Lettuce
Lane]

3 **Resolution: 1) declaring the intention of the Board of Supervisors to vacate Jerrold**
4 **Avenue between Rankin Street and Toland Street, Milton I. Ross Street between Innes**
5 **Avenue and Kirkwood Avenue, Kirkwood Avenue between Rankin Street and the**
6 **proposed boundary of the San Francisco Wholesale Produce Market, Lettuce Lane**
7 **between Jerrold Avenue and Kirkwood Avenue, portions of Selby Street between Innes**
8 **Avenue and Kirkwood Avenue, and a portion of Rankin Street between Jerrold Avenue**
9 **and Innes Avenue for purposes of the San Francisco Wholesale Produce Market**
10 **Retention and Expansion, subject to certain conditions; and 2) setting the hearing date**
11 **for all persons interested in the proposed vacation of said public right-of-way.**

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13 WHEREAS, This vacation proceeding for Jerrold Avenue between Rankin Street and
14 Toland Street, Milton I Ross Street between Innes Avenue and Kirkwood Avenue, Kirkwood
15 Avenue between Rankin Street and the proposed boundary of the San Francisco Wholesale
16 Produce Market, Lettuce Lane between Jerrold Avenue and Kirkwood Avenue, portions of
17 Selby Street between Innes Avenue and Kirkwood Avenue, and a portion of Rankin Street
18 between Jerrold Avenue and Innes Avenue (collectively, the "Vacation Area"), is conducted
19 under the general vacation procedures of the Public Streets, Highways and Service
20 Easements Vacation Law (California Streets and Highways Code Sections 8300 et seq.); and,

21 WHEREAS, Section 787(a) of the San Francisco Public Works Code provides that the
22 street vacation procedures for the City and County of San Francisco (the "City") shall be in
23 accordance with the applicable provisions of the California Streets and Highways Code and
24 such rules and conditions as are adopted by the Board of Supervisors; and

1 WHEREAS, The location and extent of the Vacation Area is more particularly described
2 on the Department of Public Works' SUR Map No. 2012-002, dated May 29, 2012, a copy of
3 which is on file with the Clerk of the Board of Supervisors in File No. 120676 and incorporated
4 herein by reference; and

5 WHEREAS, The vacation of the Vacation Area is necessary for the complete
6 implementation of the San Francisco Wholesale Produce Market retention and expansion
7 project (the "Project"), in conformance with the master lease (the "Lease"). Approval of the
8 Lease is the subject of companion legislation and a copy of said Lease is on file with the Clerk
9 of the Board of Supervisors in File No. 120530 and incorporated herein by reference; and

10 WHEREAS, The City's Planning Department issued a Final Mitigated Negative
11 Declaration ("FMND"), dated July 5, 2011, with respect to the proposed Project, and the City
12 and County of San Francisco Market Corporation ("CCSFMC"), a California non-profit
13 corporation, has entered into an Agreement to Implement Improvement and Mitigation
14 Measures identified by the Planning Department in the FMND. A copy of the FMND is on file
15 with the Clerk of the Board of Supervisors in File No. 120676 and incorporated herein by
16 reference; and

17 WHEREAS, On September 6, 2011, the City Planning Department found that the
18 actions related to the Project, as contemplated in the Lease and herein, were consistent with
19 the General Plan and the eight priority policies of Planning Code Section 101.1 for the actions.
20 A copy of this letter is on file with the Clerk of the Board of Supervisors in File No. 120676 and
21 incorporated herein by reference; and

22 WHEREAS, In DPW Order No. 180308, dated May 30, 2012, the Director of the
23 Department of Public Works ("DPW Director") determined: (i) the Vacation Area is
24 unnecessary for the City's present or prospective public street purposes, subject to
25 satisfaction of the condition specified below; (ii) that portion of Kirkwood Avenue east of

1 Rankin Street shall be deemed vacated upon the final and effective date of this Ordinance; (iii)
2 the remainder of the Vacation Area should be conditionally vacated so that it is not deemed
3 final and effective until required under the terms and conditions of the Lease; (iv) until the time
4 that the condition specified in Subsection (iii) is satisfied, the Vacation Area shall remain
5 dedicated public streets; (v) the interdepartmental transfer for each portion of the Vacation
6 Area from the jurisdiction of the Department of Public Works to the Division of Real Estate will
7 further a proper public purpose by preserving the subject area for Production, Distribution and
8 Repair ("PDR") industries, in particular, the San Francisco Wholesale Produce Market, and
9 shall occur simultaneously with the street vacation becoming final and effective for that street
10 segment ; (vi) the interdepartmental transfer shall occur simultaneously with the street
11 vacation being final and effective; and (vii) there are no physical public and private utilities
12 affected by the vacation of the Vacation Area except as stated below. A copy of the DPW
13 Order is on file with the Clerk of the Board of Supervisors in File No. 120676 and incorporated
14 herein by reference; and

