

FILE NO. 98-1333ORDINANCE NO. 328-98

1 [Mission Bay Street Vacation]

2 ORDERING THE VACATION OF CERTAIN STREET AREAS WITHIN MISSION BAY;
3 ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY
4 ACT; AND ADOPTING FINDINGS THAT SUCH VACATION OF STREET AREAS IS
5 CONSISTENT WITH THE CITY'S GENERAL PLAN AND EIGHT PRIORITY POLICIES OF
6 CITY PLANNING CODE SECTION 101.1.

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

8 Section 1. FINDINGS. The Board of Supervisors of the City and County of
9 San Francisco finds, determines and declares as follows:

10 A. On August 24, 1998, the Board of Supervisors adopted Resolution
11 No. 705-98, being a Resolution of Declaration of Intention to Order the Vacation of
12 Certain Street Areas Within Mission Bay (the "Resolution of Intention"). The general location
13 and extent of such street areas to be vacated are described as follows (collectively, the
14 "Street Areas"):

- 15 1. Illinois Street between Merrimac Street and Sixteenth Street;
- 16 2. El Dorado Street east of Illinois Street;
- 17 3. Alameda Street west of Illinois Street;
- 18 4. Portions of Illinois Street between Sixteenth Street and Mariposa Street;
- 19 5. Portion of Louisiana Street adjacent to Terry Francois Boulevard;
- 20 6. Portions of Fourth Street between Third Street and Louisiana Street;
- 21 7. Merrimac Street west of Illinois Street;
- 22 8. Illinois Street between Merrimac Street and Fourth Street;
- 23 9. Portion of Fourth Street north of Mission Rock Street;
- 24 10. Portion of Hubbell Street between Third Street and Fourth Street;
- 25 11. Portion of Berry Street between Third Street and Fourth Street;

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- 1 12. Fifth Street between Townsend Street and King Street;
- 2 13. Jewett Street between Fourth Street and Fifth Street;
- 3 14. Portion of Berry Street between Fifth Street and Sixth Street;
- 4 15. Sixth Street between Berry Street and Channel Street;
- 5 16. Portion of Berry Street between Fourth Street and Fifth Street;
- 6 17. Fifth Street between Berry Street and Channel Street;
- 7 18. King Street between Sixth Street and Seventh Street;
- 8 19. Portion of Berry Street between Sixth Street and Seventh Street;
- 9 20. Sixth Street south of Townsend Street;
- 10 21. Portion of King Street east of Sixth Street;
- 11 22. Portion of Owens Street west of Sixth Street;
- 12 23. Portions of Owens Street between Channel Street and Sixteenth Street;
- 13 24. Portions of Sixth Street between Channel Street and Sixteenth Street;
- 14 25. Pennsylvania Avenue between Sixteenth Street and Seventh Street;
- 15 26. Sixth Street between Sixteenth Street and former Tennessee Street; and
- 16 27. Portion of Mission Rock Street east of Fourth Street.

17 B. The Street Areas are shown in the Department of Public Works' SUR Maps
18 Nos. 998, 1098, 1198, 1298, 1398, 1498, 1598, 1698, 1798, 1898, 1998 and 2098,
19 dated August 7, 1998, and are more particularly described in the legal descriptions attached to
20 such maps. Copies of such maps and legal descriptions are on file with the Clerk of the
21 Board of Supervisors in File No. 981332.

22 C. The Clerk of the Board of Supervisors did transmit to the Director of the
23 Department of Public Works a certified copy of the Resolution of Intention, and the Director of
24 the Department of Public Works did cause notice of adoption of such resolution to be posted
25 in the manner required by law.

1 D. When such matter was considered as scheduled by the Board of Supervisors at
2 its regular meeting held in the City Hall, San Francisco, on October 19, 1998, beginning
3 at 3:00 p.m., the Board heard all persons interested in such vacation.

4 E. The vacation of the Street Areas is contemplated by and is necessary to fulfill
5 the purposes of (i) the Redevelopment Plans for the Mission Bay North Redevelopment
6 Project and the Mission Bay South Redevelopment Project (the "Plans") and the Interagency
7 Cooperation Agreements between the City and the Redevelopment Agency of the City and
8 County of San Francisco in furtherance of the implementation of the Plans, as approved
9 pursuant to Board of Supervisors Ordinance Nos. 327-98 and 335-98, (ii) the
10 Amended and Restated Mission Bay City Land Transfer Agreement, between the City and
11 Catellus Development Corporation ("Catellus"), approved pursuant to Ordinance No.
12 330-98 (the "Amended CLTA"), (iii) the Amended and Restated Mission Bay Port Land
13 Transfer Agreement, executed by the City and Catellus and approved pursuant to Ordinance
14 No. 331-98 (the "Amended PLTA"), and (iv) the Land Donation Agreement between
15 the City and The Regents of the University of California approved pursuant to Resolution
16 No. 881-98. Although Mission Rock Street is not a dedicated or accepted City
17 street, a portion of such street area (No. 27 above) is included in this vacation proceeding in
18 order for the City to fulfill its obligations to Catellus with respect to the condition of title to such
19 property pursuant to the Amended PLTA and the Amended CLTA.

