

1 [Street Vacation of a Portion of The Embarcadero.]
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3 **Ordinance ordering the vacation of a portion of The Embarcadero just north of Mission**
4 **Street; establishing conditions for the effectiveness of the vacation; adopting findings**
5 **pursuant to the California Environmental Quality Act; adopting findings that the**
6 **vacation is consistent the with City's General Plan and Eight Priority Policies of City**
7 **Planning Code Section 101.1; and ratifying acts and authorizing actions in furtherance**
8 **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. 01-34 (a copy of
13 which is on file with the Clerk of the Board of Supervisors File No. 010812),
14 authorized the Port's Executive Director or his designee to take all further actions necessary
15 to complete the street vacation of a street area, the general location and extent of which is a
16 portion of The Embarcadero as further described below (the "Street Area"), and the Port has
17 requested the Department of Public Works to initiate the process for the vacation, and;

18 B. On June 25, 2001, the Board of Supervisors adopted Resolution
19 No. 519-01 (the "Resolution of Intention" File No. 010811), being a
20 Resolution of Declaration of Intention to Order the Vacation of a portion of The Embarcadero
21 located just north of Mission Street, as further described below (the "Street Area").

22 C. The Street Area is shown in the Department of Public Works' SUR
23 Drawing No.7001 dated May 7, 2001, and is more particularly described in the legal
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1 description attached to such map. A copy of such map and accompanying legal description is
2 on file with the Clerk of the Board of Supervisors in File No. 010812.

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

7 E. When such matter was considered as scheduled by the Board of
8 Supervisors at its regular meeting held in the City Hall, San Francisco, on July 30, 2001,
9 beginning at 3:00 pm, the Board heard all persons interested in the vacation of the Street
10 Area.

11 F. The vacation of the Street Area is necessary as part of the Mission-
12 Steuart Hotel project; and

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

17 H. In Resolution No. 664-00, a copy of which is on file with the Clerk of the
18 Board of Supervisors, this Board of Supervisors affirmed the Planning Commission's
19 certification of the Final Environmental Impact Report (EIR) for the Mission-Steuart Hotel as
20 adequate and complete pursuant to the California Environmental Quality Act ("CEQA"), the
21 State CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. This
22 Board hereby incorporates by reference as if fully set forth herein such Resolution, including
23 its findings and mitigation program, and relies on such Resolution as the CEQA basis for the
24 actions proposed in this legislation.

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

18 Section 2. The public convenience and necessity require that the City reserve and
19 except from the vacation of the Street Area solely the following: the non-exclusive easements
20 for the benefit of the Department of Telecommunications and Information ("DTIS") and Pacific
21 Gas & Electric Company ("PG&E"), in, upon, and over those certain portions of the Street
22 Area in which their respective in-place and functioning facilities are located as described in the
23 maps on file with the Clerk of the Board of Supervisors under File No. 010812
24 _____, to the extent necessary to maintain, operate, repair and remove such existing lines of
25 pipe, conduits, cables, wires, poles, and other appurtenant structures, and existing facilities

1 for the transportation or distribution of electric energy, and reasonable access to the foregoing
2 facilities for the purposes set forth above.

3 Section 3. The public convenience and necessity further require that the vacation shall
4 be subject to the following grant of rights of access on or before the effective date of the
5 vacation as provided herein: The Port's Executive Director is hereby authorized and directed
6 to grant to DTIS and PG&E the easements described in the preceding paragraph and the
7 Director of Property is hereby authorized and directed to accept the easement to the DTIS on
8 behalf of the City. Such easements shall be substantially in the form of the easements on file
9 with the Clerk of the Board in File No. 010812;

10 Section 4. The public convenience and necessity further require that any reserved or
11 excepted easements for existing utilities described in the preceding paragraphs shall be
12 terminated in whole or in part, as appropriate, upon the earliest of (i) the termination of the
13 easement under an instrument (if any) signed by DTIS or PG&E, or (ii) the determination by
14 the Director of Public Works or the Port's Chief Harbor Engineer (if within Port jurisdiction) that
15 (A) reasonable alternative utility service has been provided to the areas served by such
16 utilities for the period of service needed or (B) the areas served by the utilities no longer
17 require such service (as may be evidenced by written notice of the owners being served that
18 such service is no longer required); and that any new public utilities shall be placed in a new
19 dedicated street pursuant to then applicable franchise rights or other applicable requirements
20 of controlling state or federal statutes, or otherwise in locations and on terms and conditions
21 reasonably satisfactory to the City's Director of Property or the Port's Executive Director (if
22 within Port jurisdiction), including without limitation, the location, term, width, scope, access
23 rights and maintenance rights of the new utilities.

24 Section 5. Any removal or relocation of any in-place utility shall be performed at no
25 cost or expense to the Port, or City (with the exception of DTIS) provided that nothing in this

1 Ordinance shall be deemed to preclude any future lessee of the Street Area from charging a
2 third party for or otherwise causing a third party to bear the costs of such relocation where
3 such charge or cost is otherwise permitted by law.

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

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

11 Section 8. The Board of Supervisors hereby finds that the vacation of the Street Area
12 is in conformity with the General Plan and is consistent with the Eight Priority Policies of
13 Planning Code Section 101.1 for the same reasons as set forth in the letter from the Planning
14 Director, dated April 18, 2001, a copy of which is on file with the Clerk of the Board in File No.
15 010812 and hereby incorporates such findings by reference as though fully set
16 forth in this Ordinance.

