

1 [Acceptance and Public Dedication of 12-Kilovolt Power Facilities - Mission Rock]

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3 **Ordinance accepting the irrevocable offer of a 12-kilovolt power line and associated**
4 **facilities (“12-kV Line”) servicing the Seawall Lot 337 and Pier 48 Mixed-Use Project,**
5 **bounded by 3rd Street and Mission Rock Street, subject to conditions and limitations;**
6 **dedicating the 12-kV Line to public use; designating the 12-kV Line for public power**
7 **purposes; accepting the 12-kV Line for maintenance and liability purposes; affirming**
8 **the Planning Department’s determinations adopting findings under the California**
9 **Environmental Quality Act; making findings of consistency with the General Plan, and**
10 **the eight priority policies of Planning Code, Section 101.1; accepting a Public Works**
11 **Order recommending various actions regarding the 12-kV Line; and authorizing official**
12 **acts in connection with this Ordinance, as defined herein.**

13 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
14 **Additions to Codes** are in *single-underline italics Times New Roman font*.
15 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
16 **Board amendment additions** are in double-underlined Arial font.
17 **Board amendment deletions** are in ~~strikethrough Arial font~~.
18 **Asterisks (* * * *)** indicate the omission of unchanged Code
19 subsections or parts of tables.

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

21 Section 1. Background and Findings.

22 (a) This ordinance aims to facilitate the phased development of the Seawall Lot 337
23 and Pier 48 Mixed-Use Project (“Project”), bounded by 3rd Street and Mission Rock Street,
24 and to provide construction power and public power to serve the Project. On October 5, 2017,
25 the Planning Commission certified the Final Environmental Impact Report for the Seawall Lot
337 and Pier 48 Mixed-Use Project (Planning Department Case No. 2013.0208E) (“FEIR”) by
adopting Planning Commission Motion No. 20017. The FEIR was prepared pursuant to the

1 California Environmental Quality Act (Cal. Pub. Resources Code §§ 21000 et seq.; hereafter
2 “CEQA”). Pursuant to Planning Commission Motion No. 20018, the Planning Commission
3 adopted findings, as required by CEQA, regarding the alternatives, mitigation measures,
4 significant environmental effects analyzed in the FEIR, a statement of overriding
5 considerations for approval of the Project, and a proposed mitigation monitoring and reporting
6 program. On May 21, 2020, the Planning Department issued a note to file regarding
7 proposed project changes addressed in Public Works Order No. 203636 (“Note to File”).
8 Planning Commission Motion Nos. 20017 and 20018 and the Planning Department’s analysis
9 and determinations in the Note to File are on file with the Clerk of the Board of Supervisors in
10 File No. 211028 and are incorporated herein by reference.

11 (b) On January 30, 2018, the Port Commission adopted Resolution No. 18-03
12 approving the Disposition and Development Agreement (“DDA”) by and between the Port of
13 San Francisco (“Port”) and Seawall Lot 337 Associates, LLC (“Master Developer”), concerning
14 the Project.

15 (c) On February 27, 2018, the Board of Supervisors (“Board”) adopted Ordinance No.
16 33-18 approving a Development Agreement for the Project between the City and County of
17 San Francisco (“City”) and Seawall Lot 337 Associates, LLC (“DA”) and adopted the
18 environmental findings and the findings of consistency with the General Plan and the eight
19 priority policies of Planning Code Section 101.1(b) set forth in Motion No. 20019, on file with
20 the Clerk of the Board in File No. 171313. Following the Mayor’s signature, Ordinance No.
21 33-18 became effective on April 6, 2018.

22 (d) On February 13, 2018, the Board adopted Resolution No. 42-18 authorizing the
23 approval of the DDA. The Mayor signed Resolution No. 42-18 on February 23, 2018.

24 (e) On December 13, 2019, the Public Works Director (together with the Acting
25 Director and Interim Director, the “Director”) issued Public Works Order No. 202368 approving

1 a tentative map covering the Project site (“Tentative Map”) subject to conditions of approval
2 (“Tentative Map Conditions of Approval”).

3 (f) Pursuant to the Assignment and Assumption Agreement between Master Developer
4 and Mission Rock Horizontal Sub (Phase 1), L.L.C. (“Subdivider”), effective as of December
5 18, 2019, Master Developer assigned certain obligations relating to Phase I of the Project to
6 Subdivider.

