

1 [Summary Vacation of Sewer Easement - Approval of Sale of Easement Interest -
2 98 Crown Terrace - \$16,000]

3 **Ordinance ordering the summary vacation of a sewer easement and approving sale for**
4 **\$16,000 of City's interest in the vacated easement within property located at**
5 **98 Crown Terrace (Assessor's Block No. 2705, Lot No. 029); adopting findings pursuant**
6 **to the California Streets and Highways Code, Sections 892 and 8330, et seq.; adopting**
7 **findings pursuant to the California Environmental Quality Act; adopting findings that**
8 **the vacation and sale are in conformity with the General Plan, and the eight priority**
9 **policies of Planning Code, Section 101.1; and authorizing official acts in the**
10 **furtherance of 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.
14 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. The Board of Supervisors of the City and County of
16 San Francisco hereby finds, determines, and declares as follows:

17 A. Michele Sweeney and Lucy R. Wohltman (together, "Buyer") have requested
18 that City vacate a ten-foot wide sewer easement (the "Easement") that lies within the parcel of
19 real property owned by Buyer at 98 Crown Terrace (Lot 029 in Assessor's Block 2705) in San
20 Francisco (the "Property") and sell City's interest in the Easement to Buyer to facilitate Buyer's
21 construction of improvements on the Property.

22 B. The Easement was reserved by City in 1958 when it vacated and quitclaimed to
23 a prior owner of the Property a portion of former Pemberton Place. A copy of that quitclaim
24 deed (the "Original Deed") is on file with the Clerk of the Board of Supervisors in File No.
25 150263 and is incorporated herein by reference. The Easement is described in the Original

1 Deed and shown on DPW SUR Map No. 2015-001, a copy of which is in File No. 150263 and
2 is incorporated herein by reference.

3 C. Pursuant to Charter Section 8B.121(a), the San Francisco Public Utilities
4 Commission ("SFPUC") has exclusive charge of the sewer utilities of the City and the real
5 property assets under its jurisdiction. Pursuant to Charter Section 9.118(c), any sale of real
6 property owned by the City requires the prior approval of the Board of Supervisors.

7 D. SFPUC staff and Buyer have negotiated a proposed Agreement for Sale of Real
8 Estate (the "Sale Agreement") under which City would sell to Buyer City's interest in the
9 Easement and convey such interest to Buyer by quitclaim deed in substantially the form
10 attached to the Sale Agreement ("Quitclaim Deed"). Based on an appraisal of the Easement,
11 SFPUC's Real Estate Services Division and City's Department of Real Estate determined that
12 the \$16,000 purchase price to be paid by Buyer is reasonably equivalent to the Easement's
13 fair market value. A copy of the proposed Sale Agreement is on file with the Clerk of the
14 Board of Supervisors in File No. 150263 and is incorporated herein by reference.

15 E. Section 8333(c) of the California Streets and Highways Code provides in
16 relevant part that the legislative body of a local agency may summarily vacate a public service
17 easement if (i) it has been determined to be excess by the easement holder and there are no
18 other public facilities located within the easement, or (ii) the easement has not been used for
19 the purpose for which it was acquired for five consecutive years immediately preceding the
20 proposed vacation. In addition, in order to authorize a summary vacation, Section 8334.5 of
21 the California Streets and Highways Code requires a finding that there are no in-place public
22 utility facilities that are in use and would be affected by the vacation.

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1 F. SFPUC staff have confirmed that since City acquired the Easement in 1958,
2 SFPUC has not constructed any sewer infrastructure or related facilities within the Easement
3 and has no plans to use the Easement in the future.

4 G. In DPW Order No. 183258 dated January 14, 2015 (“Order”), the Director of
5 Public Works determined that a summary vacation is appropriate in this instance and
6 recommended such action to the Board of Supervisors. This Order is on file with the Clerk of
7 the Board of Supervisors in File No. 150263 and is incorporated herein by reference.

8 H. In a Certificate of Determination dated June 19, 2014, the Planning Department
9 determined that the actions contemplated in this Ordinance are categorically exempt from
10 environmental review. In a letter dated June 25, 2014, the Director of Planning found that the
11 proposed easement vacation and sale are in conformance with the City's General Plan, and
12 are consistent with the eight priority policies of Planning Code Section 101.1. The Certificate
13 and the letter are on file with the Clerk of the Board of Supervisors in File No.150263 and are
14 incorporated herein by reference.

15 I. On October 14, 2014, by Resolution No. 14-0163 (“Resolution”), the SFPUC
16 found that the Easement is surplus to SFPUC’s current and future utility needs, recommended
17 approval of the sale and vacation of the Easement, and authorized the Director of Property or
18 SFPUC General Manager to execute the Sale Agreement and the Quitclaim Deed, subject to
19 prior approval by the Board and Mayor of the vacation and sale. A copy of such Resolution is
20 on file with the Clerk of the Board of Supervisors in File No. 150263 and is incorporated herein
21 by reference.

