

1 [Agreements, Permit, and Lease - Improvements on Portions of Third, Fourth, Owens, and  
2 16th Streets - UCSF Mission Bay]

3 **Ordinance 1) approving and authorizing a master agreement between the City and The**  
4 **Regents of the University of California, on behalf of its San Francisco campus (UCSF)**  
5 **governing various public improvements and other transactions relating generally to**  
6 **Fourth, Owens, Third and Sixteenth Streets in Mission Bay, and approving and**  
7 **authorizing the permit and agreements contemplated by such agreement, including**  
8 **a) the issuance of a major encroachment permit granting revocable permission to**  
9 **UCSF to occupy portions of these streets for UCSF improvements and activities,**  
10 **including a Fourth Street public plaza, b) maintenance agreements for said**  
11 **improvements, c) an easement agreement for UCSF utilities under Fourth Street**  
12 **between 16th Street and Mission Bay Boulevard South, d) easement agreements for**  
13 **sidewalk curb ramps, for public pedestrian passage, and City utilities over certain**  
14 **property within the UCSF campus, and e) a lease of subsurface and air space for UCSF**  
15 **improvements above and below certain segments of Fourth Street between Sixteenth**  
16 **and Mariposa Streets on State Trust property; 2) accepting offers of real property and**  
17 **public improvements along such streets and portions of Mariposa Street for street**  
18 **widening, turning radii and right turn lane purposes; 3) making environmental findings**  
19 **and findings of consistency with the City's General Plan, the eight priority policy**  
20 **findings of Planning Code Section 101.1 and the Mission Bay South Redevelopment**  
21 **Plan; 4) accepting Department of Public Works Order; and 5) authorizing official acts in**  
22 **connection with this Ordinance.**

23 NOTE: Additions are *single-underline italics Times New Roman*;  
24 deletions are ~~*strike-through italics Times New Roman*~~.  
25 Board amendment additions are double-underlined;  
Board amendment deletions are ~~strike-through normal~~.

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

2 Section 1. **Findings.**

3 (a) UCSF Mission Bay Campus Generally. The University of California, San Francisco  
4 at Mission Bay campus site ("UCSF Campus") is comprised of property owned or leased by  
5 The Regents of the University of California ("The Regents" or the "University"), including the  
6 approximately 42.3-acre research campus site bounded by Third Street to the east, Sixteenth  
7 Street to the south, Owens Street to the west and the future Mission Bay Boulevard South to  
8 the north, and the approximately 14.5-acre UCSF Medical Center at Mission Bay site (the  
9 "UCSF Medical Center Site"), being a portion of the land bounded by Third Street to the east,  
10 Mariposa Street to the south, Owens Street to the west and Sixteenth Street to the north.

11 (b) Master Agreement. The City and County of San Francisco (the "City") and The  
12 Regents have prepared a Master Agreement (the "Master Agreement") governing certain  
13 aspects of various real property transactions, permits, agreements, approvals, and other  
14 actions relating to public improvements and UCSF improvements in and around the UCSF  
15 Campus. The Master Agreement addresses the respective obligations of the parties, the  
16 timing for commencement and completion of such obligations, and other issues related to the  
17 construction, installation, use and maintenance of the UCSF Street and Utility Improvements  
18 in general and the Fourth Street Public Plaza in particular (as defined in Sections 1.(e) and  
19 1.(c) below). The Master Agreement encompasses the following:

20 (1) Fourth Street Public Plaza and other public improvements between Sixteenth and  
21 Mariposa Streets, to be governed by an encroachment permit and maintenance agreements  
22 described in more detail in Section 1(m) below;

23 (2) A lease to The Regents of increments of underground and air space over and  
24 under Fourth Street between Sixteenth and Mariposa Streets for underground utility  
25 installations and pedestrian bridges (including utility connections) to connect buildings owned

1 or leased by The Regents on opposite sides of Fourth Street (described in more detail in  
2 Section 1(d) below);

