

1 [Street Vacation Order - Joe DiMaggio Playground Master Plan - Mason Street]

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3 **Ordinance ordering the vacation of the one block portion of Mason Street between**
4 **Lombard Street and Columbus Avenue for purposes of the North Beach Public Library**
5 **and Joe DiMaggio Playground Master Plan, subject to certain conditions; accepting a**
6 **Department of Public Works work order; approving an interdepartmental transfer of the**
7 **area to be vacated from the Department of Public Works to the Recreation and Park**
8 **Department at the time the vacation is final and effective; making environmental**
9 **findings and findings of consistency with the City's General Plan and Planning Code**
10 **Section 101.1; and authorizing official acts in connection with this Ordinance.**

11 Note: Additions are single-underline italics Times New Roman;
12 deletions are ~~strikethrough italics Times New Roman~~.
13 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

15 Section 1. Findings

16 (a) On May 3, 2011, the Board of Supervisors adopted Resolution No. 190-11, a copy
17 of which is on file with the Clerk of the Board of Supervisors in File No. 110314, being a
18 Resolution declaring its intention to order the vacation of the one block portion of Mason
19 Street between Lombard Street and Columbus Avenue (the "Vacation Area"). The location
20 and extent of the Vacation Area is shown on the Department of Public Works' SUR Map No.
21 3011, dated February 10, 2011. A copy of said map is on file with the Clerk of the Board of
22 Supervisors in File No. 110316 and incorporated herein by reference.

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

5 (c) When such matter was considered as scheduled by the Board of Supervisors at its
6 regular meeting held in the City Hall, San Francisco, on June 7, 2011, beginning at
7 approximately 3:00 P.M., the Board heard all persons interested in such vacation.

8 (d) The vacation of the Vacation Area is necessary for the implementation of the North
9 Beach Public Library and Joe DiMaggio Playground Master Plan. A copy of said Plan is on
10 file with the Clerk of the Board of Supervisors in File No. 110316 and is incorporated herein by
11 reference.

12 (e) As part of its adoption of various actions relating to the North Beach Public Library
13 and Joe DiMaggio Playground Master Plan Project, the Board of Supervisors, in Ordinance
14 No. _____, adopted environmental findings in compliance with the California
15 Environmental Quality Act ("CEQA") (California Public Resources Code sections 21000 et
16 seq.) and local law. A copy of said Ordinance and supporting materials, including the
17 environmental findings, are in the Clerk of the Board of Supervisors File No. _____.
18 For purposes of this Ordinance, the Board relies on such findings.

19 (f) On April 21, 2011, the Planning Commission adopted Motion No. 18323, making
20 findings of consistency with the General Plan and the eight priority policies of Planning Code
21 Section 101.1 for the actions contemplated herein. A copy of this Resolution is on file with the
22 Clerk of the Board of Supervisors in File No. 110316 and is incorporated by reference as
23 though fully set forth herein. The Board of Supervisors adopts as its own said consistency
24 findings.

1 (g) On April 25, 2011, the San Francisco Public Library Commission, at a duly noticed
2 public hearing, adopted Resolution No. 2011-03, recommending the street vacation among
3 other actions. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in
4 File No. 110316 and is incorporated by reference herein.

5 (h) On April 25, 2011, the San Francisco Recreation and Park Commission, at a duly
6 noticed public hearing, adopted Resolution No. 1104-023, recommending the street vacation
7 among other actions. A copy of said Resolution is on file with the Clerk of the Board of
8 Supervisors in File No. 110316 and is incorporated by reference herein.

9 (i) In DPW Order No. 179,289, dated April 21, 2011, the Director of the Department of
10 Public Works ("DPW Director") determined: (i) the Vacation Area is unnecessary for the City's
11 present or prospective public street purposes, subject to satisfaction of the condition specified
12 below; (ii) the Vacation Area should be conditionally vacated so that it is not deemed final and
13 effective until the same time as the City issues a site or building permit for the new North
14 Beach Public Library to be constructed partially on the Vacation Area; (iii) until the time that
15 the condition specified in Subsection (ii) is satisfied, Mason Street shall remain a dedicated
16 public street; (iv) the interdepartmental transfer of the Vacation from the jurisdiction of the
17 Department of Public Works to the Recreation and Park Department will further a proper
18 public purpose by preserving the subject area for park and recreational purposes, including
19 construction of a library; (v) the interdepartmental transfer shall occur simultaneously with the
20 street vacation being final and effective; and (vi) there are no physical public and private
21 utilities affected by the vacation of the Vacation Area except as stated below. A copy of the
22 DPW Order is on file with the Clerk of the Board of Supervisors in File No. 110316 and is
23 incorporated herein by reference.

