

1 [Summary Street Vacation - Portion of Burnett Avenue North]

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3 **Ordinance ordering the summary street vacation of a portion of Burnett Avenue North,**
 4 **generally bounded by Assessor's Parcel Block No. 2719C, Assessor's Parcel Block No.**
 5 **2745, and Burnett Avenue, subject to specified conditions; affirming the Planning**
 6 **Department's determination under the California Environmental Quality Act; adopting**
 7 **findings of consistency with the General Plan, and eight priority policies of Planning**
 8 **Code, Section 101.1; and authorizing official acts taken in connection with this**
 9 **Ordinance, as defined herein.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 13 **Board amendment additions** are in double-underlined Arial font.
 14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 15 **Asterisks (* * * *)** indicate the omission of unchanged Code
 16 subsections or parts of tables.

14

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

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17 Section 1. Findings.

18 (a) California Streets and Highways Code Sections 8300 et seq. and Public Works
 19 Code Section 787(a) set forth the procedures that the City and County of San Francisco
 20 follows to vacate public streets and public service easements. California Streets and
 21 Highways Code Sections 8330 et seq. permits the summary vacation of a public street or
 22 public service easement if certain conditions are satisfied.

23 (b) The Board of Supervisors finds it appropriate to pursue a street vacation of a
 24 portion of Burnett Avenue North generally bounded by Assessor's Block No. 2719C,
 25 Assessor's Block No. 2745, and Burnett Avenue.

1 (c) The location and extent of the area to be vacated (the "Vacation Area") is more
2 particularly shown on Public Works' ("PW") SUR Map No. 2018-001, dated May 9, 2018. A
3 copy of this map is on file with the Clerk of the Board of Supervisors in File No. 180517 and is
4 incorporated herein by reference.

5 (d) The vacation of the Vacation Area is in connection with the settlement of litigation
6 between the City and the owner of Assessor's Block No. 2745, Lot 036. Legislation approving
7 the Settlement Agreement is on file with the Clerk of the Board of Supervisors in File
8 No. 171004 and is incorporated herein by reference.

9 (e) The Vacation Area shall be developed and serve as a method of ingress and
10 egress from Assessor's Block No. 2745, Lot 036, to the Burnett Avenue public right-of-way,
11 the open and relocated street that replaced Burnett Avenue North.

12 (f) Section 8334(a) of the California Streets and Highways Code provides that the
13 legislative body of a local agency may summarily vacate an excess right-of-way of a street,
14 highway, or public easement under certain circumstances as long as there are no in-place
15 functioning utilities.

16 (g) In PW Order No. 187699, dated May 15, 2018, the Public Works Director (the "PW
17 Director") determined: (1) the Vacation Area is excess right-of-way that can be summarily
18 vacated under California Streets and Highways Code Section 8334(a); (2) the Vacation Area
19 is unnecessary for the City's present or prospective public street, sidewalk, and service
20 easement purposes; (3) there are no functioning in-place public or private utility facilities that
21 would be affected by the vacation of the Vacation Area, which allows the City to proceed with
22 a summary street vacation under Streets and Highways Code Section 8334.5; (4) pursuant to
23 Streets and Highways Code Section 892, the Vacation Area is adjacent to an existing open
24 public street that is an alternate non-motorized transportation facility, and therefore, it has no
25 use for a non-motorized transportation facility; (5) the public interest, convenience, and

1 necessity do not require any other easements or other rights be reserved for any public or
2 private utility facilities that are in place in the Vacation Area and that any rights based upon
3 any such public or private utility facilities shall be extinguished automatically upon the
4 effectiveness of the vacation; and (6) disposition of the Vacation Area is addressed in the
5 legislation approving the settlement agreement. A copy of the PW Order is on file with the
6 Clerk of the Board of Supervisors in File No. 180517.

