

FILE NO. 051397

RESOLUTION NO. _____

1 [Mission Bay South - Street Vacation of Portions of Fourth Street.]

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3 **Resolution declaring the intention of the Board of Supervisors to vacate two (2)**
4 **portions of Fourth Street within Mission Bay South from Third Street north to Channel**
5 **Street; setting the hearing date for November 1, 2005 at 3:00 p.m. for all persons**
6 **interested in the proposed vacation of the street area; adopting findings that the**
7 **proposed vacation is consistent with the San Francisco General Plan and eight priority**
8 **policies of San Francisco Planning Code Section 101.1 and the Mission Bay South**
9 **Redevelopment Plan; and making environmental findings.**

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11 WHEREAS, The vacation proceeding for a portion of Fourth Street in Mission Bay South, is
12 conducted under the general vacation procedures of the Public Streets, Highways and
13 Service Easements Vacation Law (California Streets and Highway Code Sections 8300 et
14 seq.); and,

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

19 WHEREAS, The vacation and subsequent granting in fee title to FOCIL-MB, LLC, a
20 Delaware limited liability company ("FOCIL"), of those two portions of the Fourth Street Area
21 within Mission Bay are contemplated by and are necessary to fulfill the purposes of (i) the
22 Redevelopment Plan for the Mission Bay South Redevelopment Project (the "Plan") and the
23 Interagency Cooperation Agreements between the City and the City's Redevelopment Agency
24 in furtherance of the implementation of the Plan, as approved pursuant to Board of
25 Supervisors Ordinance No. 335-98, (ii) the Amended and Restated Mission Bay City Land

1 Transfer Agreement, executed by the City and Catellus Development Corporation, a Delaware
2 corporation ("Catellus"), approved pursuant to Ordinance No. 330-98, as amended, (iii) the
3 Amended and Restated Mission Bay Port Land Transfer Agreement, executed by the City and
4 Catellus and approved pursuant to Ordinance No. 331-98 and (iv) the Amended and Restated
5 Agreement Concerning the Public Trust, executed by and among the City, the City, acting by
6 and through its Port Commission, Catellus and the State of California, acting by and through
7 the State Lands Commission approved pursuant to Ordinance No. 332-98, all on file with the
8 Clerk of the Board of Supervisors in File No.s 98-1441, 98-1435, 98-1436, and 98-1437,
9 respectively; and,

10 WHEREAS, The general location and extent of such street areas to be vacated are
11 described as follows:

12 Two portions of Fourth Street between Third Street and Channel Street,
13 consisting of a total of approximately 62,816 Sq. Ft., as shown on the Department of Public
14 Works' SUR Map No. 4003, dated July 22, 2005, and are more particularly described in the
15 legal descriptions attached to such map (the "Street Areas"), copies of such map and legal
16 descriptions are on file with the Clerk of the Board of Supervisors in File No. 051397; and,

17 WHEREAS, Subject to the reservations and conditions specified in this Resolution, all
18 of the Street Areas are unnecessary for present or prospective public use and are being
19 replaced by the construction of Channel; and,

20 WHEREAS, The public interest, convenience, and necessity require that the City
21 reserve and except from the vacation of the Street Areas solely the following: (i) a non-
22 exclusive easement for the benefit of Pacific Gas & Electric, (ii) a non-exclusive easement for
23 the benefit of City water, and (iii) a non-exclusive easement for the benefit of City storm\sewer
24 in, upon, and over that certain portion of the Street Areas in which the respective in-place,
25 functioning facilities are located as shown on said SUR Map, to the extent necessary to

1 maintain, operate, repair and remove such existing pipe lines, conduits, cables, wires, poles,
2 and other convenient structures, equipment and fixtures for the operation of existing gas
3 pipelines, water lines, and existing facilities for the distribution of gas, electricity, water and
4 transportation or collection of storm/sewer water, and reasonable access to the foregoing
5 facilities for the purposes set forth above; and,

6 WHEREAS, Except as specifically provided above, the public convenience and
7 necessity require no other easements or other rights be reserved for any public utility facilities
8 that are in place in the Street Areas and that any rights based upon any such public utility
9 facilities be extinguished; and,

10 WHEREAS, In a letter dated July 12, 2005, a copy of which is on file with the Clerk of
11 the Board of Supervisors in File No. 051397, the San Francisco Redevelopment Agency finds
12 “that the action to vacate and grant in fee tile the two portions of Fourth Street to FOCIL is
13 consistent with the Mission Bay South Redevelopment Plan and Plan Documents, described
14 therein, including the South Plan Area Master Streetscape Plan, and recommends Board of
15 Supervisors approval”; and,

16 WHEREAS, In a letter dated July 13, 2005, a copy of which is on file with the Clerk of the
17 Board of Supervisors in File No. 051397, the City Planning Department determined that the
18 vacation and property conveyance are consistent with the General Plan and eight priority
19 policies and conform with CEQA; now, therefore, be it

20 RESOLVED, That under Section 8320 of the California Streets and Highway Code, the
21 Board of Supervisors hereby declares that it intends to order the vacation of the Street Area,
22 as shown on the SUR Map and described in the legal descriptions described above; and, be it

23 FURTHER RESOLVED, That notice is hereby given that on the first day of November,
24 2005, beginning at approximately ~~4:00~~ 3:00 PM in the Legislative Chambers of the Board of
25 Supervisors, all persons interested in or objecting to the proposed vacation will be heard; and,

1 be it

2 FURTHER RESOLVED, That the San Francisco Board of Supervisors adopts as its
3 own and incorporates by reference herein as though fully set forth, the findings in the San
4 Francisco Redevelopment Agency concerning consistency with the Mission Bay South
5 Redevelopment Plan; and, be it

6 FURTHER RESOLVED, That the San Francisco Board of Supervisors adopts as its
7 own and incorporates by reference herein as though fully set forth, the findings in the Planning
8 Department concerning consistency with the City General Plan, eight priority policies, and
9 compliance with CEQA; and, be it

10 FURTHER RESOLVED, That the San Francisco Board of Supervisors adopts as its
11 own and incorporates by reference herein as though fully set forth, the finding of the
12 Department of Public Works, Order No. 175,536, finding that there are no public utility
13 facilities located or to be located in the Street Areas other than those proposed to be reserved,
14 that the retention of the Street Areas would result in practical difficulties and unnecessary
15 hardship affecting the adjacent property inconsistent with the purpose and intent of the
16 Mission Bay South Redevelopment Plan, and that the proposed vacation would not be
17 materially detrimental to the public welfare or injurious to other property in the area; and, be it

18 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board
19 to transmit to the Department of Public Works a certified copy of this Resolution, and the
20 Board of Supervisors urges the Director of Public Works to publish and post this Resolution
21 and to give proper notice of the hearing of such contemplated action in the manner required
22 by law.

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1 RECOMMENDED:

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3 See original for signature

4 Edwin M. Lee
5 Director of Public Works

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9 Steve Legnitto
10 Director of Property

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RECOMMENDED:

Robert P. Beck
Deputy Director of Engineering