1 (j) The DPW Director further recommended that the Board acknowledge the transfer of
2 jurisdiction of the Vacation Area to the Recreation and Park Department is subject to: (1) the
3 right of the San Francisco Public Utilities Commission (the "PUC") to have continued access
4 to the Vacation Area for purposes of maintaining its facilities, (2) Pacific Gas and Electric
5 ("PG&E"), depending on its future assessment of service provision, may require an easement
6 or similar right to have continued access to the Vacation Area for purposes of maintaining its
7 facilities, (3) the public interest, convenience and necessity require that prior to the final and
8 effective date of the Street Vacation, the Recreation and Park Department and the PUC enter
9 into a memorandum of understanding concerning access to and maintenance of said PUC
10 facilities and the City's Division of Real Estate, if necessary, enter into an easement or other
11 document with PG&E concerning access to and maintenance of said PG&E facilities.

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

17 (l) Pursuant to the Streets and Highways Code Section 892, the DPW Director also
18 found that the Vacation Area is unnecessary for non-motorized transportation as there are
19 multiple streets surrounding that Vacation Area that remain available for such transportation
20 and those members of the public availing themselves of non-motorized transportation will not
21 be inconvenienced by the proposed street vacation. In addition, the Vacation Area, pursuant
22 to the North Beach Public Library and Joe DiMaggio Playground Master Plan, will remain
23 available for passive recreational use, including some forms of non-motorized transportation.
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1 (m) The vacation of the Vacation Area is being taken pursuant to California Streets
2 and Highways Code Sections 8300 et seq. and Public Works Code Section 787(a).

3 (n) From all the evidence submitted at the public hearing noticed in the Resolution No.
4 190-11 and the associated materials on file with the Clerk of the Board in File No. 110314, the
5 Board of Supervisors adopts the findings of the DPW Director in DPW Order No. 179,289 and
6 determines that the Vacation Area, as described in said Resolution, is unnecessary for
7 present or prospective public use, subject to the conditions described in this Ordinance.

8 (o) Pursuant to the Streets and Highways Code Section 892, the Board hereby finds
9 and determines that the Vacation Area is unnecessary for non-motorized transportation, and
10 therefore has no use for a non-motorized transportation facility.

11 (p) With the exception of the PUC and PG&E rights described above, the public
12 interest, convenience and necessity require that no other easements or other rights be
13 reserved for any public or private utilities or facilities that are in place in the Vacation Area and
14 that any rights based upon any such public or private utilities or facilities are extinguished.

15 (q) The public interest and convenience require that the vacation be done as declared
16 in this Ordinance.

17 Section 3. The Vacation Area, as shown on SUR Map No. 3011, is hereby ordered
18 conditionally vacated pursuant to California Streets and Highways Code Sections 8300 et seq.
19 and Public Works Code Section 787(a), subject to the following condition: the order of
20 vacation shall be deemed final and effective simultaneous with the City's issuance of a site or
21 building permit for the new North Beach Public Library to be constructed partially on the
22 Vacation Area. Until the time that this condition is satisfied, Mason Street shall remain a
23 dedicated public street.

1 Section 4. Notwithstanding the provisions of Administrative Code Chapter 23, the
2 Board of Supervisors hereby: (a) approves an interdepartmental transfer of the Vacation Area
3 from the Department of Public Works to the Recreation and Park Department; provided,
4 however, that such transfer shall not occur until the Street Vacation is final and effective as
5 set forth in this Ordinance and (b) delegates authority to the Director of the Division of Real
6 Estate, in consultation with the City Attorney's Office, to enter into an easement or other
7 agreement with PG&E, if necessary, concerning access to and maintenance of PG&E
8 facilities in the Vacation Area as set forth in this Ordinance.

9 Section 5. The Board of Supervisors hereby directs the Clerk of the Board of
10 Supervisors to transmit to the Director of Public Works a certified copy of this Ordinance so
11 that this Ordinance may be recorded or officially lodged together with the other documents
12 necessary to effectuate the interdepartmental transfer of the Vacation Area.

13 Section 6. All actions heretofore taken by the officers of the City with respect to this
14 Ordinance are hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board,
15 Director of the Division of Real Estate, County Surveyor, and Director of Public Works are
16 hereby authorized and directed to take any and all actions which they or the City Attorney may
17 deem necessary or advisable in order to effectuate the purpose and intent of this Ordinance
18 (the filing of the Ordinance in the Official Records of the City and County of San Francisco,
19 designating the Recreation and Park Department as the City department with jurisdiction over
20 the Vacation Area, and entering into an easement or other agreement with PG&E, if
21 necessary, concerning access to and maintenance of PG&E facilities in the Vacation Area as
22 set forth in this Ordinance).

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: _____
4 John D. Malamut
5 Deputy City Attorney
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