17 Section 9. The Board of Supervisors adopts, approves and incorporates by reference
18 as though fully set forth herein DPW Order No. 172,952 recommending the vacation of the
19 Street Area, a copy of which is on file with the Clerk of the Board of Supervisors in File
20 No. 010812.

21 Section 10. The Board of Supervisors adopts, approves and incorporates by reference
22 as though fully set forth herein San Francisco Port Commission Resolution No. 01-34
23 _____, a copy of which is on file with the Clerk of the Board of Supervisors in File No. __
24 010812.

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

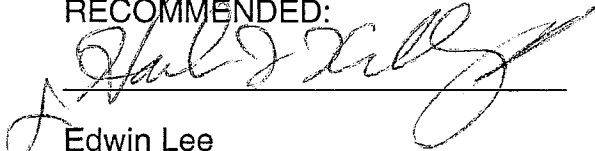
3 Section 12. Pursuant to California Streets and Highways Code Sections 8320 et seq.
4 and Section 787 of the San Francisco Public Works Code the Street Area is hereby ordered
5 vacated in the manner described in the Resolution of Intention, subject to and effective upon
6 the occurrence of the following conditions (1) the Port's Executive Director has granted, and
7 the Director of Property has accepted, an easement for the benefit of DTIS as described
8 above, and (2) the Clerk of the Board of Supervisors has recorded (or caused to be recorded)
9 a certified copy of the Ordinance ordering such vacation as provided in Section 8325(a) of the
10 California Streets and Highways Code, and thereupon such vacation shall be effective without
11 any further action by the Board of Supervisors.

12 Section 13. The Board of Supervisors hereby directs the Clerk of the Board of
13 Supervisors to transmit to the Director of Public Works a certified copy of this Ordinance, and
14 the Board of Supervisors hereby urges the Director of Public Works to proceed in the manner
15 required by law. The Clerk of the Board is also hereby directed, upon request by the Director
16 of Public Works, to transmit to the Recorder (or cause to be so transmitted) a certified copy of
17 this Ordinance so that this Ordinance may be recorded upon satisfaction of the conditions
18 precedent described above.

19 Section 14. All actions heretofore taken by the officers of the City with respect to such
20 street vacations are hereby approved, confirmed and ratified, and the Mayor, Clerk of the
21 Board, Director of Property, Port Executive Director, and Director of Public Works are hereby
22 authorized and directed to take any and all actions which they or the City Attorney may deem
23 necessary or advisable in order to effectuate the purpose and intent of this Ordinance
24 (including, without limitation, confirmation of satisfaction of any of the conditions to the
25 effectiveness of the vacation of the Street Area hereunder and execution and delivery of any

1 evidence of the same, which shall be conclusive as to the satisfaction of such conditions upon
2 signature by any such City official or his or her designee).

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4 RECOMMENDED:

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6 Edwin Lee

7 Director of Public Works

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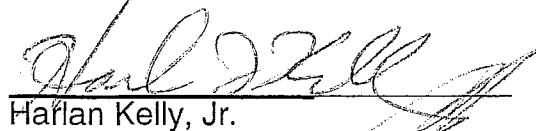
10 Director of Real Estate

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12 (see file for signature)

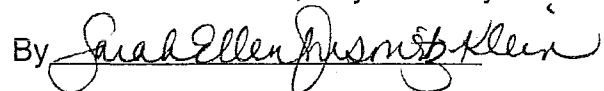
13 Douglas F. Wong

14 Port Executive Director

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16 DESCRIPTION APPROVED:

17 
18 Haflan Kelly, Jr.
19 City Engineer

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21 APPROVED AS TO FORM:
22 LOUISE H. RENNE, City Attorney

23 By 

24 Deputy City Attorney
25



City and County of San Francisco

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

Tails Ordinance

File Number: 010812

Date Passed:

Ordinance ordering the vacation of a portion of The Embarcadero just north of Mission Street; establishing conditions for the effectiveness of the vacation; adopting findings pursuant to the California Environmental Quality Act; and adopting findings that the vacation is consistent with the City's General Plan and eight priority policies of Planning Code Section 101.1; and ratifying acts and authorizing actions in furtherance of the ordinance.

July 30, 2001 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, McGoldrick, Newsom, Peskin,
Sandoval, Yee

Absent: 1 - Maxwell

August 6, 2001 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin,
Sandoval, Yee

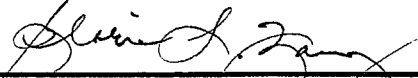
Absent: 2 - Daly, Gonzalez

File No. 010812

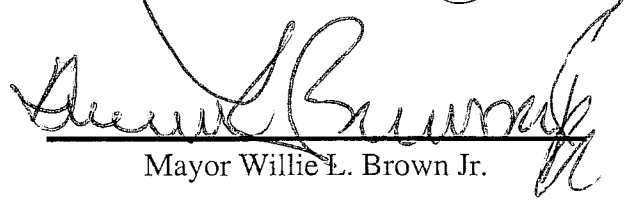
I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on August 6, 2001
by the Board of Supervisors of the City and
County of San Francisco.

AUG 17 2001

Date Approved



Gloria L. Young
Clerk of the Board



Mayor Willie L. Brown Jr.