3 (3) Intersection improvements at Fourth Street and Gene Friend Way (“Gene Friend  
4 Way Crosswalk”), intersection improvements at the intersection of Fourth Street and Sixteenth  
5 Street (“Sixteenth Street Crosswalk”), utility crossings on Owens Street and on Sixteenth  
6 Street, and existing and additional UCSF facilities at or near the surface level of Fourth Street  
7 between Sixteenth Street and Mission Bay Boulevard South, which are also governed by the  
8 permit and a maintenance agreement;

9 (4) An easement from the City to The Regents for UCSF utilities in City's proprietary  
10 property beneath the dedicated right-of-way of Fourth Street between Sixteenth Street and  
11 Mission Bay Boulevard South;

12 (5) Widening of Owens Street, including a median divider on Owens Street between  
13 Sixteenth Street and Mariposa Street and dedication of land, which are also governed by the  
14 permit and maintenance agreement;

15 (6) Construction of a bulb-out on the northwest corner of the intersection of Owens  
16 and Sixteenth Streets;

17 (7) Various traffic improvement measures in the vicinity of the UCSF Medical Center  
18 Site;

19 (8) Dedication of land, a public sidewalk and utility easement in favor of the City, and  
20 improvements related to a widening of the Third Street Sidewalk from Sixteenth Street to  
21 Mariposa Street;

22 (9) Dedication of land and improvements to accommodate turning radii and a right turn  
23 lane at various locations in the vicinity of the UCSF Medical Center Site; and

24 (10) Grant of easements to the City for pedestrian use of the flared sides of ADA  
25 sidewalk curb ramps at various locations on the UCSF Campus.

1 A copy of the proposed Master Agreement is on file with the Clerk of the Board of  
2 Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference, and the  
3 documents referenced in the Master Agreement are described in more detail below.

4 (c) Community Meetings Regarding Proposed Public Plaza and Improvements. The  
5 University, in coordination with the former San Francisco Redevelopment Agency, has hosted  
6 a series of publicly-noticed community meetings, including with the Mission Bay Citizens  
7 Advisory Committee (the “CAC”), the Dogpatch Neighborhood Association (the “DNA”), and  
8 the South Beach/ Rincon/Mission Bay Neighborhood Association (the “SBRMBNA”), and also  
9 presented at the Potrero Hill Festival and the Potrero Hill History Night, to share information  
10 about the potential closure of the Fourth Street right-of-way between Sixteenth Street and  
11 Mariposa Street to non-emergency vehicular through-traffic for the purpose of constructing a  
12 public plaza as part of the UCSF Medical Center Site (the “Fourth Street Public Plaza”).  
13 These community meetings were also intended to collect specific feedback on design ideas  
14 and programming for the proposed Fourth Street Public Plaza to inform the development of a  
15 schematic design proposal. After additional internal design review meetings with  
16 representatives of the City, the University presented a revised design for the Fourth Street  
17 Public Plaza at a University community meeting on January 23, 2012, to the CAC on  
18 February 9, 2012, to the SBRMBNA on March 12, 2012, and to the DNA on March 13, 2012.  
19 In association with the Fourth Street Public Plaza, The Regents would also construct other  
20 related improvements on its own property, such as an amphitheater, which are subject solely  
21 to The Regents approval authority and are not the subject of this Ordinance

22 (d) Lease. City holds title to Fourth Street between Sixteenth Street and Mariposa  
23 Street subject to the common law public trust on submerged lands and tidelands (the “Public  
24 Trust”), and City, as trustee, manages the land consistent with the requirements of the Public  
25 Trust. In Ordinance Nos. 52-04 and 42-12, the Board of Supervisors previously approved a

