

1 [Street Vacation in Connection with Mid-Embarcadero Roadway]
2 Ordinance ordering the vacation of portions of The Embarcadero and Folsom Street
3 between Howard and Harrison Streets in connection with the Mid-Embarcadero
4 Roadway Project; establishing conditions for the effectiveness of the vacation;
5 adopting findings pursuant to the California Environmental Quality Act; adopting
6 findings that the vacation is consistent with the City's General Plan and Eight Priority
7 Policies of City Planning Code Section 101.1 and the applicable Redevelopment Plan
8 Area; and ratifying acts and authorizing actions in furtherance of the ordinance.

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

10 Section 1. Findings. The Board of Supervisors of the City and County of
11 San Francisco finds, determines and declares as follows:

12 A. The San Francisco Port Commission, by Resolution No. 00-90 (a copy of which
13 is on file with the Clerk of the Board of Supervisors File No. 010362), authorized
14 the Port's Executive Director or his designee to take all further actions necessary to complete
15 the street vacation of certain street areas, the general location and extent of which are
16 portions of the former Embarcadero Roadway and Folsom Street as further described below
17 (the "Street Area"), and the Port has requested the Department of Public Works to initiate the
18 process for the vacation, and;

19 B. On April 23, 2001, the Board of Supervisors adopted Resolution
20 No. 290-01 (the "Resolution of Intention" File No. 010361), being a
21 Resolution of Declaration of Intention to Order the Vacation of a portion of the former
22 Embarcadero Roadway and Folsom Street located between Howard and Harrison Streets, as
23 further described below (the "Street Area").

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1 C. The Street Area is shown in the Department of Public Works' SUR Drawing No.
2 9000 dated February 7, 2001, and is more particularly described in the legal description
3 attached to such map. A copy of such map and accompanying legal description is on file with
4 the Clerk of the Board of Supervisors in File No. 010362.

5 D. The Clerk of the Board of Supervisors did transmit to the Director of the
6 Department of Public Works a certified copy of the Resolution of Intention, and the Director of
7 the Department of Public Works did cause notice of adoption of such resolution to be posted
8 in the manner required by law.

9 E. When such matter was considered as scheduled by the Board of Supervisors at
10 its regular meeting held in the City Hall, San Francisco, on May 14, 2001, beginning at
11 3:00 p.m., the Board heard all persons interested in the vacation of the Street Area.

12 F. The vacation of the Street Area is necessary to fulfill the objectives of the
13 Waterfront Transportation Project and the realignment of the Embarcadero Roadway and the
14 objectives of the South Beach/Rincon Redevelopment Plan and the Port's Waterfront Plan;
15 and

16 G. From all the evidence submitted at the hearing on the Resolution of Intention,
17 the Board of Supervisors finds that the Street Area, as described in such resolution, is
18 unnecessary for present or prospective public street use, subject to the reservations and
19 conditions described in this Ordinance.

20 H. In Resolution No. 1021-96, a copy of which is on file with the Clerk of the Board
21 of Supervisors, this Board of Supervisors affirmed the Planning Commission's certification of
22 the Final Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the
23 DPT Variant for the Mid-Embarcadero Roadway and Terminal Separator Replacement project
24 as adequate and complete pursuant to the California Environmental Quality Act ("CEQA"), the
25 State CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. In such

1 Resolution, this Board also adopted findings in connection with the FEIR/EIS, and its actions
2 related to the Mid-Embarcadero Roadway Project, including the actions contemplated herein,
3 and adopted a mitigation monitoring and reporting program. This Board hereby incorporates
4 by reference as if fully set forth herein such Resolution, including its findings and mitigation
5 program, and relies on such Resolution as the CEQA basis for the actions proposed in this
6 legislation.

7 I. The Board hereby finds that: (1) the proposed street vacation is within the scope of
8 the project analyzed in the FEIR/EIS and does not raise any important new issues about the
9 significant effects on the environment not previously considered in the FEIR/EIS; (2) no
10 changes are proposed or have occurred in the project that would require major revisions to
11 the FEIR/EIS due to the involvement of significant new environmental effects or a substantial
12 increase in the severity of previously identified significant effects; (3) no substantial changes
13 have occurred with respect to the circumstances under which the project is being undertaken
14 that would require major revisions to the FEIR/EIS due to the involvement of significant new
15 environmental effects or a substantial increase in the severity of previously identified
16 significant effects; and (4) no new information of substantial importance has become available
17 since the FEIR/EIS was certified indicating that: (a) the street vacation will have one or more
18 significant effects not discussed in the FEIR/EIS; (b) significant effects examined in the
19 FEIR/EIS would be substantially more severe; (c) mitigation or alternatives previously found
20 not to be feasible would in fact be feasible and would substantially reduce one or more
21 significant effects of the project; (d) mitigation measures or alternatives which are
22 considerably different from those analyzed in the FEIR/EIS would substantially reduce one or
23 more significant effects on the environment.

