

1 [Mission Bay South – Ordering Street Vacation of portions of Fourth Street.]

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3 **Ordinance ordering the vacation of two (2) portions of Fourth Street from Third Street**  
4 **north to Channel Street; authorizing a grant in fee title of the City and County of San**  
5 **Francisco’s rights and interest in the vacated areas to FOCIL; authorizing reservations**  
6 **of certain utility easements in the vacated areas; adopting findings that such vacation**  
7 **of Fourth Street is consistent with the City General Plan and eight policies of City**  
8 **Planning Code Section 101.1 and the Mission Bay South Redevelopment Plan;**  
9 **adopting findings pursuant to the California Environmental Quality Act (CEQA);**  
10 **accepting Department of Public Works Order No. 175,536; and authorizing official acts**  
11 **in connection with this Ordinance.**

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13 Note: Additions are single-underline italics Times New Roman;  
14 deletions are ~~strikethrough italics Times New Roman~~.  
15 Board amendment additions are double underlined.  
16 Board amendment deletions are ~~strikethrough normal~~.

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

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

20 a. On \_\_\_\_\_, 2005, the Board of Supervisors adopted Resolution  
21 No. \_\_\_\_\_, a copy of which is in Clerk of the Board of Supervisors File No. 051397,  
22 being a Resolution declaring intention to order the vacation of two (2) portions of Fourth Street  
23 within Mission Bay South from Third Street north to Channel Street (the “Resolution of  
24 Intention”). The general location and extent of such street areas to be vacated are described  
25 as follows (collectively, the “Street Areas”):

1 Two portions of Fourth Street between Third Street and Channel Street, consisting of a  
2 total of approximately 62,816 Sq. Ft., as shown on the Department of Public Works' SUR Map  
3 No. 4003, dated July 22, 2005, and are more particularly described in the legal descriptions  
4 attached to such map, copies of such map and legal descriptions are on file with the Clerk of  
5 the Board of Supervisors in File No. 051397.

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

10 c. When such matter was considered as scheduled by the Board of Supervisors at  
11 its regular meeting held in the City Hall, San Francisco, on November 1, 2005, beginning at  
12 approximately ~~4:00 PM~~ 3:00 PM, the Board heard all persons interested in such vacation.

13 d. The vacation of the Street Areas and granting in fee title of the property to  
14 FOCIL are contemplated by and are necessary to fulfill the purposes of (i) the Redevelopment  
15 Plan for the Mission Bay South Redevelopment Project (the "Plan") and the Interagency  
16 Cooperation Agreements between the City and the City's Redevelopment Agency in  
17 furtherance of the implementation of the Plan, as approved pursuant to Board of Supervisors  
18 Ordinance No. 335-98, (ii) the Amended and Restated Mission Bay City Land Transfer  
19 Agreement, between the City and Catellus Development Corporation ("Catellus"), approved  
20 pursuant to Ordinance No. 330-98 (the "Amended CLTA"), as amended, (iii) the Amended and  
21 Restated Mission Bay Port Land Transfer Agreement, executed by the City and Catellus and  
22 approved pursuant to Ordinance No. 331-98, and (iv) the Amended and Restated Agreement  
23 Concerning the Public Trust, executed by and among the City, the City, acting by and through  
24 its Port Commission, Catellus and the State of California, acting by and through the State  
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1 Lands Commission approved pursuant to Ordinance No. 332-98 , all on file with the Clerk of  
2 the Board of Supervisors in Files No. 98-1441, 98-1435, 98-1436, and 98-1437, respectively,  
3 and such action is taken pursuant to California Streets and Highway Code Sections 8300 et.  
4 Seq. and Public Works Code Section 787(a).

5 e. From all the evidence submitted at the hearing on the Resolution of Intention,  
6 the Board of Supervisors finds that the Street Areas, as described in such Resolution, are  
7 unnecessary for present or prospective public use, subject to the reservations and conditions  
8 described in this Ordinance.

9 f. In a San Francisco Redevelopment Agency letter dated July 12, 2005, (the  
10 "Agency Letter"), a copy of which is on file with the Clerk of the Board of Supervisors in File  
11 No. 051397, and is incorporated by reference as though fully set forth herein, the Agency  
12 finds "that the action to vacate and grant in fee title the two portions of Fourth Street to  
13 FOCIL–MB, LLC, a Delaware limited liability company ("FOCIL") is consistent with the Mission  
14 Bay South Redevelopment Plan and Plan Documents, including the South Plan Area Master  
15 Streetscape Plan and recommends Board of Supervisors approval."

16 g. In a Planning Department letter Dated July 13, 2005, (the "Planning  
17 Department's Letter"), a copy of which is on file with the Clerk of the Board of Supervisors in  
18 File No. 051397, and is incorporated by reference as though fully set forth herein, the  
19 Planning Department determined that the vacation and property conveyance are consistent  
20 with the General Plan and eight priority policies and conform with CEQA.