1 vertical differentiation on the Fourth Street right-of-way between Mission Bay Boulevard South  
2 and Sixteenth Streets for certain UCSF facilities and improvements in the UCSF Campus on  
3 City-owned property not subject to the Public Trust or dedicated for public street and roadway  
4 purposes. The real property and air rights along Fourth Street between Sixteenth Street and  
5 Mariposa Street can be similarly vertically segmented by City into a right of way segment and  
6 above-ground and underground non-right of way segments. Fourth Street bisects the UCSF  
7 Medical Center Site and currently is unimproved, but is identified in the Mission Bay South  
8 Redevelopment Plan as a future public right-of-way. The Regents is building an integrated  
9 hospital complex to serve children, women and cancer patients on the UCSF Medical Center  
10 Site. The first phase of the complex will be located east of Fourth Street, and a proposed  
11 future phase of the complex would be located west of Fourth Street. To facilitate the safe and  
12 efficient movement of staff, patients, visitors and materials between the east and west  
13 segments of the hospital complex, The Regents contemplates that it may desire to construct  
14 one or two overhead pedestrian bridges over Fourth Street to connect the buildings at the  
15 third and fourth floor levels, and may install certain underground utility connections between  
16 the buildings on the east and west sides of Fourth Street beneath the surface of the Fourth  
17 Street plaza or street improvements. City and The Regents have negotiated a lease (the  
18 "Lease") from City to The Regents for vertically-delineated portions of the future Fourth Street  
19 area for underground utilities and for up to two above-ground bridges for pedestrian,  
20 equipment and materials passage, and utilities, connecting buildings on the east and west  
21 sides of Fourth Street for a term of 66 years. Pursuant to the Lease, the Regents shall have  
22 the right to construct, operate, use and maintain two pedestrian bridges within the leased  
23 premises, subject only to subsequent design approval by the Department of City Planning  
24 pursuant to the Lease and other legally required authorizations from City Departments. The  
25 Director of Property has determined that the rent specified in the proposed Lease reflects the

1 fair market rent for the leased premises for the term of the Lease. A lease is the traditional  
2 method for authorizing certain types of use of State Trust property, and the proposed Lease is  
3 subject to all the standard terms and conditions related to use of such property. The City and  
4 The Regents have consulted with the California State Lands Commission regarding the  
5 appropriate uses of the property which is the subject of the proposed Lease and believe that  
6 the terms and conditions of the Lease are consistent with the requirements of the Public Trust.  
7 A copy of the proposed Lease is on file with the Clerk of the Board of Supervisors in File No.  
8 \_\_\_\_\_ and is incorporated herein by reference. Separate legislation to dedicate and  
9 accept Fourth Street at the surface level as a public City street will be presented to the Board  
10 of Supervisors after construction and completion of the roadway subject to the requirements  
11 of the Mission Bay South Redevelopment Plan and Plan Documents.

12 (e) Permit. With the City's permission, the Regents previously installed utilities within a  
13 portion of the Owens Street right-of-way and within portions of the proprietary and the  
14 dedicated street areas of the Fourth Street right-of-way between Mission Bay Boulevard  
15 South and Sixteenth Street, as well as improvements, including specialty street paving, on a  
16 portion of Fourth Street at its intersection with Gene Friend Way. Pursuant to a major  
17 encroachment permit described in DPW Order No. \_\_\_\_\_, dated \_\_\_\_\_, 2012 (the  
18 "Permit"), The Regents intends to: (1) develop and maintain the Fourth Street Public Plaza,  
19 including specialty paving, tree wells, planted "rain gardens," new lighting and drainage  
20 facilities, a multi-use pedestrian/bike path, and other public improvements and to maintain the  
21 Fourth Street Improvements area (as defined below); (2) install, use and maintain utilities in  
22 portions of Sixteenth Street to provide utility connections between the UCSF Medical Center  
23 Site and its adjacent research site; (3) cause to be installed and maintain a median divider on  
24 a portion of Owens Street between Sixteenth Street and Mariposa Street (defined in the Final  
25 Environmental Impact Report described in Section 2 below); (4) reserve the right to install and