7 (g) On June 2, 2020, the Board approved the Project’s first phased final map (“Final
8 Map No. 9443”), pursuant to Motion No. M20-060.

9 (h) In March 2021, Public Works conditionally approved Instructional Bulletin (IB) #3
10 (dated March 10, 2021) and IB#3 Revision 1 (dated March 19, 2021) (collectively “IB#3”)
11 proposing amendments to the Mission Rock Phase 1 Improvement Plans Street Improvement
12 Permit No. 20IE-00486 (“Phase 1 SIP”) to conditionally approve the proposed 12-kV Line to
13 provide power for construction and service to buildings within the Project’s first phase.

14 (i) On June 30, 2021, at Subdivider’s request and following a duly-noticed public
15 hearing, the Director issued Public Works Order No. 205068 authorizing exceptions from
16 provisions of the Subdivision Code, the Subdivision Regulations, and Tentative Map
17 Conditions of Approval, including: (1) an exception from Subdivision Code Section 1337(a) to
18 authorize installation of an overhead electric line; (2) an exception to Subdivision Regulations
19 Appendix A, Section VII.D.1, to authorize Subdivider to make an offer of dedication of the 12-
20 kV Line for acceptance by the City prior to the completion of new full, complete, and functional
21 public streets; (3) an exception from Subdivision Regulations, Appendix A, Section VII.D.2 to
22 authorize the public dedication of the 12-kV Line without an irrevocable offer of an easement
23 or a fee interest in the real property corresponding to the 12-kV Line; (4) an exception to
24 Tentative Map Condition of Approval - Public Works - Bureau of Street Use and Mapping -
25 Division of Surveying and Mapping No. 20 to authorize Subdivider to make an offer of

1 dedication of the 12-kV Line subsequent to approval of Final Map No. 9443; (5) an exception
2 to Tentative Map Condition of Approval - SFPUC Wastewater Enterprise No. 9, to authorize
3 issuance of a Notice of Completion, as described in the Tentative Map Conditions of Approval,
4 for temporary infrastructure; and (6) an exception to Tentative Map Condition of Approval -
5 SFPUC Power Enterprise - Hetch Hetchy Power Condition No. 1, accounting for ongoing
6 negotiation of an Electric Service Agreement between Subdivider and SFPUC. A copy of
7 Public Works Order No. 205068 is on file with the Clerk of the Board in File No. 211028 and
8 incorporated herein by reference.

9 (j) On June 4, 2021, at the request of Subdivider, the San Francisco Public Utilities
10 Commission (“SFPUC”) executed a written determination (“SFPUC Authorization Letter”)
11 approving certain authorizations pursuant to the SFPUC Rules and Regulations Governing
12 Electric Service (“SFPUC Electric Rules”), including (1) authorization under SFPUC Rule
13 XV.7.C.2 confirming that SFPUC would operate and maintain the 12-kV Line although
14 portions of it will not be located within a street or public utility easement; (2) an exception from
15 SFPUC Rule XV.7.C.3 allowing for SFPUC operation and ownership of the 12-kV Line
16 although a portion of the line will be overhead; and (3) an exception from SFPUC Rule XV.I.5
17 confirming that SFPUC would operate and eventually own the 12-kV Line, subject to
18 acceptance by the Board, notwithstanding that the 12-kV Line will be energized before the
19 City accepts such 12-kV Line, and upon acceptance, a portion of the 12-kV Line will be
20 located outside of a public right-of-way or a public utility easement.

21 (k) In Public Works Order No. 205681205068, issued November 8~~dated June 30~~,
22 2021, the City Engineer and the Director made the following certifications and statements: (1)
23 Subdivider has irrevocably offered the 12-kV Line to the City as set forth in the Irrevocable
24 Offer of Dedication of Improvements (12-kV Distribution Line), dated September
25 16_____, 2021, and recorded on November 8, _____2021, as