24 Section 2. The public convenience and necessity require that the City reserve and
25 except from the vacation of the Street Area solely the following: the non-exclusive easements

1 for the benefit of the San Francisco Public Utilities Commission ("PUC") and Pacific Gas &
2 Electric Company ("PG&E"), in, upon, and over those certain portions of the Street Area in
3 which their respective in-place and functioning facilities are located as described in the maps
4 on file with the Clerk of the Board of Supervisors under File No. 010362, to the
5 extent necessary to maintain, operate, repair and remove such existing lines of pipe, conduits,
6 cables, wires, poles, and other appurtenant structures, equipment and fixtures for the
7 operation of existing water lines and appurtenant facilities for the transportation or distribution
8 of water, existing gas pipelines, existing street lighting facilities, and existing facilities for the
9 transportation or distribution of electric energy, and reasonable access to the foregoing
10 facilities for the purposes set forth above.

11 Section 3. The public convenience and necessity further require that the vacation shall
12 be subject to the following grant of rights of access on or before the effective date of the
13 vacation as provided herein: The Port's Executive Director is hereby authorized and directed
14 to grant to the San Francisco PUC and PG&E the easements described in the preceding
15 paragraph and the Director of Property is hereby authorized and directed to accept the
16 easement to the San Francisco PUC on behalf of the City. Such easements shall be
17 substantially in the form of the easements on file with the Clerk of the Board in File No.
18 010362;

19 Section 4. The public convenience and necessity further require that any reserved or
20 excepted easements for existing utilities described in the preceding paragraphs shall be
21 terminated in whole or in part, as appropriate, upon the earliest of (i) the termination of the
22 easement under an instrument (if any) signed by the San Francisco PUC or PG&E, or (ii) the
23 determination by the Director of Public Works or the Port's Chief Harbor Engineer (if within
24 Port jurisdiction) that (A) reasonable alternative utility service has been provided to the areas
25 served by such utilities for the period of service needed or (B) the areas served by the utilities

1 no longer require such service (as may be evidenced by written notice of the owners being
2 served that such service is no longer required); and that any new public utilities shall be
3 placed in a new dedicated street pursuant to then applicable franchise rights or other
4 applicable requirements of controlling state or federal statutes, or otherwise in locations and
5 on terms and conditions reasonably satisfactory to the City's Director of Property or the Port's
6 Executive Director (if within Port jurisdiction), including without limitation, the location, term,
7 width, scope, access rights and maintenance rights of the new utilities.

8 Section 5. Any removal or relocation of any in-place utility shall be performed at no
9 cost or expense to the Port, provided that nothing in this Ordinance shall be deemed to
10 preclude any future lessee of the Street Area from charging a third party for or otherwise
11 causing a third party to bear the costs of such relocation where such charge or cost is
12 otherwise permitted by law.

13 Section 6. The public convenience and necessity require that except as specifically
14 provided in this Ordinance above and subject to the conditions set forth in Section 7 of this
15 Ordinance, no easements or other rights be reserved for any public utility facilities that are in
16 place in the Street Area and that any rights based upon any such public utility facilities shall
17 be extinguished upon the effectiveness of the vacation hereunder.

18 Section 7. The public interest and convenience require that the vacation be done as
19 declared in the Resolution of Intention.

20 Section 8. The Board of Supervisors hereby finds that the vacation of the Street Area
21 is in conformity with the General Plan and is consistent with the Eight Priority Policies of
22 Planning Code Section 101.1 for the same reasons as set forth in the letter from the Planning
23 Director, dated January 22, 2001, a copy of which is on file with the Clerk of the Board in File
24 No. 010362 and hereby incorporates such findings by reference as though fully
25 set forth in this Ordinance.

1 Section 9. The Board of Supervisors hereby finds that the vacation of the Street Area is
2 in conformity with the Rincon Point/South Beach Redevelopment Plan, as set forth in the letter
3 from the Redevelopment Agency dated February 6, 2001, a copy of which is on file with the
4 Clerk of the Board of Supervisors in File No. 010362, wherein the Executive
5 Director found that the proposed vacation of the Street Area is consistent with the South
6 Beach/Rincon Park Redevelopment Area Plan and hereby incorporates such findings by
7 reference as though fully set forth in this Ordinance.