15 WHEREAS, Other than that portion of Kirkwood Avenue east of Rankin Street, the
16 DPW Director further recommended that the Board acknowledge the transfer of jurisdiction of
17 the Vacation Area to the Division of Real Estate is subject to: (a) the right of the San
18 Francisco Public Utilities Commission (the "PUC") to have continued access to the Vacation
19 Area for purposes of maintaining its facilities, (b) the public interest, convenience and
20 necessity require that prior to the final and effective date of the Street Vacation, the Division of
21 Real Estate, if necessary, enter into an agreement with MCI Communications Corp.
22 ("Verizon") to allow the continued maintenance and installation of Verizon facilities within the
23 Vacation Area through a permit or other similar right, and (c) the public interest, convenience
24 and necessity require that prior to the final and effective date of the Street Vacation, the
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1 Division of Real Estate and the PUC enter into a memorandum of understanding concerning
2 access to and maintenance of said PUC facilities; and

3 WHEREAS, Depending on a future assessment of its service provision, Pacific Gas
4 and Electric ("PG&E") may determine that it needs continued access to the Vacation Area for
5 purposes of its facilities. For this reason and as required under the 1930 Franchise
6 Agreement between the City and PG&E, the DPW Director and the PUC General Manager
7 recommend that any agreement with or permit or similar right granted authorizing PG&E to
8 have continued access to the Vacation Area for purposes of installing and maintaining any
9 facilities there require that PG&E, at its sole expense, remove its existing overhead facilities
10 from the Vacation Area and install any new facilities there underground. In furtherance of this
11 recommendation, the public interest, convenience and necessity require that prior to the final
12 and effective date of the street vacation, the Division of Real Estate, PUC, or DPW, if
13 necessary, enter into an agreement with PG&E for the removal of PG&E's existing overhead
14 utility facilities and, if needed, the installation of any new underground facilities in the Vacation
15 Area at PG&E's sole expense pursuant to a permit or other document with PG&E that will
16 allow containing access to and maintenance of any underground PG&E facilities. This finding
17 is made in accordance with Streets and Highways Code Section 8340(c) and is based solely
18 on PG&E undergrounding its facilities and paying the full cost related thereto. Should PG&E
19 fail to satisfy these conditions in a timely manner as determined by the City, PG&E's rights in
20 the Vacation Area shall be extinguished pursuant to the findings below and have no impact on
21 the vacation being final and effective as set forth herein. That portion of Kirkwood Avenue
22 east of Rankin Street is excluded from this finding; and,

23 WHEREAS, The DPW Director also recommended that the public interest,
24 convenience, and necessity require that, except as specifically provided above, no other
25 easements or other rights should be reserved for any public or private utilities or facilities that

1 are in place in such Vacation Area and that any rights based upon any such public or private
2 utilities or facilities should be extinguished; and,

3 WHEREAS, Pursuant to the Streets and Highways Code Section 892, the DPW
4 Director also found that the Vacation Area is unnecessary for non-motorized transportation as
5 there are multiple streets surrounding that Vacation Area that remain available for such
6 transportation and those members of the public availing themselves of non-motorized
7 transportation will not be inconvenienced by the proposed street vacation; and,

8 WHEREAS, Consistent with the General Plan determination mentioned above, the City
9 proposes to retain the ability to rededicate for public street use: (i) those portions of Jerrold
10 Avenue (proposed to be vacated) consistent with the dimensions of Jerrold Avenue east of
11 Rankin Street and west of Toland Street, and (ii) those portions of Selby Street (proposed to
12 be vacated) consistent with the dimensions of Selby Street north of Innes Avenue and south
13 of Kirkwood Avenue, upon the expiration or termination of the lease. Accordingly, the Produce
14 Market lessee shall not perform or permit any improvements on those portions of the Vacation
15 Area that would be inconsistent with future use as a public street, other than improvements
16 which may readily be removed at the expiration or termination of the Lease; now, therefore,
17 be it

18 RESOLVED, That under California Streets and Highway Code Sections 8320 et seq.,
19 the Board of Supervisors hereby declares that it intends to order the vacation of the Vacation
20 Area, as shown on SUR Map No. 2012-002, and adopt the recommendations of the DPW
21 Director; and, be it

22 FURTHER RESOLVED, That notice is hereby given that on the 17th day of
23 July 2012, beginning at approximately 3:00 P.M. in the Legislative Chambers of the Board of
24 Supervisors, all persons interested in or objecting to the proposed vacation will be heard; and,
25 be it

1 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board
2 to transmit to the Department of Public Works a certified copy of this Resolution, and the
3 Board of Supervisors urges the Director of Public Works to publish and post this Resolution
4 promptly in the manner required by law and to give notice of the hearing of such contemplated
5 action in the manner required by law.

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