

1 [Ordering vacation of 22nd Street between Arkansas and Connecticut Streets.]

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3 **Ordinance ordering the vacation of the 22nd Street right-of-way between Arkansas and**
4 **Connecticut Streets subject to reservations of certain utility easements in the vacated**
5 **area; authorizing the sale of a portion of the vacated street area pursuant to the terms**
6 **of an agreement for sale of real estate; adopting environmental findings and findings**
7 **that such actions are consistent with the City’s General Plan and the Priority Policies of**
8 **Planning Code Section 101.1; and authorizing official acts in connection with this**
9 **ordinance.**

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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.

16 (a) On _____, 2005, the Board of Supervisors of the City and County of
17 San Francisco (the “City”) adopted Resolution No. _____ (the “Resolution of
18 Intention”), a copy of which is on file with the Clerk of the Board of Supervisors (the “Clerk”) in
19 File No. _____ and is incorporated by reference as though fully set forth herein, being a
20 Resolution of Declaration of Intention to Order the Vacation of the portion of the 22nd Street
21 right-of-way between Arkansas and Connecticut Streets (the "Vacation Area"). The location
22 and extent of the Vacation Area is shown in the Department of Public Works SUR Map No.
23 6003, dated July 1, 2004, a copy of which, marked to show the Sale Portion and the
24 Easement Portion (each defined below), is on file with the Clerk in File No. _____ and
25 incorporated by reference as though fully set forth herein.

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

5 (c) When such matter was considered as scheduled by the Board of Supervisors at
6 its regular meeting held in the City Hall, San Francisco, on _____, 2005,
7 beginning at approximately ____ P.M., the Board heard all persons interested in such
8 vacation.

9 (d) The vacation of the Vacation Area is being sought in order to facilitate (i) the use
10 of the major portion of such area as a community garden and (ii) the sale of the remaining
11 portion of such area (the "Sale Portion") to Michael Lanza, the neighboring landowner
12 ("Purchaser"), pursuant to an Agreement for Sale of Real Estate between City and Purchaser
13 (the "Sale Agreement"), which is on file with the Clerk in File No. _____ and is
14 incorporated by reference as though fully set forth herein.

15 (e) In a letter dated December 22, 2003 (the "Planning Department Letter") the City
16 Planning Department determined that (i) the vacation and other actions in furtherance thereof,
17 including, without limitation, the vacation of the Vacation Area, is, on balance, in conformity
18 with the General Plan and Planning Code Section 101.1 and (ii) the actions contemplated in
19 this Ordinance are in compliance with the California Environmental Quality Act (California
20 Public Resources Code sections 21000 et seq.). A copy of the Planning Department Letter is
21 on file with the Clerk in File No. _____ and is incorporated by reference as though
22 fully set forth herein. The Board of Supervisors adopts as its own the Planning Department's
23 determination under the California Environmental Quality Act and consistency findings as set
24 forth in the Planning Department Letter in connection with the vacation of the Vacation Area
25 and other actions in furtherance thereof.

1 (f) In a letter dated June 30, 2004 (the "DPW Letter"), the Department of Public
2 Works found that: (i) the Vacation Area is no longer necessary for the City's present or
3 prospective future street purposes, and (ii) there are no physical public utility facilities within
4 the Vacation Area except for SBC for telecommunications purposes and Pacific Gas &
5 Electric ("PG&E") for power and gas transmission purposes. A copy of the DPW Letter is on
6 file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated
7 by reference as though fully set forth herein. The Board of Supervisors adopts as its own and
8 incorporates by reference herein as if fully set forth the recommendations of the Department
9 of Public Works as set forth in the DPW Letter concerning the vacation of the Vacation Area
10 and other actions in furtherance thereof; and

11 (g) In a letter dated _____, ____ (the "Real Estate Letter"), the City's Director
12 of Property found that the purchase price set forth in the Sale Agreement is fair market value
13 for the portion of the Vacation Area to be conveyed thereunder. A copy of the Real Estate
14 Letter is on file with the Clerk of the Board of Supervisors in File No. _____ and is
15 incorporated by reference as though fully set forth herein.

16 (h) The vacation of the Vacation Area is being taken pursuant to California Streets
17 and Highways Code sections 8300 et seq. and Public Works Code section 787(a).

18 (i) From all the evidence submitted at the public hearing noticed in the Resolution of
19 Intention and the materials on file with the Clerk of the Board in File No. _____, the
20 Board of Supervisors finds that the Vacation Area, as described in such resolution, is no
21 longer necessary for the City's use as a public street, subject to the reservations and
22 conditions described in this Ordinance.