20 F. From all the evidence submitted at the hearing on the Resolution of Intention,
21 the Board of Supervisors finds that the Street Areas, as described in such resolution, are
22 unnecessary for present or prospective public use, subject to the reservations and conditions
23 described in this Ordinance.

24 G. On September 17, 1998, the City Planning Commission, by
25 Motion No. 14696, and the Redevelopment Agency Commission, by

1 Resolution No. 182-98, certified the Final Subsequent Environmental Impact Report
2 for the Mission Bay Project ("Final SEIR") as accurate, adequate and objective and in
3 compliance with the California Environmental Quality Act ("CEQA"), which certification was
4 affirmed by the Board of Supervisors by Motion No. M98-132.

5 H. This Board of Supervisors has reviewed and considered the information
6 contained in the Final SEIR.

7 I. For purposes of compliance with CEQA, the vacation of the Street Areas are
8 part of the Mission Bay project examined in the Final SEIR for which the Board of
9 Supervisors, by Resolution No. 854-98, has adopted findings with respect to the
10 Final SEIR as required by CEQA, which findings are on file with the Clerk of the Board of
11 Supervisors under File No. 98-1427, and which findings are incorporated herein by
12 this reference.

13 J. On September 17, 1998, the Planning Commission adopted
14 Resolution No. 14699, a copy of which is on file with the Clerk of the Board of
15 Supervisors in File No. 981434, wherein the Planning Commission found that the
16 vacation of the Street Areas is consistent with the City's General Plan and with the Eight
17 Priority Policies of City Planning Code Section 101.1.

18 K. On September 22, 1998, the Port Commission by Resolution
19 No. 98-96 approved the vacation of those Street Areas that are within Port
20 jurisdiction and recommended adoption of this Ordinance by the Board of Supervisors.

21 Section 2. The public convenience and necessity require that the City reserve and
22 except from the vacation of the Street Areas solely the following: the non-exclusive easement
23 and right for the benefit of Pacific Bell and PG&E, in, upon, and over those certain portions of
24 the Street Areas in which their respective in-place and functioning facilities are located as
25 described in the maps on file with the Clerk of the Board of Supervisors under

1 File No. 98-1333, to the extent necessary to maintain, operate, repair and remove
2 such existing lines of pipe, conduits, cables, wires, poles, and other convenient structures,
3 equipment and fixtures for the operation of existing gas pipelines, telegraphic,
4 telecommunication and telephone lines, and existing street lighting facilities, and existing
5 facilities for the transportation or distribution of electric energy, and reasonable access to the
6 foregoing facilities for the purposes set forth above.

7 Section 3. The public convenience and necessity further require: that any reserved or
8 excepted easements for existing utilities described in the preceding section shall be
9 terminated in whole or in part, as applicable, upon the earliest of (i) the termination of any
10 applicable easement pursuant to any agreement entered into with Pacific Bell or PG&E
11 pursuant to its terms, (ii) the City's acceptance of a new dedicated public street (or streets) in
12 place of any of the Street Areas in which such existing utilities are located or (iii) the
13 determination by the City's Director of Public Works that either (A) reasonable alternative
14 utility service has been provided to the areas served by such utilities for the period of service
15 needed or (B) the areas served by the utilities no longer require such service (as may be
16 evidenced by written notice of the owners being served that such service is no longer
17 required); and that any new public utilities shall be placed in the new dedicated street
18 pursuant to then applicable franchise rights or other applicable requirements of controlling
19 state or federal statutes, consistent with the applicable infrastructure plan under the
20 applicable Interagency Cooperation Agreement or otherwise in locations and on terms and
21 conditions reasonably satisfactory to the City's Director of Property, the Director of Public
22 Works, and where appropriate, the Executive Director of the Port Commission, including
23 without limitation, the location, term, width, scope, access rights and maintenance rights of
24 the new utilities.

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1 Section 4. Any removal or relocation of a utility for which an easement has been
2 reserved or excepted herein for the benefit of any party shall be performed at no cost or
3 expense to the City, including its Port, provided that nothing in this Ordinance shall be
4 deemed to preclude any future owner of the Street Areas from charging a third party for or
5 otherwise causing a third party to bear the costs of such relocation where such charge or cost
6 is otherwise permitted by law.

7 Section 5. The public convenience and necessity require that in connection with the
8 Initial Closing as defined in and determined under the Amended CLTA, the City shall receive
9 grants of non-exclusive easements from Catellus for existing in-place City utilities, the reason
10 for which will arise due to the vacation of the Street Areas, such easements to be in the form
11 and on such terms as provided in Section 5.1.3.1 of the Amended CLTA.

