

**From:** [Hill, Egan](#)  
**To:** [Gray, Matthew S. \(Perkins Coie\)](#); [sheelajivan@google.com](mailto:sheelajivan@google.com); [Phan, Johnny](#); [Day, Cameron](#); [Do, Ryan](#); [David Snow \(DSnow@rwglaw.com\)](#); [Casey Strong](#); [A-P Hurd](#); [Ekern, Bill](#); [Colli, Garrett J. \(Perkins Coie\)](#); [stsou@coblentzlaw.com](mailto:stsou@coblentzlaw.com)  
**Subject:** RE: Regroup on streets  
**Date:** Wednesday, May 12, 2021 11:31:00 AM  
**Attachments:** [1819439.docx](#)

---

Matthew,

Would you please review the attached cleaned-up version of Exhibit B to the vacation resolutions? If all looks good, this will be the final, posted version.

Thanks.

---

**From:** Gray, Matthew S. (Perkins Coie) <MGray@perkinscoie.com>  
**Sent:** Friday, April 30, 2021 11:28 AM  
**To:** Hill, Egan <Egan.Hill@sanjoseca.gov>; [sheelajivan@google.com](mailto:sheelajivan@google.com); Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Day, Cameron <Cameron.Day@sanjoseca.gov>; Do, Ryan <ryan.do@sanjoseca.gov>; David Snow (DSnow@rwglaw.com) <DSnow@rwglaw.com>; Casey Strong <CStrong@rwglaw.com>; A-P Hurd <aphurd@skipstonesea.com>; Ekern, Bill <Bill.Ekern@sanjoseca.gov>; Colli, Garrett J. (Perkins Coie) <GColli@perkinscoie.com>; [stsou@coblentzlaw.com](mailto:stsou@coblentzlaw.com)  
**Subject:** RE: Regroup on streets

[External Email]

This looks good to us, Egan. Thank you. Will look forward to working with AP (and with you when you return on the 10<sup>th</sup>) on the paragraph for the accompanying report that will list our planned improvements.

**Matthew Gray | Perkins Coie LLP**  
**PARTNER**  
505 Howard Street Suite 1000  
San Francisco, CA 94105  
D. +1.415.344.7082  
F. +1.415.344.7282  
E. [MGray@perkinscoie.com](mailto:MGray@perkinscoie.com)

---

**From:** Hill, Egan <[Egan.Hill@sanjoseca.gov](mailto:Egan.Hill@sanjoseca.gov)>  
**Sent:** Friday, April 30, 2021 11:08 AM  
**To:** [sheelajivan@google.com](mailto:sheelajivan@google.com); Phan, Johnny <[Johnny.Phan@sanjoseca.gov](mailto:Johnny.Phan@sanjoseca.gov)>; Day, Cameron <[Cameron.Day@sanjoseca.gov](mailto:Cameron.Day@sanjoseca.gov)>; Do, Ryan <[ryan.do@sanjoseca.gov](mailto:ryan.do@sanjoseca.gov)>; David Snow ([DSnow@rwglaw.com](mailto:DSnow@rwglaw.com)) <[DSnow@rwglaw.com](mailto:DSnow@rwglaw.com)>; Casey Strong <[CStrong@rwglaw.com](mailto:CStrong@rwglaw.com)>; A-P Hurd <[aphurd@skipstonesea.com](mailto:aphurd@skipstonesea.com)>; Ekern, Bill <[Bill.Ekern@sanjoseca.gov](mailto:Bill.Ekern@sanjoseca.gov)>; Gray, Matthew S. (SFO) <[MGray@perkinscoie.com](mailto:MGray@perkinscoie.com)>; Colli, Garrett J. (SFO) <[GColli@perkinscoie.com](mailto:GColli@perkinscoie.com)>; [stsou@coblentzlaw.com](mailto:stsou@coblentzlaw.com)

**Subject:** RE: Regroup on streets

Attached is the final draft form of the Vacation Resolution based on our discussion this morning. Please let me know if you have any additional comments. Thanks.

