

1 [Option Agreement for Sale of Surplus Property]

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3 **Resolution approving an Option Agreement for sale of surplus lands located in**
4 **Mountain View, Santa Clara County, California, under the jurisdiction of the San**
5 **Francisco Public Utilities Commission (“SFPUC”) to KMJ Urban Communities, LLC, a**
6 **California limited liability company; adopting findings pursuant to the California**
7 **Environmental Quality Act; and authorizing the Director of Property or the General**
8 **Manager of the SFPUC to execute documents, make certain modifications and take**
9 **certain actions in furtherance of this resolution.**

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11 WHEREAS, The City and County of San Francisco owns certain real property under
12 the jurisdiction of the SFPUC in Santa Clara County also known as a portion of Parcels 189,
13 190, 191 and 192 of Bay Division Pipeline (BDPL) Nos. 3 and 4 right of way (“Mt. View
14 Property”); and

15 WHEREAS, The SFPUC has determined that the Mt. View Property, except portions
16 containing BDPL Nos. 3 and 4 ("Pipeline Interests") for which the SFPUC shall obtain
17 appropriate rights, are no longer required for its operating needs; and,

18 WHEREAS, The SFPUC published a Request for Qualifications/Proposals on February
19 13, 2004 seeking proposals to purchase the Mt. View Property as if it were fully entitled; and

20 WHEREAS, KMJ Urban Communities, LLC, a California limited liability company's
21 predecessor-in-interest, MasterDevCo, submitted a high bid of \$8,100,000 and was selected
22 by SFPUC to enter into the Option Agreement; and

23 WHEREAS, The SFPUC now wishes to enter into an Option Agreement for the sale of
24 the Mt. View Property excluding the Pipeline Interests, together with all exhibits thereto,
25 including, without limitation, the Declaration of Covenants, Conditions and Restrictions and

1 Grant of Easement Agreement (the "Easement Agreement") that, among other things,
2 authorizes the City to access, maintain, replace and repair its Pipeline Interests; and

3 WHEREAS, The SFPUC pursuant to Resolution 04-0215 approved the subject Option
4 Agreement; and

5 WHEREAS, In a letter dated September 16, 2004, a copy of which is on file with the
6 Clerk of the Board of Supervisors in File No _____, the Director of City Planning found that
7 sale of the Mt. View Property is categorically exempt from the requirements of the California
8 Environmental Quality Act ("CEQA"); now, therefore, be it

9 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
10 finds, based on the record before it and in its independent judgment, that the action proposed
11 in this legislation is categorically exempt from CEQA for the reasons set forth in the CEQA
12 findings of the Director of City Planning set forth above and adopts as its own and
13 incorporates by reference herein, as though fully set forth, said findings; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
15 Francisco, in accordance with the recommendations of the SFPUC and the Director of
16 Property hereby approves the terms and conditions of the Option Agreement for sale of the
17 Mt. View Property between KMJ Urban Communities, LLC, a California limited liability
18 company, formerly known as MasterDevCo., and the City and County of San Francisco,
19 together with all exhibits attached thereto, including, without limitation, the Easement
20 Agreement, and approves the transaction contemplated thereby; and, be it

21 FURTHER RESOLVED, That the Director of Property or the General Manager of the
22 SFPUC shall be authorized to enter into any amendments or modifications to the Option
23 Agreement, including, without limitation, completion and execution of the exhibits thereto, and
24 to take any and all steps (including, but not limited to, the execution and delivery of any and all
25 certificates, notices, consents, agreements, memorandum and other documents) that the

1 Director of Property or General Manager of the SFPUC determines, in consultation with the
2 City Attorney, are in the best interest of the City, do not materially increase the obligations or
3 liabilities of the City, are necessary or advisable to complete the transaction contemplated in
4 the Option Agreement and effectuate the purpose and intent of the Option Agreement or this
5 resolution and are in compliance with all applicable laws, including City's Charter, such
6 determination to be conclusively evidenced by the execution and delivery by the Director of
7 Property or General Manager of the SFPUC of the Option Agreement , together with all
8 exhibits, including, without limitation, the Easement Agreement, and all amendments thereto;
9 and, be it

10 FURTHER RESOLVED, That the Director of Property or the General Manager of the
11 SFPUC is hereby authorized and directed to execute said Option Agreement for sale of the
12 Mt. View Property and all exhibits attached thereto, including, without limitation, the Easement
13 Agreement, and to execute and deliver the deed to the Mt. View Property to KMJ Urban
14 Communities, LLC, a California limited liability company, or its successor or assign, upon the
15 closing in accordance with the terms and conditions of the Option Agreement, and to take any
16 and all steps (including, but not limited to the execution and delivery of any and all certificates,
17 notices, consents, agreements memorandum and other documents) that the Director of
18 Property or General Manager of the SFPUC deems necessary or appropriate in order to
19 consummate the conveyance of the Mt. View Property pursuant to the Option Agreement, or
20 to otherwise effectuate the purpose and intent of this resolution, such determination to be

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1 conclusively evidenced by the execution and delivery by the Director of Property or the
2 General Manager of the SFPUC of any such documents.

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4 RECOMMENDED:

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7 Steve Legnitto
8 Director of Property

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