12 Section 6. The public convenience and necessity require that, except as specifically
13 provided in this Ordinance above, no easements or other rights be reserved for any public
14 utility facilities that are in place in such Street Areas and that any rights based upon any such
15 public utility facilities are extinguished.

16 Section 7. The vacation of the Street Areas shall be subject to the following grants of
17 private rights of access on or before the effective date of the vacation as provided herein:
18 (i) in connection with the Initial Closing as defined in and determined in accordance with the
19 Amended CLTA, the City shall receive grants of non-exclusive interim easements from
20 Catellus, in, upon, over and across portions of the Street Areas shown on the map(s) on file
21 with the Clerk of the Board of Supervisors under File No. 98-1332, for pedestrian and
22 vehicular access to other properties, (ii) in connection with the donation of property by the
23 City to the Regents pursuant to the UCSF Land Donation Agreement and the vacation of the
24 portion of Sixth Street between Channel and Sixteenth Streets described herein, the City
25 shall receive a grant of a non-exclusive interim right of access from The Regents (or reserve

1 an easement from its donation of land to The Regents) on the terms and conditions described
2 in the UCSF Land Donation Agreement; (iii) in connection with the Initial Closing as defined in
3 and determined in accordance with the Amended CLTA, the City shall grant to Catellus the
4 non-exclusive interim easement for the benefit of Catellus and its agents, tenants and
5 licensees in, upon, over and across portions of the Street Areas shown on the map(s) on file
6 with the Clerk of the Board of Supervisors under File No. 98-1332, for access to
7 certain of Catellus' other properties in Mission Bay South, pursuant to the terms and
8 conditions of Section 5.1.3.1 of the Amended CLTA, (iv) the City and Catellus shall grant to
9 the owner of the property described as 1900 Third Street, a non-exclusive license for access
10 to its property in, upon, over and across certain property as described in the license
11 agreement between the City, Catellus Development Corporation and 1900 Third Street
12 Associates on file with the Clerk of the Board in File No. 98-1501, on the terms and
13 conditions of such license agreement, (v) the City, through its Port Commission, shall grant
14 interim non-exclusive access for its houseboat tenants over that portion of Sixth Street south
15 of the Channel shown on the map(s) on file with the Clerk of the Board of Supervisors in File
16 No. 98-1332 until such time as alternative access is provided in accordance with the
17 Redevelopment Plan for the Mission Bay South Project, and (vi) with respect to certain
18 portions of the Street Areas described as Nos. 22 and 24 above and shown on the map on
19 file with the Clerk of the Board of Supervisors in File No. 98-1332, the City or Catellus
20 shall grant to Caltrans an interim license, on mutually acceptable terms and conditions, for a
21 private right of access over such portions of such Street Areas in order to reconstruct, repair,
22 retrofit, operate, maintain and inspect highway facilities on Caltrans' adjoining right of way.

23 Section 8. The public interest and convenience require that the vacation be done as
24 declared in the Resolution of Intention.

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1 Section 9. That the Board of Supervisors hereby finds that the vacation of the Street
2 Areas is in conformity with the General Plan and is consistent with the Eight Priority Policies
3 of Planning Code Section 101.1 for the same reasons as set forth in the Planning
4 Commission Resolution No. 14699, and hereby incorporates such findings by
5 reference as though fully set forth in this Ordinance.

6 Section 10. The Board of Supervisors finds that the vacation of the Street Areas under
7 this Ordinance is part of the Mission Bay Project described in the Final SEIR and hereby
8 adopts and incorporates the findings under CEQA contained in Resolution
9 No. 854-98 by this reference thereto as though such findings were fully set forth in
10 this Ordinance.

11 Section 11. The Board of Supervisors has acquired jurisdiction to order such vacation
12 subject to the reservation of easements described in this Ordinance above.

13 Section 12. The Street Areas are hereby ordered vacated in the manner described in
14 the Resolution of Intention, subject to and effective upon the occurrence of the following
15 conditions: (i) as to such Street Areas located outside of the jurisdiction of the Port
16 Commission, the occurrence of the Initial Closing under the Amended CLTA, (ii) as to such
17 Street Areas located within the jurisdiction of the Port Commission, the occurrence of the
18 Closing under the Amended PLTA, which is intended to occur simultaneously with the Initial
19 Closing under the Amended CLTA, (iii) as to those Street Areas that are affected, the grants
20 of private rights of access as are specified in Section 7 of this Ordinance, (iv) with respect to
21 the Street Area described as a portion of Berry Street between Fourth Street and Fifth Street
22 (No. 16 above), Caltrans' approval of necessary lane and turn modifications consistent with
23 the infrastructure plan needed to implement the Redevelopment Plan for the Mission Bay
24 North Project Area, and (v) with respect to the Street Area described as King Street between
25 Sixth Street and Seventh Street and Sixth Street south of Townsend Street (Nos. 18 and 20

