

1 [Mission Bay Street Vacation – a portion of Berry Street at Sixth Street.]

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3 **Resolution declaring the intention of the Board of Supervisors to vacate a portion of**
4 **Berry Street at Sixth Street within the Mission Bay North Redevelopment Project Area;**
5 **setting the hearing date for all persons interested in the proposed vacation of said**
6 **street area; and adopting findings that the proposed vacation is consistent with the**
7 **City's General Plan, the eight priority policies of City Planning Code section 101.1 and**
8 **the Mission Bay North Redevelopment Plan.**

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10 WHEREAS, This vacation proceeding for a 639.5 Sq. Ft. portion of Berry Street at
11 Sixth Street (commonly referred to as the “Bird's Beak”), is conducted under the general
12 vacation procedures of the Public Streets, Highways and Service Easements Vacation Law
13 (California Streets and Highways Code sections 8320 et seq.); and,

14 WHEREAS, Section 787(a) of the San Francisco Public Works Code provides that the
15 street vacation procedures for the City and County of San Francisco (the “City”) shall be in
16 accordance with the applicable provisions of the California Streets and Highways Code and
17 such rules and conditions as are adopted by the Board of Supervisors; and,

18 WHEREAS, The location and extent of such Bird's Beak to be vacated is more
19 particularly described as follows:

20 A 639.5 Sq. Ft. portion of Berry Street at Sixth Street as shown on the
21 Department of Public Works' SUR Map No. 8001, dated May 12, 2003, and as more
22 particularly described in the legal description attached to such map, copies of such map and
23 legal description are on file with the Clerk of the Board of Supervisors in File No.

24 _____; and,

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1 WHEREAS, The vacation of the Bird's Beak is part of an action to effectuate a
2 proposed land exchange with Catellus Development Corporation ("Catellus") to facilitate the
3 development of the Mission Bay North Redevelopment Project Area in accordance with the
4 Mission Bay North Redevelopment Plan and the Plan Documents (as defined in the
5 Redevelopment Plan), and the return of a portion of Berry Street between Fourth and Fifth
6 Streets (which was previously vacated in 1998 and transferred to Catellus in 2001) as a public
7 street; and,

8 WHEREAS, In DPW Order No. 174,110, dated May 7, 2003, a copy of which is on file
9 with the Clerk of the Board of Supervisors in File No. _____, the Director of the
10 Department of Public Works and the City Engineer determined: (i) the Fourth Street right of
11 way should be widened between King Street and Berry Street and the King Street right of way
12 should be widened in the area of Lot 5, (ii) the Bird's Beak is no longer necessary for the
13 City's use for public street and sidewalk purposes, (iii) the Berry Street Parcel between Fourth
14 and Fifth Streets should be re-opened as a public street, (iv) the proposed land exchanges
15 with Catellus are consistent with the Mission Bay Plan Documents, the Major Phase approved
16 by the Agency, and the subdivision map approved by the City for Blocks N3 and N4 in the
17 North Plan Area, (v) the proposed land exchanges with Catellus would facilitate the
18 development of the North Plan Area in accordance with the Redevelopment Plan and the Plan
19 Documents, (vi) the value of such exchange is an even exchange or an exchange in favor of
20 the City, and (vii) there are no physical public utility facilities within the 639.5 Sq. Ft. portion of
21 Berry Street at Sixth Street to be vacated except for Pacific Bell (SBC) communications and a
22 City water line; and,

23 WHEREAS, The public interest, convenience and necessity require that the City
24 reserve from the vacation of the Bird's Beak solely the following: (i) a non-exclusive easement
25 for the benefit of Pacific Bell (SBC) and (ii) a non-exclusive easement for the benefit of a City

1 water line, in, upon, and over that certain portion of the Bird's Beak in which their respective
2 in-place and functioning facilities are located as shown on said SUR Map No. 8001, to the
3 extent necessary to maintain, operate, repair and remove existing lines of pipe, conduits,
4 cables, wires, poles, and other convenient structures, equipment and fixtures for the operation
5 of Pacific Bell (SBC) Communications facilities, and facilities for the distribution of City Water,
6 and reasonable access to the foregoing facilities for the purposes set forth above; and,