7 (h) The PW Director also recommends that the effectiveness of the street vacation be
8 conditioned on (1) prior recordation of a driveway easement as described in the Agreement
9 for Sale of Real Estate (the "Purchase Agreement," attached as Exhibit C to the Settlement
10 Agreement and Mutual Releases and Exhibits ("Settlement Agreement")) contained in Board
11 of Supervisors File No. 171004; (2) companion legislation approving the Settlement
12 Agreement, on file with the Clerk of the Board of Supervisors in File No. 171004, becoming
13 effective; and (3) companion legislation rezoning the Vacation Area on file with the Clerk of
14 the Board of Supervisors in File No. 171013, becoming effective. The Board of Supervisors
15 adopts as its own the recommendations of the PW Director as set forth in PW Order
16 No. 187699 concerning the vacation of the Vacation Area and other actions in furtherance
17 thereof and the Board hereby incorporates such recommendations and findings by reference
18 as though fully set forth herein.

19 (i) Companion legislation approving the Settlement Agreement, on file with the Clerk of
20 the Board of Supervisors in File No. 171004, addresses approval of the conveyance of the
21 Vacation Area.

22 (j) The Director of Planning, by letter dated January 10, 2018, found that the vacation
23 of the Vacation Area and other actions contemplated in this ordinance are consistent with the
24 General Plan and with the eight priority policies of Planning Code Section 101.1. This letter is
25 on file with the Clerk of the Board of Supervisors under File No. 171013. The Board of

1 Supervisors adopts as its own, the recommendations of the Director of Planning as set forth in
2 the abovementioned letter concerning and the Board hereby incorporates such
3 recommendations and findings by reference as though fully set forth herein.

4 (k) The Planning Department has determined that the actions contemplated in this
5 ordinance comply with the California Environmental Quality Act (California Public Resources
6 Code Sections 21000 et seq.). The Board of Supervisors hereby affirms this determination as
7 its own. A copy of said determination is on file with the Clerk of the Board of Supervisors in
8 File No. 171013 and incorporated herein by reference.

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10 Section 2. Summary Vacation and Conditions.

11 (a) The Board of Supervisors hereby summarily vacates the Vacation Area, as shown
12 on SUR Map No. 2018-001, upon satisfaction of the conditions described in this ordinance
13 and pursuant to California Streets and Highways Code Section 8300 et seq. and Public Works
14 Code Section 787(a).

15 (b) The Board of Supervisors finds that the Vacation Area is unnecessary for present
16 or prospective public street, sidewalk, and service easement purposes, subject to the
17 conditions described in this ordinance.

18 (c) The public interest and convenience require that the vacation be done as declared
19 in this ordinance.

20 (d) The Street Vacation shall be effective automatically and without the requirement for
21 further action whatsoever, as to all of the Vacation Area, upon satisfaction of the following:

- 22 (1) Recordation of a driveway easement for the benefit of Parcel Nos.
23 2718/011-016;
- 24 (2) Effectiveness of the companion legislation approving the Settlement
25 Agreement on file with the Clerk of the Board of Supervisors in File No. 171004; and

1 (3) Effectiveness of companion legislation rezoning the Vacation Area on file
2 with the Clerk of the Board of Supervisors in File No. 171013.

3
4 Section 3. Official Acts Taken in Connection with the Ordinance.

5 (a) The Mayor, Clerk of the Board of Supervisors, Director of the Division of Real
6 Estate, County Surveyor, and PW Director are hereby authorized and directed to take any and
7 all actions which they or the City Attorney may deem necessary or advisable in order to
8 effectuate the purpose and intent of this ordinance (including, without limitation, the filing of
9 this ordinance in the Official Records of the City and County of San Francisco; confirmation of
10 satisfaction of the conditions to the effectiveness of the vacation of the Vacation Area
11 hereunder; and execution and delivery of any evidence of the same, which shall be conclusive
12 as to the satisfaction of the conditions upon signature by any such City official or his or her
13 designee).

14 (b) Immediately upon the effective date of this vacation, this ordinance shall be
15 recorded.

16 Section 4. Effective and Operative Dates. This ordinance shall become effective 30
17 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor
18 returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,
19 or the Board of Supervisors overrides the Mayor's veto of the ordinance. This ordinance shall
20 become operative upon satisfaction of the conditions in Section 2.

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

23 By: _____
24 ROBB W. KAPLA
25 Deputy City Attorney

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