

1 [Ordering vacation of the Ingleside Path.]

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3 **Ordinance ordering the vacation of the Ingleside Path right-of-way between Ocean**
4 **Avenue and Corona Street and Urbano and Head Streets subject to reservations of**
5 **certain utility easements in the vacated area; authorizing the quit claim of the City's**
6 **interest in the vacated right-of-way pursuant to the terms of the conveyancing**
7 **documents; adopting environmental findings and findings that such actions are**
8 **consistent with the City's General Plan and the priority policies of Planning Code**
9 **Section 101.1; and authorizing official acts in connection with this 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~~.

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

16 Section 1. Findings.

17 (a) On _____, 2007, the Board of Supervisors of the City and County of San
18 Francisco (the "City") adopted Resolution No. _____ (the "Resolution of Intention"), a copy
19 of which is on file with the Clerk of the Board of Supervisors in File No. _____ and is
20 incorporated by reference herein, being a Resolution of declaring the Board's intent to order
21 the vacation of the Ingleside Path right-of-way between Ocean Avenue and Corona Street and
22 Urbano and Head Streets (the "Vacation Area"). The location and extent of the Vacation Area
23 is shown in the Department of Public Works SUR Map No. _____, dated _____, 2007, a
24 copy of which is on file with the Clerk of the Board of Supervisors in File No. _____ and
25 incorporated by reference herein.

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
6 its regular meeting held in the City Hall, San Francisco, on _____, 2007, beginning at
7 approximately 4:00 p.m., the Board heard all persons interested in such vacation.

8 (d) The vacation of the Vacation Area is being sought in order to facilitate (a)
9 improved safety of adjacent residents and citizens and appropriate treatment for substantial
10 existing private encroachments on the Ingleside Path and (b) a quit claim of the City's interest
11 in the Path to the abutting property owners pursuant to the terms of sale agreements and quit
12 claim deeds substantially in the form attached hereto. Copies of said sale agreements and
13 quit claim deeds are on file with the Clerk of the Board of Supervisors in File No. _____, and
14 are hereby declared to be a part of this Ordinance by reference herein. This result is the
15 outcome of extensive and extended discussions and negotiations during the last 3 years
16 between Supervisor Elsbernd, the Department of Public Works, Department of Real Estate,
17 Ingleside Terrace Homeowners' Association, property owners adjacent to the Ingleside Path,
18 and other interested stakeholders.

19 (e) In a letter dated _____, 2007 (the "Planning Department Letter"), the City
20 Planning Department determined that (a) the vacation and other actions in furtherance
21 thereof, including, without limitation, the vacation of the Vacation Area and quit claim of the
22 City's interest therein, are, on balance, in conformity with the General Plan and Planning Code
23 Section 101.1 and (b) the actions contemplated in this Ordinance are in compliance with the
24 California Environmental Quality Act (California Public Resources Code Sections 21000 et
25 seq.). A copy of the Planning Department Letter is on file with the Clerk of the Board of

1 Supervisors in File No. _____ and is incorporated by reference herein. The Board of
2 Supervisors adopts as its own the Planning Department's determination under the California
3 Environmental Quality Act and the consistency findings as set forth in the Planning
4 Department Letter in connection with the vacation of the Vacation Area and other actions in
5 furtherance thereof.

6 (f) In a letter dated _____, 2007 (the "DPW Letter"), the Department of
7 Public Works found that: (a) the Vacation Area is no longer necessary for the City's present or
8 prospective future right-of-way purposes, and (b) there are no physical public utility facilities
9 within the Vacation Area except for Pacific Gas & Electric ("PG&E") for electric transmission
10 purposes. A copy of the DPW Letter is on file with the Clerk of the Board of Supervisors in
11 File No. _____ and is incorporated by reference herein. The Board of Supervisors adopts as
12 its own the recommendations of the Department of Public Works as set forth in the DPW
13 Letter concerning the vacation of the Vacation Area and other actions in furtherance thereof.

