

1 [Mission Bay Third Street/16th Street Utility Project]

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3 **Ordinance recommending the recordation of the conditional irrevocable offer of**
4 **portions of property adjacent to Third Street; accepting portions of the irrevocable**
5 **offer for the joint trench acquisition facilities and rejecting the offer of the Pacific Gas &**
6 **Electric facilities; dedicating said accepted acquisition facilities for right-of-way**
7 **purposes; designating said accepted acquisition facilities for public use and**
8 **designating said accepted acquisition facilities for maintenance purposes; accepting**
9 **the Easement Agreement for public utility purposes; adopting findings that such**
10 **actions are consistent with the City’s General Plan, eight priority policy findings of**
11 **City’s Planning Code section 101.1, and the Mission Bay South Redevelopment Plan;**
12 **accepting Department of Public Works Order No. 174,530; and authorizing official acts**
13 **in connection with this ordinance.**

14 Note: Additions are *single-underline italics Times New Roman*;
15 deletions are ~~*strikethrough italics Times New Roman*~~.
16 Board amendment additions are double underlined.
17 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.

19 (a) The San Francisco Redevelopment Agency, in a letter dated October 20, 2003,
20 determined that the acceptance of Third Street/16th Street Utility Project improvements
21 constructed pursuant to Permit No. 02IE-138, dated March 25, 2002 (the “Project”), and other
22 actions specified herein are consistent with the Mission Bay South Redevelopment Plan
23 (“Plan”) and Plan Documents described therein. A copy of the Redevelopment Agency letter
24 is on file with the Clerk of the Board of Supervisors in File No. _____ and is
25 incorporated by reference as though fully set forth herein.

1 (b) The San Francisco Redevelopment Agency on September 16, 2003 signed and
2 accepted the Catellus Conditional Assignment of Warranties and Guaranties. A copy of the
3 Assignment is on file with the Clerk of the Board of Supervisors in File No. _____
4 and is incorporated by reference as though fully set forth herein.

5 (c) The City Planning Department, in a letter dated October 10, 2003 determined
6 that the acceptance of said Third Street/16th Street Utility Project improvements and other
7 actions specified herein are within the scope of the General Plan consistency findings of Case
8 No. 96.771R, the eight priority policies of Planning Code Section 101.1 and the contemplated
9 actions do not trigger the need for subsequent environmental review pursuant the California
10 Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et
11 seq.). A copy of the Planning Department letter is on file with the Clerk of the Board of
12 Supervisors in File No. _____ and is incorporated by reference as though fully set
13 forth herein.

14 (d) In DPW Order No. 174,530, dated November 20, 2003, the Director of the
15 Department of Public Works and the City Engineer certified that said Third Street/16th Street
16 Utility Project improvements have been inspected and were certified as complete and that the
17 Project has been constructed in accordance with the Project Plans and Specifications and all
18 City codes, regulations, standards and Mission Bay South Plan and Plan Documents
19 governing this project and that such improvements are ready for their intended use. The
20 Project was recommended for (i) formal acceptance of joint trench acquisition facilities other
21 than the rejection of the offered Pacific Gas & Electric facilities (ii) acceptance for
22 maintenance and liability purposes of the accepted facilities (iii) recordation of the Catellus
23 irrevocable conditional offer of dedication of portions of Third Street for right-of-way and for
24 roadway purposes and (iv) acceptance of public utility easement for public utility easement
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1 purposes. A copy of the DPW Order is on file with the Clerk of the Board of Supervisors in
2 File No. _____ and is incorporated by reference as though fully set forth herein.

3 (e) All capitalized terms relating to Mission Bay shall have the terms ascribed to
4 them pursuant to the Mission Bay South Plan and Plan Documents described therein,
5 approved and adopted by the Board of Supervisors of the City and County of San Francisco
6 by Ordinance No. 335-98, on November 2, 1998, a copy of which is in Clerk of the Board of
7 Supervisors File No. _____.

8 Section 2. Adoptions and Approvals.

9 (a) The Board of Supervisors adopts as its own the consistency findings of the San
10 Francisco Redevelopment Agency in connection with the acceptance of Third Street/16th
11 Street Utility Project improvements and other actions set forth herein.

12 (b) The Board of Supervisors adopts as its own the consistency findings and CEQA
13 findings of the Planning Department in connection with the Third Street/16th Street Utility
14 Project.