1 maintain pedestrian improvements, including specialty paving, on a portion of the  
2 Fourth Street at its intersection with Sixteenth Street; and (5) reserve the right to install  
3 additional utilities in Fourth Street and Sixteenth Street. The existing and future streets and  
4 utility improvements, and the Fourth Street Public Plaza are collectively referred to herein as  
5 the "UCSF Street and Utility Improvements." A copy of the Permit is on file with the Clerk of  
6 the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference.  
7 The Regents will assume maintenance and liability over the public street roadway segments  
8 on Fourth Street between Sixteenth and Mariposa Streets and the Fourth Street Public Plaza  
9 (collectively, the "Fourth Street Improvements ") pursuant to the Permit and the Maintenance  
10 Agreements referenced therein.

11 (f) Application for Permit. On March \_\_\_\_, 2012, The Regents submitted an application  
12 to the Department of Public Works ("DPW") for the Permit to occupy portions of Fourth,  
13 Sixteenth and Owens Streets for the installation, use and maintenance of the UCSF Street  
14 and Utility Improvements.

15 (g) Consistency Findings. The Department of City Planning, by letter, dated \_\_\_\_\_,  
16 2012, declared that the actions contemplated herein are, on balance, consistent with the  
17 City's General Plan and with the eight priority policies of Planning Code Section 101.1. A  
18 copy of said letter is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is  
19 incorporated by reference as though fully set forth herein. The Board of Supervisors adopts  
20 as its own the findings in said letter.

21 (h) Oversight Board Action. On \_\_\_\_\_, 2012, the Oversight Board of the San  
22 Francisco Redevelopment Successor Agency (the "Oversight Board") approved the Fourth  
23 Street Public Plaza schematic design. The San Francisco Redevelopment Successor  
24 Agency, in a letter dated \_\_\_\_\_, 2012, determined that the Fourth Street Public Plaza, the  
25 UCSF Street and Utilities Improvements, and other actions contemplated in this Ordinance

1 are consistent with the Mission Bay South Redevelopment Plan (“Plan”) and Plan Documents  
2 described therein and recommended Board of Supervisors’ approval. Copies of the Oversight  
3 Board’s Resolution and the Successor Agency letter are on file with the Clerk of the Board of  
4 Supervisors in File No. \_\_\_\_\_ and are incorporated herein by reference.

5 (i) Director of Property Recommendations. The City's Director of Property by letter  
6 dated \_\_\_\_\_, 2012, has recommended approval of the Easements, fee  
7 conveyances, and Lease that are contemplated in this Ordinance. A copy of this letter is on  
8 file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated  
9 herein by reference.

10 (j) Minor Infrastructure Plan Amendment. On \_\_\_\_\_, 2012, the Mayor approved the  
11 Mission Bay Minor Infrastructure Plan Amendment concerning designs for Fourth Street and  
12 for Owens Street between Sixteenth and Mariposa Streets, and for various traffic  
13 improvements. A copy of this Amendment is on file with the Clerk of the Board in File No.  
14 \_\_\_\_\_ and is incorporated herein by reference.

15 (k) Offers of Dedication and Deeds. The University has made Offers of Dedication to  
16 the City for public use of portions of its land at Mission Bay, including portions of Block 25 at  
17 the UCSF Campus site north of Sixteenth Street and portions of Blocks 36, 37 and X-3 at the  
18 UCSF Medical Center Site for purposes of street widening, turning radii and a right turn lane  
19 and portions of the Fourth Street right-of-way between Sixteenth Street and Mariposa Street  
20 for public use; PAC Operating Limited Partnership, a Delaware limited partnership, f/k/a  
21 Catellus Operating Limited Partnership, as fee owner of Mission Bay Blocks 38 and 39 and  
22 Lessor under the ground lease with The Regents, has made Offers of Dedication to the City  
23 for public use of portions of Blocks 38 and 39 for the widening of the Owens Street right-of-  
24 way and turning radii on Sixteenth Street; and FOCIL-MB, LLC, a Delaware limited liability  
25 company, as fee owner, has made an Offer of Dedication to the City for public use of a portion



1 of Block 40 for the widening of the Owens Street right-of-way (collectively, the “Offers of  
2 Dedication”). Copies of the Offers of Dedication and accompanying grant deeds and quitclaim  
3 deed are on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and are  
4 incorporated herein by reference.