-----Original Appointment-----

**From:** [sheelajivan@google.com](mailto:sheelajivan@google.com) <[sheelajivan@google.com](mailto:sheelajivan@google.com)>

**Sent:** Thursday, April 29, 2021 3:00 PM

**To:** [sheelajivan@google.com](mailto:sheelajivan@google.com); Hill, Egan; Phan, Johnny; Day, Cameron; Do, Ryan; David Snow ([DSnow@rwglaw.com](mailto:DSnow@rwglaw.com)); Casey Strong; A-P Hurd; Ekern, Bill; [mgray@perkinscoie.com](mailto:mgray@perkinscoie.com); [gcolli@perkinscoie.com](mailto:gcolli@perkinscoie.com); [stsou@coblentzlaw.com](mailto:stsou@coblentzlaw.com)

**Subject:** Regroup on streets

**When:** Friday, April 30, 2021 9:30 AM-10:30 AM (UTC-08:00) Pacific Time (US & Canada).

**Where:**

[External Email]

-----Original Appointment-----

**From:** [sheelajivan@google.com](mailto:sheelajivan@google.com) <[sheelajivan@google.com](mailto:sheelajivan@google.com)>

**Sent:** Thursday, April 29, 2021 2:56 PM

**To:** [sheelajivan@google.com](mailto:sheelajivan@google.com); Ekern, Bill; A-P Hurd; [mgray@perkinscoie.com](mailto:mgray@perkinscoie.com); [gcolli@perkinscoie.com](mailto:gcolli@perkinscoie.com); [stsou@coblentzlaw.com](mailto:stsou@coblentzlaw.com); Phan, Johnny

**Subject:** Regroup on streets

**When:** Friday, April 30, 2021 9:30 AM-10:30 AM (UTC-08:00) Pacific Time (US & Canada).

**Where:**

[External Email]

**You have been invited to the following event.**

### Regroup on streets

When Fri Apr 30, 2021 9:30am – 10:30am Pacific Time - Los Angeles

Joining info Join with Google Meet

[meet.google.com/vcy-rtvs-zwv](https://meet.google.com/vcy-rtvs-zwv)

Join by phone

(US) [+1 224-420-9365](tel:+12244209365) (PIN: 562858879)

[More phone numbers](#)

Calendar [bill.ekern@sanjoseca.gov](mailto:bill.ekern@sanjoseca.gov)

Who

- [sheelajivan@google.com](mailto:sheelajivan@google.com) - organizer
- [bill.ekern@sanjoseca.gov](mailto:bill.ekern@sanjoseca.gov)
- [aphurd@skipstonesea.com](mailto:aphurd@skipstonesea.com)
- [mgray@perkinscoie.com](mailto:mgray@perkinscoie.com)
- [gcolli@perkinscoie.com](mailto:gcolli@perkinscoie.com)
- [stsou@coblentzlaw.com](mailto:stsou@coblentzlaw.com)
- [johnny.phan@sanjoseca.gov](mailto:johnny.phan@sanjoseca.gov)

[more details »](#)

Going ([bill.ekern@sanjoseca.gov](mailto:bill.ekern@sanjoseca.gov))? [Yes](#) - [Maybe](#) - [No](#) [more options »](#)

Invitation from [Google Calendar](#)

You are receiving this email at the account [bill.ekern@sanjoseca.gov](mailto:bill.ekern@sanjoseca.gov) because you are subscribed for invitations on calendar [bill.ekern@sanjoseca.gov](mailto:bill.ekern@sanjoseca.gov).

To stop receiving these emails, please log in to <https://calendar.google.com/calendar/> and change your notification settings for this calendar.

Forwarding this invitation could allow any recipient to send a response to the organizer and be added to the guest list, or invite others regardless of their own invitation status, or to modify your RSVP. [Learn More](#).

