

1 [Agreement to modify an existing Municipal Railway Easement for the J-Church line.]

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3 **Resolution approving and authorizing agreements for the modification of an existing**
4 **MUNI easement in exchange for fee interest in a portion of the original easement area**
5 **and rail transit improvements for the J-Church line at 21st Street and Chattanooga**
6 **Street; adopting findings that the agreements are exempt from Environmental Review**
7 **and are consistent with the City's General Plan and Eight Priority Policies of City**
8 **Planning Code Section 101.1; and authorizing the Executive Director/CEO of the San**
9 **Francisco Municipal Transportation Agency and the Director of Property to execute**
10 **documents and take certain actions in furtherance of this resolution.**

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12 WHEREAS, The City, under the jurisdiction of the San Francisco Municipal
13 Transportation Agency (SFMTA), holds an easement (Muni Easement) on a portion of
14 Block 3629, Lot 102 (the Property), commonly known as 3563-3567 21st Street, directly
15 adjacent to the outbound trackway of the Municipal Railway (Muni) J-Church line at 21st and
16 Chattanooga Street; and,

17 WHEREAS, 3563 TWENTY FIRST, a California limited liability company, the owner of
18 the Property (Owner), wishes to construct condominium units on that portion of the Property
19 not included in the Muni Easement, and to use a portion of the Muni Easement area as a
20 driveway for access to the new condominium parking garage; and,

21 WHEREAS, SFMTA staff have worked with the Owner and its representatives to
22 develop a plan whereby the Owner will construct a new curb-height sidewalk stop for use as
23 an off-street boarding area for Muni passengers, which sidewalk stop would be located on a
24 2-foot wide strip of the Muni Easement area (City Return Portion) and a portion of the
25 adjacent Muni right-of-way; and,

1 WHEREAS, In conjunction with the construction of the new sidewalk stop, the Owner,
2 at its sole expense, will (1) construct a new fence and retaining wall that will separate the
3 Owner's development project from the new sidewalk stop, and (2) relocate a Muni overhead
4 lines support pole currently located in the Muni Easement area; and,

5 WHEREAS, The Owner will deed back to the City the City Return Portion once the new
6 sidewalk stop is constructed and transferred to the City; and,

7 WHEREAS, The City will modify its easement rights in approximately two-thirds of the
8 remaining Muni Easement area, to limit access just for the use, maintenance and repair of
9 the two remaining support poles within that area; and

10 WHEREAS, The City and the Owner agreed to an Agreement for the Exchange and
11 Conveyance of Real Estate, a copy of which is on file with the Clerk of the Board of
12 Supervisors under File No. 081398 (the Exchange Agreement), under which the
13 Owner agreed to construct the new sidewalk stop, fence and retaining wall and transfer the
14 new sidewalk stop to City with the City Return Portion, and the City agreed to modify the
15 Muni Easement as set forth above; and,

16 WHEREAS, The City and the Owner also agreed to a new Easement Agreement,
17 attached as an exhibit to the Exchange Agreement (the Easement Agreement), to reduce the
18 size of the original Muni Easement Area, limit City's use of the remaining Muni Easement
19 area, and to further address both the Owner's and City's rights and responsibilities on the
20 remaining Muni Easement area; and,

21 WHERE AS, The SFMTA Board pursuant to Resolution No. 08-175, approved the
22 Exchange Agreement and the Easement Agreement, subject to the approval of the Board of
23 Supervisors; and,

1 WHEREAS, The Director of Planning, by letter dated August 11, 2008, found the
2 proposed modification of the existing Muni Easement contemplated by the Exchange
3 Agreement and the Easement Agreement, is consistent with the City's General Plan and with
4 the Eight Priority Policies of City Planning Code Section 101.1 and is exempt from
5 Environmental Review, which is on file with the Clerk of the Board of Supervisors under File
6 No. 081398 and is incorporated herein by this reference; now, therefore, be it

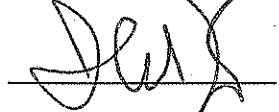
7 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
8 hereby finds that the Exchange Agreement and the Easement Agreement are consistent with
9 the General Plan and with the Eight Priority Policies of City Planning Code Section 101.1 and
10 exempt from Environmental Review of the same reasons as set forth in the letter of the
11 Director of Planning dated August 11, 2008, and hereby incorporates such findings by
12 reference as though fully set forth in this resolution; and, be it

13 FURTHER RESOLVED, That in accordance with the recommendation of the SFMTA
14 Board and the Director of Property, the Board of Supervisors hereby approves the Exchange
15 Agreement and the Easement Agreement, and authorizes the execution, delivery and
16 performance of the Exchange Agreement and the Easement Agreement; and, be it

17 FURTHER RESOLVED, That the Executive Director/CEO of the SFMTA and the
18 Director of Property shall be authorized to enter into any amendments or modification to the
19 Exchange Agreement or the Easement Agreement, including without limitation, the exhibits,
20 and to take any and all steps (including, but not limited to the execution and delivery of any
21 and all certifications, notices, consents, agreements, memorandum and other documents) that
22 the Director of Property determines, in consultation with the City Attorney, are in the best
23 interest of the City, do not materially increase the obligations or liabilities of the City, are
24 necessary or advisable to effectuate the purposes and intent of the Exchange Agreement, the
25

1 Easement Agreement or this resolution, and are in compliance with all applicable laws,
2 including the City's Charter.

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4 RECOMMENDED:

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7 Director of Property

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Resolution

File Number: 081398

Date Passed:

Resolution approving and authorizing agreements for the modification of an existing MUNI easement in exchange for fee interest in a portion of the original easement area and rail transit improvements for the J-Church line at 21st Street and Chattanooga Street; adopting findings that the agreements are exempt from Environmental Review and are consistent with the City's General Plan and Eight Priority Policies of City Planning Code Section 101.1; and authorizing the Executive Director/CEO of the San Francisco Municipal Transportation Agency and the Director of Property to execute documents and take certain actions in furtherance of this resolution.

December 16, 2008 Board of Supervisors — ADOPTED

Ayes: 11 - Alioto-Pier, Campos, Chu, Daly, Dufty, Elsbernd, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 081398

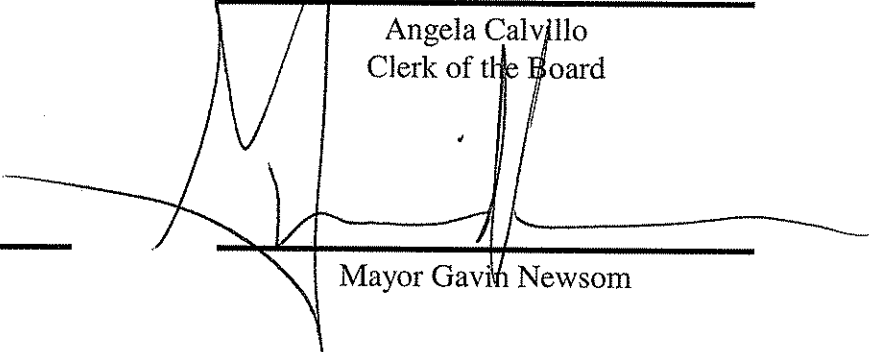
I hereby certify that the foregoing Resolution was ADOPTED on December 16, 2008 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board

12/19/2008

Date Approved



Mayor Gavin Newsom