

1 [Street Vacation in Connection with YBC Plan Amendment]

2 DECLARING THE INTENTION OF THE BOARD OF SUPERVISORS TO VACATE A
3 PORTION OF JESSIE STREET BETWEEN FOURTH AND FIFTH STREETS IN
4 CONNECTION WITH THE PROPOSED EXPANSION OF THE YERBA BUENA CENTER
5 REDEVELOPMENT PROJECT AREA AND DEVELOPMENT OF THE EMPORIUM SITE

AUGUST 28, 2000 AT 3:00 PM FOR

6 AND OTHER PROPERTY; SETTING THE HEARING DATE FOR/ALL PERSONS
7 INTERESTED IN THE PROPOSED VACATION OF THE STREET AREA; AND ADOPTING
8 FINDINGS THAT THE VACATION IS CONSISTENT WITH THE CITY'S GENERAL PLAN
9 AND EIGHT PRIORITY POLICIES OF CITY PLANNING CODE SECTION 101.1 AS THE
10 GENERAL PLAN IS PROPOSED TO BE AMENDED.

11 WHEREAS, Forest City Development Company of California, Inc., an affiliate of
12 Emporium Development, L.L.C., a California limited liability company controlled by Forest City
13 Enterprises and the developer of the proposed project on the Emporium site (the
14 "Developer"), has filed a petition for the vacation of a certain street area, the general location
15 and extent of which is a portion of Jessie Street between Fourth and Fifth Streets, as further
16 described below (the "Street Area"); and,

17 WHEREAS, The Street Area is shown in the Department of Public Works'
18 SUR Map No. 699, Change 1, dated November 30, 1999, and is more particularly described
19 in the legal description attached to such map, a copy of which map and accompanying legal
20 description is on file with the Clerk of the Board of Supervisors in File No. 992234 ;
21 and,

22 WHEREAS, The vacation and conveyance of the Street Area is necessary to fulfill the
23 objectives of the proposed amendment (the "Redevelopment Plan Amendment") to the
24 Redevelopment Plan for the Yerba Buena Center Redevelopment Project Area, which would
25 expand the Project Area to include additional territory containing a portion of the block

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1 bounded by Market, Fourth, Mission and Fifth Streets (including the site of the Emporium
2 building and related buildings and the Street Area) and a portion of Mission Street between
3 Fourth and Fifth Streets, specifically including Assessor's Block 3705, Lots 9, 10, 12, 13, 14,
4 15, 17, 18, 33, 38 and 43 (the "Emporium Site Area"); and,

5 WHEREAS, The City proposes to sell and convey the Street Area, concurrently with
6 the satisfaction of the conditions to the effectiveness of the vacation contemplated hereby, to
7 the Redevelopment Agency for the immediate reconveyance to the Developer of such site,
8 and the Developer would be required to dedicate, construct and convey to the City newly
9 routed portions of Jessie Street to Mission Street; and,

10 WHEREAS, Subject to the reservations and conditions specified in this resolution
11 below, the Street Area is unnecessary for present or prospective public use; and,

12 WHEREAS, The public convenience and necessity require that the City reserve and
13 except from the vacation of the Street Area solely the following: the non-exclusive easement
14 for the benefit of Pacific Bell and PG&E, in, upon, and over those certain portions of the Street
15 Area in which their respective in-place and functioning facilities are located as described in the
16 maps on file with the Clerk of the Board of Supervisors under File No. 992234, to the
17 extent necessary to maintain, operate, repair and remove such existing lines of pipe, conduits,
18 cables, wires, poles, and other appurtenant structures, equipment and fixtures for the
19 operation of existing gas pipelines, telegraphic, telecommunication and telephone lines,
20 existing street lighting facilities, and existing facilities for the transportation or distribution of
21 electric energy, and reasonable access to the foregoing facilities for the purposes set forth
22 above; and,

23 WHEREAS, The public convenience and necessity further require that any reserved or
24 excepted easements for existing utilities described in the preceding paragraph shall be
25 terminated in whole or in part, as appropriate, upon the earliest of (i) the termination of the

