

1 [Acceptance of Sewer Main and Reissuance of Encroachment Permit for Poppy Lane]

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3 **Ordinance accepting an irrevocable offer for a sewer main; dedicating said**
4 **improvements for public use; accepting a sewer main on Poppy Lane for maintenance**
5 **and liability purposes; rescinding Resolution No. 493-00 in order to modify and reissue**
6 **the major encroachment permit for 101 Poppy Lane in accordance with this Ordinance;**
7 **accepting Department of Public Works Order No. 178,477; adopting environmental**
8 **findings and findings that such actions are consistent with the City's General Plan and**
9 **the eight priority policies of City Planning Code section 101.1; and authorizing official**
10 **acts in connection with this Ordinance.**

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

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

16 Section 1. Findings.

17 (a) On June 9, 2000, the City and County of San Francisco approved Resolution No.
18 493-00 that approved a major encroachment permit for various street improvements in Poppy
19 Lane, and unaccepted public right-of-way. A copy of this Resolution is on file with the Clerk of
20 the Board of Supervisors in File No. 000618 and is incorporated herein by reference.

21 (b) Patricia F. Reilly, former owner of and permittee for 101 Poppy Lane, has
22 constructed and maintained certain street improvements, including a sewer main, in and on
23 Poppy Lane in accordance with the above-mentioned Resolution and associated permit and
24 maintenance agreement. Byron G. Rouda and Lynette M. Cayson (Permittee), the current
25 owners of 101 Poppy Lane, will continue to maintain the street improvements associated with

1 the major encroachment permit; however, the Permittee, in an Offer of Improvements dated
2 November 2, 2009, has irrevocably offered the sewer main in Poppy Lane to the City, acting
3 by and through the Department of Public Works (Department), for public use and has
4 requested that the Board of Supervisors accept the sewer main for public maintenance and
5 liability purposes. A copy of said letter is on file with the Clerk of the Board of Supervisors in
6 File No. 100029 and is incorporated herein by reference.

7 (c) The City Planning Department, in a letter dated November 19, 1999, determined
8 that the major encroachment permit and associated street improvements are in conformance
9 with the General Plan and the eight priority policies of Planning Code Section 101.1. A copy
10 of the Planning Department letter is on file with the Clerk of the Board of Supervisors in File
11 No. 100029 and is incorporated by reference as though fully set forth herein.

12 (d) The Planning Department has completed environmental review of this Ordinance
13 pursuant to the California Environmental Quality Act ("CEQA"), California Public Resources
14 Code Sections 21000 et seq. and Chapter 31 of the San Francisco Administrative Code.
15 Documentation of that review is on file with the Clerk of the Board of Supervisors in File No.
16 _____ and is incorporated herein by reference.

17 (e) In DPW Order No. 178, 477, approved December 1, 2009, the Director of the
18 Department and the City Engineer, in conjunction with the General Manager of the Public
19 Utilities Commission, certify that the subject sewer main: (1) has been constructed in
20 accordance with all City codes, regulations, and standards, (2) has been inspected and was
21 certified as complete on October 7, 2009, and (3) is ready for its intended use. Further in
22 DPW Order No. 178, 477, the Director recommends acceptance of the irrevocable offer of
23 the sewer main, dedication of the sewer main to public use, and acceptance of the sewer
24 main for maintenance and liability purposes. A copy of the DPW Order is on file with the Clerk
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1 of the Board of Supervisors in File No. 100029 and is incorporated by reference
2 herein.

3 Section 2. Acceptance of the Sewer Main.

4 (a) The Board of Supervisors adopts as its own the General Plan and Planning Code
5 Section 101.1 consistency findings of the Planning Department for purposes of the actions set
6 forth herein.

7 (b) The Board of Supervisors has reviewed and approves the City Engineer's
8 certification and Director of the Department of Public Works recommendation in DPW Order
9 No. 178,477 concerning the sewer main.

10 (c) The Board of Supervisors accepts the irrevocable offer of the sewer main as
11 recommended in DPW Order No. 178, 477.

12 (d) Pursuant to California Streets and Highways Code Section 1806 and San
13 Francisco Administrative Code Sections 1.51 et seq., and the Department of Public Works
14 Order No. 178,477, dated December 1, 2009, the Board of Supervisors hereby dedicates
15 the sewer main for public use and accepts the sewer main for maintenance and liability
16 purposes as recommended.

17 (e) The sewer main accepted by the Board pursuant to Subsection (c) and (d) is
18 subject to the following: (1) all other encroachments that are permitted, not permitted, or both
19 on Poppy Lane are specifically excluded from acceptance and (2) the acceptance of the
20 sewer main does not obviate, amend, alter, or in any other way affect existing maintenance
21 agreements between the City and parties to such maintenance agreements other than in
22 connection with the sewer main as set forth herein.

23 Section 3. Rescission of Prior Resolution Concerning the Major Encroachment Permit
24 and Reissuance of Permit.

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1 (a) The Board of Supervisors hereby rescinds Resolution No. 493-00 in its entirety and
2 reissues the Major Encroachment Permit that was the subject of that Resolution to the
3 successor property owner of 101 Poppy Lane.

4 (b) The new major encroachment permit and an associated encroachment agreement
5 shall acknowledge that the Poppy Lane sewer main improvement is accepted for public use,
6 maintenance, and liability purposes and that the Permittee's maintenance and liability
7 responsibility for said sewer main has been terminated.

8 (c) With the exception of the sewer main, maintenance and liability responsibility for
9 the street improvements and other conditions and terms that were the subject of Resolution
10 No. 493-00 shall be incorporated into this permit as well as any additional terms and
11 conditions of this Ordinance, including the payment of applicable right-of-way occupancy
12 assessment fees.

13 (d) Drafts of the new permit and associated street encroachment agreement, which
14 are incorporated herein by reference and are on file with the Clerk of the Board of Supervisors
15 in File No. 100029, shall not become effective until:

16 (1) The Permittee executes and acknowledges the permit and delivers said permit to
17 the City's Controller,

18 (2) Permittee delivers to the City Controller a policy of insurance provided for in said
19 agreement and the Controller shall have had approved the same as complying with the
20 requirement of said agreement. The Controller may, in his discretion, accept, in lieu of said
21 insurance policy, the certificate of an insurance company certifying to the existence of such a
22 policy; and,

23 (3) The Department of Public Works records the permit and associated agreement in
24 the office of the County Recorder;

1 Section 4. The Board of Supervisors hereby authorizes and directs the Director of the
2 Department to take any and all actions that he or she or the City Attorney may deem
3 necessary or advisable in order to effectuate the purpose and intent of this Ordinance
4 including, without limitation, finalizing the reissued major encroachment permit and
5 encroachment agreement for 101 Poppy Lane.

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7 RECOMMENDED:
8 DEPARTMENT OF PUBLIC WORKS

9 By: _____
10 Edward D. Reiskin
11 Director of Public Works

12 APPROVED AS TO FORM:
13 DENNIS J. HERRERA, City Attorney

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15 By: _____
16 John D. Malamut
17 Deputy City Attorney

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