14 (g) In a letter dated _____, 2007 (the "Real Estate Letter"), the City's Director
15 of Property found that the price in the conveyancing documents reflects the appropriate value
16 for the portion of the Vacation Area to be conveyed thereunder. This value represents
17 uncertainty as to the scope of the City's actual rights over the subject pathways. In addition,
18 because the pathways are not capable of independent development due to their size, location,
19 access, and occupation, the Director has recommended, subject to Board approval, the direct
20 conveyance to the adjacent property owners, as represented by non-profit organizations, as
21 an alternate conveyancing procedure as identified in Administrative Code Section 23.3. The
22 property owners adjacent to the Ingleside Path have formed non-profit organizations
23 specifically and solely for the purpose of holding title to the subject portions of Ingleside Path
24 and managing the use of the respective portions of the Path. The proposed recipient
25 organizations are the Urbano Pathway, Inc. for the portion of the Ingleside Path between

1 Urbano and Head Streets and the Corona Pathway, Inc. for the portion of the Ingleside Path
2 between Ocean Avenue and Corona Street. As stated in said Letter, the Director believes
3 that the sales price and sales process are warranted and serve a proper public purpose;
4 however, ratification of this decision is a policy matter for the Board. A copy of the Real
5 Estate Letter is on file with the Clerk of the Board of Supervisors in File No. and is
6 incorporated by reference herein.

7 (h) The vacation of the Vacation Area is being taken pursuant to California Streets
8 and Highways Code Sections 8300 et seq. and Public Works Code Section 787(a).

9 (i) From all the evidence submitted at the public hearing noticed in the Resolution
10 of Intention and the materials on file with the Clerk of the Board of Supervisors in File No.
11 , the Board of Supervisors finds that the Vacation Area, as described in such Resolution, is no
12 longer necessary for the City's use as a public right-of-way, subject to the reservations and
13 conditions described in this Ordinance.

14 (j) The public interest, convenience, and necessity require that the City reserve and
15 except from the vacation of the Street Area solely a non-exclusive easement for the benefit of
16 PG&E in, upon, and over that certain portion of the Vacation Area in which PG&E's in-place
17 and functioning facilities are currently located as shown on said SUR Map No. , to the
18 extent necessary to maintain, operate, repair and remove existing lines of pipe, conduits,
19 cables, wires, poles, and other convenient structures, equipment and fixtures for the operation
20 of PG&E for power and gas transmission purposes, together with reasonable access to the
21 foregoing facilities for the purposes set forth above. The public interest, convenience and
22 necessity require that, except as specifically provided in this Ordinance above, no other
23 easements or other rights be reserved for any public utility facilities that are in place in such
24 Vacation Area and that any rights based upon any such public utility facilities are
25 extinguished.

1 (k) The public convenience and necessity further require that any reserved or
2 excepted easements or licenses for existing utilities described in the preceding paragraph
3 shall be terminated upon the earlier of (a) the termination of any applicable easement, license
4 or similar agreement entered into with PG&E pursuant to its terms, or (b) the determination by
5 the Director of Public Works that (1) reasonable alternative utility service has been provided to
6 the areas served by such utilities for the period of service needed or (2) the areas served by
7 the utilities no longer require such service (as may be evidenced by written notice of the
8 owners being served that such service is no longer required).

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

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

14 Section 3. The vacation of the Vacation Area is conditioned upon the reservation of a
15 non-exclusive easement for the benefit of PG&E on the terms and conditions described in
16 Section 1 above.

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

23 Section 5. The Board of Supervisors hereby approves the Director of Property's
24 recommendation as set forth in the abovementioned Real Estate Letter and authorizes the
25 Director of Property to execute the conveyance documents and quit claim deeds substantially

1 in the form attached hereto that convey the City's interest in the Vacation Area and all other
2 documents and instruments necessary to effectuate the vacation and sale of the Vacation
3 Area to the abutting property owners.

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

8 Section 7. All actions heretofore taken by the officers of the City with respect to this
9 Ordinance are hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board,
10 Director of Property, and Director of Public Works are hereby authorized and directed to take
11 any and all actions which they or the City Attorney may deem necessary or advisable in order
12 to effectuate the purpose and intent of this Ordinance (including, without limitation, the filing of
13 the Ordinance in the Official Records of the City and County of San Francisco and
14 confirmation of satisfaction of any of the conditions to the effectiveness of the vacation and
15 quit claim of the City's interest in the Vacation Area).

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RECOMMENDED:
DEPARTMENT OF PUBLIC WORKS

By: _____
Fred V. Abadi, Phd.
Director of Public Works

RECOMMENDED:
DEPARTMENT OF PUBLIC WORKS

By: _____
City Engineer

RECOMMENDED:
DIRECTOR OF PROPERTY

By: _____
Amy Brown
Director of Property

APPROVED AS TO FORM:
DENNIS J. HERRERA
City Attorney

By: _____
John D. Malamut
Deputy City Attorney