1 Document No. 2021167458 (‘‘Offer of Improvements’’); (2) SFPUC has
2 inspected the 12-kV Line and determined the 12-kV Line has been constructed in accordance
3 with the Plans and Specifications and all City codes, regulations, and standards governing the
4 12-kV Line, as of August 12, ~~2021~~, 2021; (3) the Port of San Francisco has inspected the 12-
5 kV Line and determined the 12-kV Line has been constructed in accordance with the Plans
6 and Specifications and all City codes, regulations, and standards governing the 12-kV Line, as
7 of August 18, 2021; (4) by its letter dated September 28, 2021, the SFPUC has determined
8 that it is prepared to take ownership of the 12-kV Line subject to Subdivider’s agreement to
9 replace the 12-kV Line with a Permanent Power Line and remove the 12-kV Line at
10 Subdivider’s sole cost as provided in Public Works Order No. 205681~~205068~~ and the SFPUC
11 Authorization Letter; (5) Public Works has determined the 12-kV Line has been constructed in
12 accordance with the Plans and Specifications and all City codes, regulations, and standards
13 governing the 12-kV Line, as of November 4~~August 18~~, 2021, subject to the exceptions
14 approved under Public Works Order No. 205068 and the authorizations approved pursuant to
15 the SFPUC Authorization Letter; and (6) the 12-kV Line is ready for its intended use as a non-
16 permanent power line.

17 (l) In Public Works Order No. 205681~~205068~~, the Director and City Engineer also
18 recommended that the Board of Supervisors dedicate the 12-kV Line to public use; designate
19 it for public power purposes; and accept it for City maintenance and liability purposes. The
20 Director and City Engineer recommended that acceptance of the 12-kV Line for maintenance
21 and liability purposes be subject to the following conditions: (1) the acceptance shall be
22 expressly contingent upon Subdivider’s replacement of the 12-kV Line with the permanent
23 underground electrical line in an underground ductbank in the future Bridgeview Street
24 running north from the terminus of the Bay Corridor Transmission Distribution vault at Mission
25 Rock Street and Terry Francois Boulevard within the Mission Rock project (‘‘Permanent Power

1 Line”), consistent with the Infrastructure Plan and the SFPUC Power Enterprise Rules and
2 Regulations Governing Electric Service, effective May 9, 2017 (“SFPUC Power Rules”), and
3 removal of the 12-kV Line, at Subdivider’s sole cost, no later than the date that is 90 days
4 after the date the SFPUC has determined that the Permanent Power Line has been electrified
5 and all other electrical service facilities to the 12-kV Line have been disconnected from the 12-
6 kV Line and transferred to the Permanent Power Line; (2) Subdivider’s conditional assignment
7 of all warranties and guaranties to the City related to the construction of the 12-kV Line; (3)
8 Subdivider’s compliance with the applicable Public Improvement Agreement, as amended;
9 and (4) Subdivider’s compliance with all conditions and requirements set forth in Street
10 Improvement Permit No. 20IE-00486 and IB#3; and (5) Subdivider’s compliance with the
11 Subdivision Code and the Subdivision Regulations. Copies of Public Works Order No.
12 205681205068, the Offer of Improvements, and the Public Improvement Agreement, as
13 amended, are on file with the Clerk of the Board of Supervisors in File No. 211028 and are
14 incorporated herein by reference.

15 (m) The Planning Department, in a ~~document~~ letter dated October 27, 2021 (the
16 “Planning Department DeterminationLetter”), as part of Planning Department Case No. 2021-
17 010952ENV, determined that the acceptance and public dedication of the 12-kV Line by the
18 City is exempt from further environmental review under CEQA ~~consistent with the General~~
19 ~~Plan and with the Eight Priority Policies of Planning Code Section 101.1~~. A copy of the
20 Planning Department DeterminationLetter is on file with the Clerk of the Board of Supervisors
21 in File No. 211028 and is incorporated herein by reference.

22 (n) ~~In the Planning Department Letter, the Planning Department also found that the~~
23 ~~actions contemplated by this ordinance are within the scope of the FEIR and the Note to File~~
24 ~~and do not trigger the requirement for subsequent environmental review pursuant to CEQA.~~

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3 Section 2. Adoptions and Approvals.

4 (a) The Board of Supervisors ~~adopts as its own the~~ affirms the Planning Department's
5 exemption determination under CEQA findings, as referenced in Section 1(m) of this
6 ordinance, and the General Plan and Planning Code Section 101.1 consistency findings in the
7 Planning Commission Motion No. 20019 ~~Department Letter,~~ as referenced in Section 1 ~~(c)(m)-~~
8 ~~(n)~~ of this ordinance, in connection with the acceptance and public dedication of the 12-kV
9 Line and other actions specified in this ordinance.