23 (j) The public interest, convenience and necessity require that the City reserve and
24 except from the vacation of the Street Area solely a non-exclusive easement for the benefit of
25 SBC and PG&E in, upon, and over that certain portion of the Street Area, except for the Sale

1 Portion, in which PG&E's in-place and functioning facilities are currently located as shown on
2 said SUR Map No. 6003, to the extent necessary to maintain, operate, repair and remove
3 existing lines of pipe, conduits, cables, wires, poles, and other convenient structures,
4 equipment and fixtures for the operation of SBC for telecommunications facilities and PG&E
5 for power and gas transmission purposes, together with reasonable access to the foregoing
6 facilities for the purposes set forth above. The public interest, convenience and necessity
7 require that, except as specifically provided in this Ordinance above, no other easements or
8 other rights be reserved for any public utility facilities that are in place in such Vacation Area
9 and that any rights based upon any such public utility facilities are extinguished.

10 (k) The public convenience and necessity require that the City reserve a non-
11 exclusive temporary easement over a 18' by 125' portion of the Street Area immediately
12 adjacent to Purchaser's lots and Arkansas Street, as marked on the map on file with the Clerk
13 in File No. _____ (the "Easement Portion"), to provide Purchaser with pedestrian and
14 vehicular access to Puchaser's interior lot, which otherwise would not be accessible from the
15 public right-of-way upon the vacation of the Street Area, such easement to terminate upon the
16 consummation of the sale of the Sale Portion to Purchaser. Such easement shall be
17 terminated upon the consummation of the sale of the Sale Portion to Purchaser and the
18 execution and delivery of a quitclaim deed relating to the Sale Portion pursuant to the terms of
19 the Sale Agreement, provided that if such quitclaim deed is not executed and delivered then
20 such easement shall remain in full force and effect.

21 (l) The public interest and convenience require that the vacation be done as declared
22 in the Resolution of Intention.

23 Section 2. Except as set forth in Section 3 below, the Vacation Area is hereby ordered
24 vacated in the manner described in the Resolution of Intention and pursuant to California
25 Streets and Highways Code sections 8300 et seq. and Public Works Code section 787(a).

1 Section 3. The vacation of the Vacation Area is conditioned upon the reservation of a
2 non-exclusive easement for the benefit of SBC and PG&E and a non-exclusive easement for
3 the benefit of the Purchaser, each on the terms and conditions described in Section 1 above.

4 Section 4. Any removal or relocation of a utility for which an easement has been
5 reserved or excepted herein for the benefit of any party shall be performed at no cost or
6 expense to the City, provided that nothing herein shall be deemed to preclude any future
7 owner of any portion of the Vacation Area from charging a third party for or otherwise causing
8 a third party to bear the costs of such relocation where such charge or cost is otherwise
9 permitted by law.

10 Section 5. The Board of Supervisors hereby authorizes the Director of Property to
11 execute the Sale Agreement, a quitclaim deed conveying the City's interest in the portion of
12 the Vacation Area described in the Sale Agreement and all other documents and instruments
13 necessary to effectuate the vacation and sale of such portion of the Vacation Area to the
14 Purchaser.

15 Section 6. The Board of Supervisors hereby directs the Clerk of the Board of
16 Supervisors to transmit to the Director of Public Works a certified copy of this Ordinance, and
17 the Board of Supervisors hereby urges the Director of Public Works to proceed in the manner
18 required by law.

19 Section 7. All actions heretofore taken by the officers of the City with respect to this
20 Ordinance are hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board,
21 Director of Property, and Director of Public Works are hereby authorized and directed to take
22 any and all actions which they or the City Attorney may deem necessary or advisable in order
23 to effectuate the purpose and intent of this Ordinance (including, without limitation, the filing of
24 the Ordinance in the Official Records of the City and County of San Francisco and
25 confirmation of satisfaction of any of the conditions to the effectiveness of the vacation of the

1 Vacation Area hereunder and conformation of the termination of any easements reserved
2 hereunder pursuant to Section 1(j) of this Ordinance and execution and delivery of any
3 evidence of the same, which shall be conclusive as to the satisfaction of such conditions upon
4 signature by any such City official or his or her designee).

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RECOMMENDED:
DEPARTMENT OF PUBLIC WORKS

RECOMMENDED:
DIRECTOR OF PROPERTY

By: _____
Edwin M. Lee
Director of Public Works

By: _____
Steve Legnitto
Director of Property

RECOMMENDED:
DEPARTMENT OF PUBLIC WORKS

APPROVED AS TO FORM:
DENNIS J. HERRERA
City Attorney

By: _____
Robert P. Beck
Deputy Director of Engineering

By: _____
John D. Malamut
Deputy City Attorney