21 h. In its Order No. 175,536, a copy of which is on file with the Clerk of the Board of  
22 Supervisors in File No. 051397, and is incorporated by reference as though fully set forth  
23 herein, the Department of Public Works found that with respect to the vacation of the Street  
24 Areas, there are no public utility facilities located or to be located in the Street Areas other  
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1 than those proposed to be reserved herein under Section 2, that the retention of the Street  
2 Areas would result in practical difficulties and unnecessary hardship affecting the adjacent  
3 properties inconsistent with the purpose and intent of the Mission Bay South Redevelopment  
4 Plan, and that the proposed vacation would not be materially detrimental to the public welfare  
5 or injurious to other property in the area.

6 Section 2. The public interest, convenience and necessity require that the City reserve  
7 and except from the vacation of the Street Areas solely the following: (i) a non-exclusive  
8 easement for the benefit of Pacific Gas & Electric, (ii) a non-exclusive easement for the  
9 benefit of City water, and (iii) a non-exclusive easement for the benefit of City storm\sewer, in,  
10 upon, and over that certain portion of the Street Areas in which their respective in-place,  
11 functioning facilities are located as shown on said SUR Map, to the extent necessary to  
12 maintain, operate, repair and remove such existing pipe lines, conduits, cables, wires, poles,  
13 and other convenient structures, equipment and fixtures for the operation of existing gas  
14 pipelines, water lines, and existing facilities for the distribution of gas, electricity, water and  
15 transportation or collection of storm/sewer water, and reasonable access to the foregoing  
16 facilities for the purposes set forth above.

17 Section 3. The public interest, convenience and necessity require that, except as  
18 specifically provided in this Ordinance, no other easements or other rights be reserved for any  
19 public utility facilities that are in place in such Street Areas and that any rights based upon any  
20 such public utility facilities are extinguished.

21 Section 4. The public interest and convenience require that the vacation be done as  
22 declared in the Resolution of Intention.

23 Section 5. The Board of Supervisors hereby finds that the vacation of the Street Areas  
24 and grant in fee title the two portions of Fourth Street to FOCIL are in conformity with the  
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1 General Plan, and are consistent with the eight priority policies of Planning Code Section  
2 101.1 for the same reasons as set forth in the Planning Department letter dated July 13, 2005,  
3 and hereby incorporates such findings by reference as though fully set forth in this Ordinance.

4 Section 6. The Board of Supervisors hereby finds that the vacation of the Street Areas  
5 and grant in fee title the two portions of Fourth Street to FOCIL are consistent with the Mission  
6 Bay South Redevelopment Plan and Plan Documents, described therein, for the same  
7 reasons as set forth in the Redevelopment Agency letter dated July 12, 2005, and hereby  
8 incorporates such findings by reference as though fully set forth in this Ordinance

9 Section 7. The Street Areas are hereby ordered vacated in the manner described in  
10 the Resolution of Intention and pursuant to California Streets and Highway Code Sections  
11 8300 et. seq.

12 Section 8. The Board of Supervisors hereby authorizes conveyance of the attached  
13 City Quitclaim to FOCIL excepting therefrom the easements reserved herein as described in  
14 Section 2 above.

15 Section 9. The Board of Supervisors hereby directs the Clerk of the Board of  
16 Supervisors to transmit to the Director of Public Works a certified copy of this Ordinance, and  
17 the Board of Supervisors hereby urges the Director of Public Works to proceed in the manner  
18 required by law. The Clerk of the Board is also hereby directed to transmit to the Recorder a  
19 certified copy of this Ordinance so that this Ordinance may be recorded.

20 Section 10. All actions heretofore taken by the officers of the City with respect to such  
21 vacation of the Street Areas and grant in fee title the two portions of Fourth Street to FOCIL  
22 are hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board, Director of  
23 Property, and Director of Public Works are hereby authorized and directed to take any and all  
24 actions which they or the City Attorney may deem necessary or advisable in order to  
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1 effectuate the purpose and intent of this Ordinance (including, without limitation, confirmation  
2 of satisfaction of any of the conditions to the effectiveness of the vacation of any of the Street  
3 Areas and grant in fee title the two portions of Fourth Street to FOCIL hereunder and  
4 confirmation of the termination of any easements reserved hereunder pursuant to Sections 2  
5 and 8 of this Ordinance and execution and delivery of any evidence of the same, which shall  
6 be conclusive as to the satisfaction of such conditions upon signature by any such City official  
7 or his or her designee.)

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RECOMMENDED:

RECOMMENDED:

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Edwin M. Lee  
Director of Public Works

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Robert P. Beck  
Deputy Director of Engineering

\_\_\_\_\_  
Steve Legnitto  
Director of Property

APPROVED AS TO FORM:  
DENNIS HERRERA, City Attorney

By \_\_\_\_\_  
John D. Malamut  
Deputy City Attorney