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1 above), approval by the Joint Powers Board and the California Public Utilities Commission of
2 a new grade crossing at or about Hooper Street consistent with the infrastructure plan
3 needed to implement the Plans. Immediately upon the occurrence of such closings the Clerk
4 of the Board of Supervisors and the Director of Property are authorized and the Clerk is
5 directed to record (or cause to be recorded) a certified copy of this Ordinance as provided in
6 Section 8325(a) of the California Streets and Highways Code, and thereupon such vacation
7 shall be effective without any further action of the Board of Supervisors.

8 Section 13. The Board of Supervisors hereby directs the Clerk of the Board of
9 Supervisors to transmit to the Director of Public Works a certified copy of this Ordinance, and
10 the Board of Supervisors hereby urges the Director of Public Works to proceed in the manner
11 required by law. The Clerk of the Board is also hereby directed to transmit to the Recorder a
12 certified copy of this Ordinance so that this Ordinance may be recorded on the Initial Closing
13 Date under the Amended CLTA and the Closing Date under the Amended PLTA.

14 Section 14. The approval under this Ordinance shall take effect upon the effective
15 date of the amendments to the General Plan approved under Board of Supervisors
16 Ordinance No. 324-98.

17 Section 15. All actions heretofore taken by the officers of the City with respect to such
18 street vacations are hereby approved, confirmed and ratified, and the Mayor, Clerk of the
19 Board, Executive Director of the Port Commission, Director of Property, and Director of Public
20 Works are hereby authorized and directed to take any and all actions which they or the City
21 Attorney may deem necessary or advisable in order to effectuate the purpose and intent of
22 this Ordinance (including, without limitation, confirmation of satisfaction of any of the
23 conditions to the effectiveness of the vacation of any of the Street Areas hereunder and
24 confirmation of the termination of any easements reserved hereunder pursuant to Section 3
25 of this Ordinance and execution and delivery of any evidence of the same, which shall be

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1 conclusive as to the satisfaction of such conditions upon signature by any such City official or
2 his or her designee).

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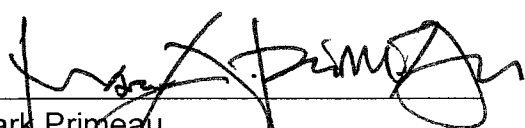
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5 RECOMMENDED:

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9 Mark Primeau
10 Director of Public Works

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14 Anthony J. DeLucchi
15 Director of Property

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19 Douglas F. Wong
20 Executive Director
21 Port of San Francisco

22

23 APPROVED AS TO FORM:

24 LOUISE H. RENNE, City Attorney

25

By 
26 Jesse Capin Smith
27 Deputy City Attorney

28 SUPERVISOR YAKI
29 BOARD OF SUPERVISORS



City and County of San Francisco

Veterans Building
401 Van Ness Avenue, Room 308
San Francisco, CA 94102-4532

Tails Ordinance

File Number: 981333

Date Passed:

Ordinance ordering the vacation of certain street areas within Mission Bay; adopting findings pursuant to the California Environmental Quality Act; and adopting findings that such vacation of street areas is consistent with the City's General Plan and eight priority policies of Planning Code Section 101.1.

October 19, 1998 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 9 - Ammiano, Bierman, Brown, Katz, Leno, Medina, Teng, Yaki, Yee
Excused: 2 - Kaufman, Newsom

October 19, 1998 Board of Supervisors — PASSED ON FIRST READING AS AMENDED


Ayes: 9 - Ammiano, Bierman, Brown, Katz, Leno, Medina, Teng, Yaki, Yee
Excused: 2 - Kaufman, Newsom

October 26, 1998 Board of Supervisors — FINALLY PASSED

Ayes: 8 - Ammiano, Bierman, Brown, Leno, Medina, Teng, Yaki, Yee
Absent: 1 - Katz
Excused: 2 - Kaufman, Newsom

File No. 981333

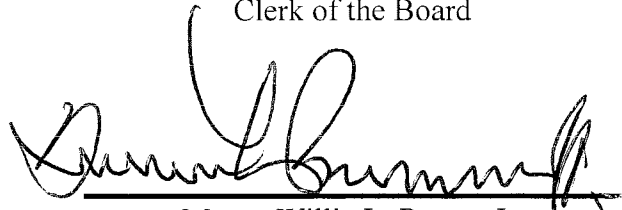
I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on October 26, 1998
by the Board of Supervisors of the City and
County of San Francisco.



Gloria L. Young
Clerk of the Board

OCT 30 1998

Date Approved



Mayor Willie L. Brown Jr.