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1 easement under an instrument (if any) signed by Pacific Bell or PG&E, (ii) the City's
2 acceptance or conditional acceptance of a new dedicated public street (or streets) in place of
3 any of the Street Area in which such existing utilities are located or (iii) the determination by
4 the City's Director of Public Works that (A) reasonable alternative utility service has been
5 provided to the areas served by such utilities for the period of service needed or (B) the areas
6 served by the utilities no longer require such service (as may be evidenced by written notice
7 of the owners being served that such service is no longer required); and that any new public
8 utilities shall be placed in a new dedicated street designated by the Redevelopment Plan
9 Amendment pursuant to then applicable franchise rights or other applicable requirements of
10 controlling state or federal statutes, or otherwise in locations and on terms and conditions
11 reasonably satisfactory to the City's Director of Property and the Director of Public Works,
12 including without limitation, the location, term, width, scope, access rights and maintenance
13 rights of the new utilities; and,

14 WHEREAS, Except as specifically provided above and subject to the conditions set
15 forth below, the public convenience and necessity require no easements or other rights be
16 reserved for any public utility facilities that are in place in the Street Area and that any rights
17 based upon any such public utility facilities be extinguished upon the effectiveness of the
18 vacation; and,

19 WHEREAS, Any removal, relocation or abandonment of any in-place utilities required
20 or permitted to be performed in connection with the redevelopment of the Emporium Site Area
21 shall be done at no cost or expense to the City, provided that nothing herein shall be deemed
22 to preclude any future owner of the Street Area from charging a private party for or otherwise
23 causing a private party to bear the costs of such relocation where such charge or cost is
24 otherwise permitted by law; and,

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1 WHEREAS, The vacation of the Street Area shall be subject to satisfaction of the
2 certain conditions precedent on or before the effective date of the vacation, as set forth below;
3 and,

4 WHEREAS, On December 1, 1999, the Director of City Planning signed a letter, a copy
5 of which is on file with the Clerk of the Board of Supervisors in File No. 992234,
6 wherein the Director found that the proposed vacation of the Street Area is consistent with the
7 City's General Plan, including the street vacation criteria set forth in the Urban Design
8 Element, and with the Eight Priority Policies of City Planning Code Section 101.1, as the
9 General Plan is proposed to be amended in connection with the redevelopment of the
10 Emporium site; and,

11 WHEREAS, Before approving the vacation of the Street Area, the Board of Supervisors
12 will consider the information contained in the Final Supplemental Environmental Impact
13 Report for the Yerba Buena Redevelopment Project Area Expansion/ Emporium Site
14 Development and the Addendum thereto and make any findings required by the California
15 Environmental Quality Act and applicable regulations; and,

16 WHEREAS, Section 787(a) of the San Francisco Public Works Code provides that the
17 City and County will follow the procedure for vacating streets set forth in State law in the
18 Streets and Highways Code and such rules and conditions as are adopted by the Board of
19 Supervisors; now, therefore, be it

20 RESOLVED, That under Sections 8320 et seq. of the California Streets and Highway
21 Code, the Board of Supervisors hereby declares that it intends to order the vacation of the
22 Street Area, as described in the map referred to above on file with the Clerk of the Board of
23 Supervisors in File No. 992234; and, be it

24 FURTHER RESOLVED, That the vacation of the Street Area shall be conditioned upon
25 and shall not become effective until (i) the ordinance approving the Redevelopment Plan

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1 Amendment becomes effective, (ii) the Developer shall have irrevocably offered for
2 dedication, and the City shall have accepted or conditionally accepted the dedication, the
3 areas for the new routes for Jessie Street West and Jessie Street East, connecting to Mission
4 Street, as such new street areas are shown on the map on file with the Clerk of the Board in
5 File No. 992234 ("Jessie Street West" and "Jessie Street East"), including any public
6 utility facilities to be located on or under such properties, (iii) the Developer shall have entered
7 into a street improvement agreement with the City or obtained a street improvement permit
8 from the City for the construction of the new Jessie Street West and Jessie Street East in
9 accordance with improvement plans approved by the City, (iv) the Developer shall have
10 furnished the City with bonds or other security acceptable to the City with respect to the
11 Developer's obligations to complete construction of the street improvements for Jessie Street
12 West and Jessie Street East, including any required City utilities, (v) the City shall have
13 received grants of non-exclusive interim easements from the Developer in form and
14 substance approved by the Director of Property for in-place City utilities and pedestrian and
15 vehicular access over portions of the Street Area as provided in this Resolution and (vi) the
16 City shall have determined that all of the other conditions to the City's conveyance of the
17 Street Area to the Redevelopment Agency have been satisfied (or waived by the City); and
18 upon the satisfaction of such conditions (as conclusively evidenced by a letter from the
19 Director of Property and the Director of Public Works, or their designees, that such conditions
20 have been satisfied, including the satisfaction of such conditions through a simultaneous
21 escrow with the closing of the sale of the Street Area by the City) the Clerk of the Board of
22 Supervisors and the Director of Property shall be authorized and the Clerk shall be directed to
23 record (or cause to be recorded) a certified copy of the Ordinance ordering such vacation as
24 provided in Section 8325(a) of the California Streets and Highways Code, and thereupon such
25 vacation shall be effective without any further action by the Board of Supervisors; and, be it