8 Section 10. The Board of Supervisors adopts, approves and incorporates by reference
9 as though fully set forth herein DPW Order No. 172,789 recommending the vacation of the
10 Street Area, a copy of which is on file with the Clerk of the Board of Supervisors in File
11 No. 010362.

12 Section 11. The Board of Supervisors has acquired jurisdiction to order such vacation
13 subject to the reservation and granting of easements described in this Ordinance above.

14 Section 12. Pursuant to California Streets and Highways Code Sections 8320 et seq.
15 and Section 787 of the San Francisco Public Works Code the Street Area is hereby ordered
16 vacated in the manner described in the Resolution of Intention, subject to and effective upon
17 the occurrence of the following conditions (1) the Port's Executive Director has granted, and
18 the Director of Property has accepted, an easement for the benefit of the San Francisco PUC
19 as described above, (2) the Port's Executive Director has granted to PG&E an easement for
20 the benefit of PG&E as described above, and (3) the Clerk of the Board of Supervisors has
21 recorded (or caused to be recorded) a certified copy of the Ordinance ordering such vacation
22 as provided in Section 8325(a) of the California Streets and Highways Code, and thereupon
23 such vacation shall be effective without any further action by the Board of Supervisors.

1 Section 12. The Board of Supervisors hereby directs the Clerk of the Board of
2 Supervisors to transmit to the Director of Public Works a certified copy of this Ordinance, and
3 the Board of Supervisors hereby urges the Director of Public Works to proceed in the manner
4 required by law. The Clerk of the Board is also hereby directed, upon request by the Director
5 of Public Works, to transmit to the Recorder (or cause to be so transmitted) a certified copy of
6 this Ordinance so that this Ordinance may be recorded upon satisfaction of the conditions
7 precedent described above.

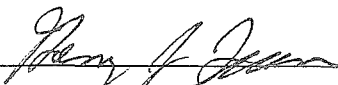
8 Section 13. All actions heretofore taken by the officers of the City with respect to such
9 street vacations are hereby approved, confirmed and ratified, and the Mayor, Clerk of the
10 Board, Director of Property, Port Executive Director, and Director of Public Works are hereby
11 authorized and directed to take any and all actions which they or the City Attorney may deem
12 necessary or advisable in order to effectuate the purpose and intent of this Ordinance
13 (including, without limitation, confirmation of satisfaction of any of the conditions to the
14 effectiveness of the vacation of the Street Area hereunder and execution and delivery of any
15 evidence of the same, which shall be conclusive as to the satisfaction of such conditions upon
16 signature by any such City official or his or her designee).

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18 RECOMMENDED:

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22 Edwin Lee

23 Director of Public Works
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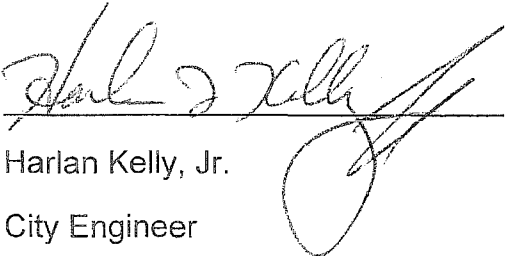


Anthony J. DeLucchi
Director of Property



Douglas F. Wong
Port Executive Director

DESCRIPTION APPROVED:



Harlan Kelly, Jr.
City Engineer

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

By 

Neil H. Sekhri
Deputy City Attorney

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 010362

Date Passed:

Ordinance ordering the vacation of portions of the Embarcadero and Folsom Streets between Howard and Harrison Streets in connection with the Mid-Embarcadero Roadway Project; establishing conditions for the effectiveness of the vacation; adopting findings pursuant to the California Environmental Quality Act; adopting findings that the vacation is consistent with the City's General Plan and Eight Priority Policies of City Planning Code Section 101.1 and the applicable Redevelopment Plan Area; ratifying acts and authorizing actions in furtherance of the ordinance.

May 14, 2001 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,
Newsom, Peskin, Sandoval, Yee

May 21, 2001 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Peskin,
Sandoval

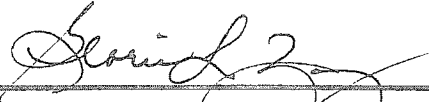
Absent: 2 - Newsom, Yee

File No. 010362

I hereby certify that the foregoing Ordinance was FINALLY PASSED on May 21, 2001 by the Board of Supervisors of the City and County of San Francisco.

MAY 25 2001

Date Approved



Gloria L. Young
Clerk of the Board



Mayor Willie L. Brown Jr.