15 (c) The Board of Supervisors has reviewed and approves the City Engineer
16 certification and Director of the Department of Public Works recommendation concerning the
17 acceptance of the Catellus irrevocable offer of portions of the joint trench acquisition facilities
18 and rejecting the offer of Pacific Gas & Electric facilities - Third Street/16th Street Utility
19 Project dated October 10, 2003, and maintenance and liability responsibility of the accepted
20 facilities with respect thereto.

21 Section 3. Acceptance of Offer of Improvements.

22 (a) Pursuant to California Streets and Highways Code Section 1806 and San
23 Francisco Administrative Code Sections 1.51 et seq., the Acquisition Agreement dated June
24 1, 2001, as supplemented on October 1, 2002, by and between the Redevelopment Agency of
25 the City and County of San Francisco and Catellus Development Corporation with respect to

1 Third Street/16th Street Utility Project, and the Department of Public Works Order No.
2 174,503, dated November 20, 2003, the Board of Supervisors hereby accepts portions of the
3 Catellus Development Corporation's irrevocable offer of the joint trench acquisition facilities
4 but rejects the offer of Pacific Gas & Electric facilities - Third Street/16th Street Utility Project
5 dated October 10, 2003 and dedicates said accepted acquisition facilities for public utility
6 purposes, designates such accepted acquisition facilities for public use and designates said
7 accepted acquisition facilities for maintenance and liability purposes, subject to the conditions
8 listed in subsection (c).

9 (b) The Board of Supervisors acknowledges the Catellus conditional irrevocable
10 Offer of Dedication adjacent to Third Street for future right-of-way and roadway purposes and
11 authorizes the Director of Real Property to record the same.

12 (c) The Board of Supervisors accepts the Catellus Public Utility Easement and
13 directs the Director of Property to record in the official records of the City, the Easement
14 Agreement (City Public Utility Easement — Third and Sixteenth Streets) to effectuate said
15 Public Utility Easement.

16 (d) The Board's acceptance of acquisition facilities pursuant to Subsection (a) are
17 for the Third Street/16th Street Utility Project only, excluding therefrom those portions of the
18 improvements which are identified on the as built drawings delivered to and on file with the
19 City as "Pacific Gas & Electric, Pacific Bell and AT&T" facilities, but rejecting certain PG&E
20 facilities described in the Offer of Improvements. All improvements are subject to the Catellus
21 Development Corporation's warranty obligations under the Third Street/16th Street Utility
22 Project permit No. 02IE-138.

23 (e) The Board of Supervisors hereby acknowledges Catellus' Conditional
24 Assignment of all guaranties and warranties related to the construction of the above
25 improvements.

1 (f) The Director of Public Works is authorized to take formal possession of
2 unassigned, unused or unsold conduits, with the exception of said Pacific Gas & Electric,
3 Pacific Bell and AT&T facilities excluded from the Offer of Improvements or rejected herein by
4 the Board, for purposes of marketing, directly or indirectly, said facilities to appropriate utilities
5 or other participants. The procedures under which the Director implements this plan shall be
6 the subject of a MOA to be developed between the City and SFRA. Such MOA shall include
7 the ability for the Director to operate and maintain said facilities and to forward proceeds of
8 any transaction to the Community Facilities District (CCSF CFD #6), in accordance with the
9 Acquisition Agreement to be added to the Acquisition Funds. The MOA shall also provide for
10 reimbursement from CFD #6 of any reasonable and appropriate costs incurred by the Director
11 for the management of such facilities until leased or sold.

12 Section 4. All actions heretofore taken by the officers of the City with respect to such
13 Ordinance are hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board,
14 Director of Property, and Director of Public Works are hereby authorized and directed to take
15 any and all actions which they or the City Attorney may deem necessary or advisable in order
16 to effectuate the purpose and intent of this Ordinance, including, but not limited to, the filing of
17 the Ordinance in the Official Records of the City and County of San Francisco.

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1 RECOMMENDED:
2 DEPARTMENT OF PUBLIC WORKS

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4 By: _____
5 EDWIN M. LEE
6 Director of Public Works

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8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA
10 City Attorney

11
12 By: _____
13 JOHN D. MALAMUT
14 Deputy City Attorney

DESIGNATION CERTIFIED BY:
DEPARTMENT OF PUBLIC WORKS

By: _____
HARLAN L. KELLY, JR.
City Engineer

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