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1 FURTHER RESOLVED, That the vacation proceeding of the Street Area is conducted
2 under the general vacation procedures of the Public Streets, Highways and Service
3 Easements Vacation Law (Streets and Highway Code Sections 8320 et seq.); and, be it

4 FURTHER RESOLVED, That notice is hereby given that on the Twenty-Eighth (28th)
5 day of August, 2000, beginning at 3:00 p.m. in the Legislative Chambers of the Board of
6 Supervisors, all persons interested in or objecting to the proposed vacation will be heard; and,
7 be it

8 FURTHER RESOLVED, That the San Francisco Board of Supervisors adopts as its
9 own and incorporates by reference herein as though fully set forth, the findings in the Director
10 of Planning's letter referred to above that the proposed vacation of the Street Area is in
11 conformity with proposed amendments to the General Plan and is consistent with the Eight
12 Priority Policies of Planning Code Section 101.1 as it is proposed to be amended; and, be it

13 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board
14 to transmit to the Department of Public Works a certified copy of this resolution, and the Board
15 of Supervisors urges the Director of Public Works to publish or post this resolution promptly in

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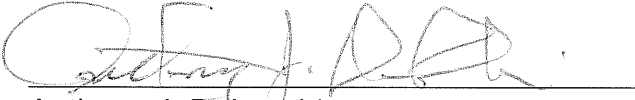
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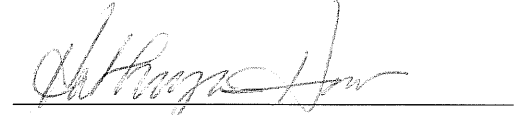
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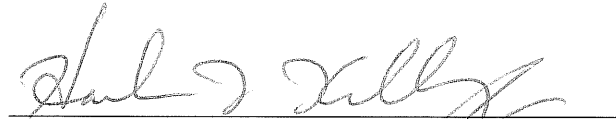
the manner required by law and to give notice of the hearing of such contemplated action in the manner required by law.

RECOMMENDED:

DESCRIPTIONS
APPROVED/CHECKED:


Anthony J. DeLucchi
Director of Property


Kathryn How
Acting City Engineer


Harlan Kelly, Jr.
Acting Director of Public Works



City and County of San Francisco

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

Tails Resolution

File Number: 992234

Date Passed:

Resolution declaring the intention of the Board of Supervisors to vacate a portion of Jessie Street between Fourth and Fifth Streets in connection with the proposed expansion of the Yerba Buena Center Redevelopment Project Area and development of the Emporium Site and other property; setting the hearing date for August 28, 2000 at 3:00 p.m. for all persons interested in the proposed vacation of the street area; and adopting findings that the vacation is consistent with the city's General Plan and Eight Priority Policies of city Planning Code Section 101.1 as the General Plan is proposed to be amended.

July 10, 2000 Board of Supervisors — SUBSTITUTED

July 31, 2000 Board of Supervisors — ADOPTED

Ayes: 8 - Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yee

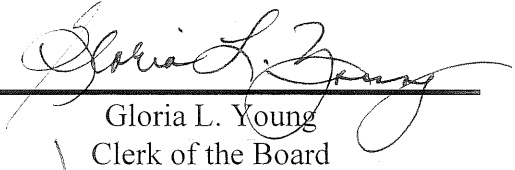
Noes: 1 - Ammiano

Absent: 1 - Yaki

Excused: 1 - Becerril

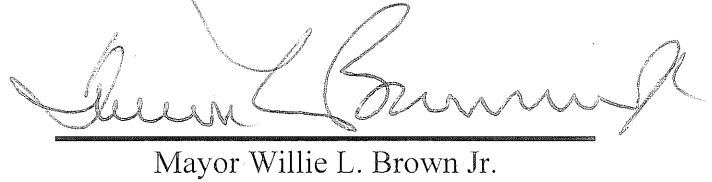
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I hereby certify that the foregoing Resolution was ADOPTED on July 31, 2000 by the Board of Supervisors of the City and County of San Francisco.


Gloria L. Young
Clerk of the Board

AUG - 2 2000

Date Approved


Mayor Willie L. Brown Jr.