22 J. The Board of Supervisors adopts as its own and incorporates by reference as
23 though fully set forth herein the findings in the Order, pursuant to Streets and Highways Code
24 Section 892, that the Easement has no use as a nonmotorized transportation facility.

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1 K. The Board adopts as its own and incorporates by reference as though fully set
2 forth herein the findings in the Order and Resolution, pursuant to Streets and Highways Code
3 Section 8333, that the Easement has not been used for the purpose for which it was acquired
4 for five consecutive years preceding the date of this ordinance.

5 L. The Board adopts as its own and incorporates by reference as though fully set
6 forth herein the findings in the Order and Resolution, pursuant to Streets and Highways Code
7 Section 8334.5, that there are no in-place public utility facilities that are in use and would be
8 affected by the vacation.

9 M. The Board adopts as its own and incorporates by reference as though fully set
10 forth herein the findings of the Planning Department's Certificate of Exemption dated June 19,
11 2014, and the Director of Planning's letter dated June 25, 2014, that the proposed vacation
12 and sale of the Easement are in conformity with the General Plan, on balance; and consistent
13 with the eight priority policies of Planning Code Section 101.1, for the reasons set forth in the
14 Director of Planning's letter.

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16 Section 2. The public convenience and necessity require that no easements or other
17 rights be reserved for any public utility facilities and that any rights based upon any such
18 public utility facilities shall be extinguished automatically upon the effectiveness of the
19 vacation hereunder.

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21 Section 3. The Board finds and determines that the Easement is unnecessary for
22 present or prospective public use and that the public interest and convenience require that the
23 vacation be done as declared in this Ordinance, provided that the Easement is sold as
24 contemplated by and set forth in the Sale Agreement.

1 Section 4. Pursuant to California Streets and Highways Code Sections 8330 et seq.
2 (Public Streets, Highways, and Service Easement Vacation Law, Summary Vacation) and
3 Section 787 of the San Francisco Public Works Code, the Board orders the summary vacation
4 of the Easement immediately prior to the sale of the Easement to Buyer. The Clerk of the
5 Board of Supervisors and the Director of Property shall be authorized, and the Clerk shall be
6 directed, to record or cause to be recorded in the Official Records of the City and County of
7 San Francisco a certified copy of this Ordinance ordering such vacation as provided in
8 Section 8336(a) of the California Streets and Highways Code at the Closing (as defined in the
9 Sale Agreement), and thereupon such vacation shall be effective without any further action by
10 the Board of Supervisors. Immediately following the recordation of this Ordinance, the
11 Director of Property is authorized to record the Quitclaim Deed, in accordance with the Sale
12 Agreement. In the event that the Closing does not occur for any reason, this Ordinance shall
13 be null and void and shall not be recorded.

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15 Section 5. In accordance with the recommendation of DPW, SFPUC, and the
16 Director of Property, the Board of Supervisors hereby approves the Sale Agreement and the
17 proposed purchase and sale transaction and authorizes and approves the execution by the
18 Director of Property of the Sale Agreement in substantially the form presented to the Board
19 and any other such documents that are necessary or advisable to effectuate the purpose and
20 intent of this Ordinance, and hereby authorizes the SFPUC to complete the contemplated
21 purchase and sale transaction.

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23 Section 6. The Board of Supervisors authorizes the Director of Property and SFPUC
24 General Manager to enter into any additions, amendments, or other modifications to the Sale
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1 Agreement and any other documents or instruments in connection with the Sale Agreement
2 that the Director of Property or SFPUC General Manager determines are in City's best
3 interests, do not materially decrease City's benefits with respect to the proposed purchase
4 and sale transaction, do not materially increase the consideration or expense to be paid by
5 City pursuant to the Sale Agreement or City's obligations or liabilities in connection with the
6 Sale Agreement or the proposed purchase and sale transaction, and are necessary and
7 advisable to complete the proposed purchase and sale transaction and effectuate the purpose
8 and intent of this Ordinance, such determination to be conclusively evidenced by the
9 execution and delivery by the Director of Property or SFPUC General Manager of any such
10 additions, amendments, or other modifications.

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12 Section 7. The Clerk of the Board, the Director of Property, the Director of DPW, and
13 the General Manager of the SFPUC are hereby authorized and directed to take any and all
14 actions that they or the City Attorney may deem necessary or advisable in order to effectuate
15 the purpose and intent of this Ordinance.

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RECOMMENDED:

JOHN UPDIKE
Director of Property

MOHAMMED NURU
Director of the Department of Public Works

HARLAN L. KELLY, JR.
General Manager of the San Francisco Public Utilities Commission

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

By: _____
Carolyn Johnson Stein
Deputy City Attorney