7 WHEREAS, In a three letters dated March 23, 2001, May 9, 2001 and May 13, 2003
8 (the "Planning Department's Letters"), a copy of which is on file with the Clerk of the Board of
9 Supervisors in File No. _____, the City Planning Department determined that the
10 proposed vacation of the Bird's Beak, the Property Exchange Agreement and other actions in
11 furtherance thereof, are consistent with the General Plan consistency findings of Case No.
12 96.771R and the eight priority policies of Planning Code Section 101.1. The Planning
13 Department also determined that the contemplated actions do not trigger the need for
14 subsequent environmental review pursuant the California Environmental Quality Act (CEQA)
15 (California Public Resources Code Sections 21000 et seq.); and,

16 WHEREAS, In a letter dated May 21, 2003 (the "Agency Letter"), a copy of which is on
17 file with the Clerk of the Board of Supervisors in File No. _____, the San Francisco
18 Redevelopment Agency found the proposed vacation of the Bird's Beak, the Property
19 Exchange Agreement and other actions in furtherance thereof, are "consistent with the
20 Mission Bay North Redevelopment Plan and Plan Documents, described therein, and
21 recommends Board of Supervisors approval"; and,

22 WHEREAS, Subject to the reservations and conditions specified in this resolution,
23 none of the Bird's Beak area is necessary for present or prospective public use; and,

24 WHEREAS, Except as specifically provided above, the public interest, convenience
25 and necessity require no other easements or other rights be reserved for any public utility

1 facilities that are in place in the Bird's Beak and that any rights based upon any such public
2 utility facilities be extinguished; now, therefore, be it

3 RESOLVED, That under sections 8320 et seq. of the California Streets and Highway
4 Code, the Board of Supervisors hereby declares that it intends to order the vacation of the
5 Bird's Beak, as shown on the SUR Map No. 8001 and described in the legal description, both
6 attached hereto; and, be it

7 FURTHER RESOLVED, That notice is hereby given that on the _____ (____)
8 day of _____, 2003, beginning at approximately 2:00 PM. in the Legislative Chambers of
9 the Board of Supervisors, all persons interested in or objecting to the proposed vacation will
10 be heard; and, be it

11 FURTHER RESOLVED, That the San Francisco Board of Supervisors adopts as its
12 own and incorporates by reference herein as though fully set forth, the Department of Public
13 Works, Order No. 174,110, findings, including among other things, that the Bird's Beak is no
14 longer necessary for the City's use for public street and sidewalk purposes and that there are
15 no physical public utility facilities within the 639.5 Sq. Ft. portion of Berry Street at Sixth Street
16 to be vacated except for Pacific Bell (SBC) communications and a City water line; and, be it

17 FURTHER RESOLVED, That the San Francisco Board of Supervisors adopts as its
18 own and incorporates by reference herein as though fully set forth, the consistency findings
19 and CEQA findings of the Planning Department as set forth in the Planning Department's
20 Letter in connection with the vacation of the Bird's Beak and other actions set forth herein;
21 and, be it

22 FURTHER RESOLVED, That the San Francisco Board of Supervisors adopts as its
23 own and incorporates by reference herein as though fully set forth, the consistency findings of
24 the San Francisco Redevelopment Agency as set forth in the Agency Letter in connection with
25 the vacation of the Bird's Beak and other actions set forth herein; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board
2 to transmit to the Department of Public Works a certified copy of this resolution, and the Board
3 of Supervisors urges the Director of Public Works to publish and post this resolution promptly
4 in the manner required by law and to give notice of the hearing of such contemplated action in
5 the manner required by law.

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RECOMMENDED:
DEPARTMENT OF PUBLIC WORKS

By: _____
Edwin M. Lee
Director of Public Works

RECOMMENDED:
DIRECTOR OF PROPERTY

By: _____
Steve Legnitto
Acting Director of Property

RECOMMENDED:
DEPARTMENT OF PUBLIC WORKS

By: _____
Harlan L. Kelly, Jr.
City Engineer