10 (b) ~~The Board of Supervisors further finds that pursuant to the CEQA Guidelines~~
11 ~~(California Code of Regulations Title 14, Sections 15000 et seq.), including Sections 15162~~
12 ~~and 15164, the actions contemplated herein are consistent with, and within the scope of, the~~
13 ~~Project analyzed in the FEIR and the Note to File, and that (1) no substantial changes are~~
14 ~~proposed in the Project and no substantial changes have occurred with respect to the~~
15 ~~circumstances under which this Project will be undertaken that would require major revisions~~
16 ~~to the FEIR due to the involvement of any new significant environmental effects or a~~
17 ~~substantial increase in the severity of previously identified effects, and (2) no new information~~
18 ~~of substantial importance that was not known and could not have been known with the~~
19 ~~exercise of reasonable diligence at the time the FEIR was certified as complete shows that~~
20 ~~the Project will have any new significant effects not analyzed in the FEIR, or a substantial~~
21 ~~increase in the severity of any effect previously examined, or that new mitigation measures or~~
22 ~~alternatives previously found not to be feasible would in fact be feasible and would~~
23 ~~substantially reduce one or more significant effects of the Project, or that mitigation measures~~
24 ~~or alternatives which are considerably different from those analyzed in the FEIR would~~
25 ~~substantially reduce one or more significant effects on the environment.~~

1 (e) The Board of Supervisors has reviewed and approves Public Works Order No.
2 205681205068, including the City Engineer and Director’s certification, statements, and
3 recommendations, as referenced in Section 1(k)-(l) of this ordinance, concerning the
4 acceptance and public dedication of the 12-kV Line and other actions set forth in the Public
5 Works Order.

6
7 Section 3. Acceptance of Public Infrastructure and Assumption of Maintenance and
8 Liability Responsibilities.

9 (a) Pursuant to California Streets and Highways Code Section 1806 and San
10 Francisco Administrative Code Sections 1.51 et seq., and Public Works Order No.
11 205681205068, the Board of Supervisors hereby accepts the Offer of Improvements and
12 dedicates the 12-kV Line to public use.

13 (b) The Board of Supervisors hereby designates the 12-kV Line for public power
14 purposes.

15 (c) The Board of Supervisors hereby accepts the 12-kV Line for City maintenance and
16 liability purposes, subject to the conditions listed in subsections (d) and (e), below.

17 (d) The 12-kV Line accepted pursuant to subsections (a)-(c), above, is subject to the
18 following conditions: (1) the acceptance is expressly contingent upon Subdivider’s
19 replacement of the 12-kV Line with the Permanent Power Line, consistent with the SFPUC
20 Power Rules and removal of the 12-kV Line, at Subdivider’s sole cost, no later than the date
21 that is 90 days after the date the SFPUC has determined that the Permanent Power Line has
22 been electrified and all other electrical service facilities to the 12-kV Line have been
23 disconnected from the 12-kV Line and transferred to the Permanent Power Line; (2)
24 Subdivider’s conditional assignment of all warranties and guaranties to the City related to the
25 construction of the 12-kV Line; (3) Subdivider’s obligations under the Public Improvement

1 Agreement, as amended; (4) Subdivider’s compliance with all conditions and requirements set
2 forth in the Phase 1 SIP and IB#3, including the Subdivider’s obligation to hold harmless,
3 defend, and indemnify the City as specified in the Phase 1 SIP and IB#3; and (5) Subdivider’s
4 compliance with the Subdivision Code and Subdivision Regulations, including obtaining all
5 required exceptions therefrom.

6 (e) The Board of Supervisors hereby acknowledges Subdivider’s conditional
7 assignment of all warranties and guaranties to the City related to the construction of the 12-kV
8 Line.

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10 Section 4. Authorization for Implementation. The Mayor, Clerk of the Board of
11 Supervisors, Director of Real Estate, and Director are hereby authorized and directed to take
12 any and all actions which they or the City Attorney may deem necessary or advisable in order
13 to effectuate the purpose and intent of this ordinance, including, but not limited to, the filing of
14 the ordinance in the Official Records of the City and County of San Francisco.

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16 Section 5. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
19 of Supervisors overrides the Mayor’s veto of the ordinance.

20
21 APPROVED AS TO FORM:
DAVID CHIU DENNIS J. HERRERA, City Attorney

22
23 By: /s/ Christopher T. Tom
CHRISTOPHER T. TOM
24 Deputy City Attorney

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