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

---

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## EXHIBIT B

### Public Works' Summary of the Proposed Vacation

#### Streets/ ROW Vacation

Since the Project documents were published for Planning Commission, the parties have determined that there are some small areas of City-controlled Right Of Way (ROW) that were intended to be included in the "Covenant Privately-Owned Publicly Accessible Open Space" but are not owned by the City or Google.

The newly-published documents include five additional resolutions that allow for conditional vacation of a portion of South Montgomery Street, Park Avenue, Otterson Street, and Cinnabar Street with the reservation of public easements over the entire area to be vacated ("Subject Portions"). On these five parcels-Subject Portions the vehicular component of the right of way will be vacated, and the bicycle and pedestrian components of the right-of-way ROW will to remain in place, which allows them to continue to function consistently with the proposed open space plan as defined in the DWDSG (in the event that neither the City or Google are able to acquire the underlying fee interest) (Citation: (See Str. & Hwy. § 8309; see also Martis Camp Community Association v. County of Placer, (2020) 53 Cal. App. 5th 569, 598 (2020) (confirming a local agency's ability to terminate certain public uses of a street through a vacation while reserving other public uses and rights of access)).

The parties also have agreed that modifications also clarify that if Google is unable to acquire and manage the space as "Covenant Privately-Owned Publicly Accessible Open Space," they-it will still pay for the maintenance of private improvements installed within the Subject Portion these spaces for a minimum of 50 years.

The Subject Portions is-are currently utilized as public streets. There are existing utilities which serve the areas and also a desire to allow continued bicycle and pedestrian access. Based on this, staff recommends that if the conditional vacation is approved, that Council reserve from the vacation public easements (for non-vehicular transportation and pedestrian access, utility purposes, and if applicable, emergency vehicle access (if applicable), pedestrian access and utility purposes) over the entire areas being vacated.

As described above, the Project documents, including the General Development Plan ("GDP") and the Downtown West Design Standards and Guidelines ("DWDSG"), assumed that motorized vehicular traffic would be removed from the Subject Property Portions. The Project's Environmental Impact Report and related studies evaluated the removal of motorized vehicular traffic from the Subject Property Portions consistent with the GDP and DWDSG.

These analyses document that the Subject Property Portions will be unnecessary for present or prospect motorized vehicular traffic use upon the satisfaction of the conditions described in Section 4 of the Resolution and are will be necessary for appropriate for public use as pedestrian and bicycle-oriented spaces.

Staff recommends the reservation of certain public easements from the proposed vacation as described in Section 5 of the Resolution. These include a public easement for "non-vehicular

**Formatted:** Font: Bold, Font color: Custom Color(RGB(32,33,36))

**Formatted:** paragraph, Centered, Font Alignment: Baseline

**Formatted:** Font: (Default) Times New Roman, Bold

**Formatted:** Centered

**Formatted:** Font: Italic

**EXHIBIT B**

transportation and pedestrian access purposes” including and-related “improvements,” which may include “street furniture, hardscaping and landscaping and other facilities that serve the public using the public easement.” For purposes of clarification, but not limitation, the following types of improvements are consistent with -the reserved easement and, may be installed in these areas subject to the Conformance Review process set forth in the Project documents:

1. street furniture, including seating and tables (both fixed and movable) and program decks;
2. landscaping, including tree groves & canopy trees and understory planting, and flex lawns;
3. public art and non-structural and removable maker spaces;
4. anchor plazas and promenades;
5. Kioskskiosks;
6. water features;
7. improvements relating to outdoor programming contemplated by the Project;
8. trellises and other shade canopy (structures);
9. improvements relating to event areas for temporary occupancy of the Subject Property-; and
10. raised planter beds.

**Formatted:** paragraph, Centered, Font Alignment: Baseline

**Formatted:** Font: Bold, Font color: Custom Color(RGB(32,33,36))