5 (l) Prior Board of Supervisor Actions. By Resolution No. 743-02, the Board of  
6 Supervisors granted revocable permission to The Regents to occupy a portion of the public  
7 right-of-way to install and maintain utility crossings and joint trenches on future Fourth Street  
8 and Owens Street, and on future South Common Street, for providing various services to the  
9 new UCSF Mission Bay campus; and to construct and maintain an at-grade pedestrian  
10 crossing at a future mid-block signalized intersection on future Fourth Street at future private  
11 Fourteenth Street. While this encroachment permit expired according to its terms, this  
12 Ordinance shall reissue the revocable permission granted for those portions of the  
13 encroachment that are within Fourth Street and Owens Street subject to the Permit conditions  
14 set forth herein. These conditions include, among other requirements, a one-time payment of  
15 the public right-of-way occupancy fee for the portion of the encroachment located in Owens  
16 Street. Ordinance Nos. 52-04 and 42-12, which accepted portions of Fourth Street for City  
17 maintenance and liability, contemplated that the DPW Director and the Director of Property  
18 would return to the Board of Supervisors for approval of an easement for University  
19 underground utilities within City's proprietary portion of Fourth Street and revise the  
20 encroachment permit accordingly. This current Ordinance accomplishes that purpose.  
21 Copies of Resolution No. 743-02 and Ordinance Nos. 52-04 and 42-12 are in Clerk of the  
22 Board of Supervisors File Nos. 021454, 040139, 120003 respectively, and are incorporated  
23 herein by reference.

24 (m) Director of Public Works Recommendations Regarding Permit. After a duly noticed  
25 public hearing on \_\_\_\_\_, 2012, the Director of DPW recommended approval of the Permit

1 to install, use, and maintain the UCSF Street and Utility Improvements consistent with the  
2 Permit, as set forth in the aforementioned DPW Order No. \_\_\_\_\_. The Permit is  
3 accompanied by two Memorandum of Agreement regarding maintenance of the UCSF Street  
4 and Utility Improvements, one covering the Fourth Street Public Plaza and the other covering  
5 other sidewalk, street and utilities improvements located at the UCSF Campus, including an  
6 obligation on The Regents to maintain all public sidewalks in and surrounding the UCSF  
7 Campus (the "Maintenance Agreements"). The Permit would authorize certain future,  
8 specified occupancies and uses in portions of the public right-of-ways of Fourth Street and  
9 Sixteenth Street, which shall be subject to subsequent authorization from the DPW Director,  
10 and include specific terms for revocation. The Permit also would authorize The Regents to  
11 conduct certain types of activities within the Fourth Street Public Plaza and on the Fourth  
12 Street Improvements area, subject to obtaining any applicable City permits or approvals, such  
13 as a temporary street closure, as further specified in the Permit. A non-exhaustive list of such  
14 activities is included in the Maintenance Agreement for the Fourth Street Public Plaza.

15 (n) Director of Public Works Recommendations Regarding Other Matters. The Director  
16 in DPW Order No. \_\_\_\_\_ further recommended that the Board of Supervisors  
17 acknowledge that construction and completion of the Fourth Street roadway segments  
18 between Sixteenth and Mariposa Streets on either side of the Fourth Street Public Plaza  
19 ("Fourth Street Roadway") shall be subject to separate but coordinated permitting with The  
20 Regents' permit for the Fourth Street Public Plaza. The Department shall return to the Board  
21 of Supervisors with legislation for public street dedication and acceptance of the surface  
22 portions of Fourth Street once the permitted work is complete in accordance with the Mission  
23 Bay South Redevelopment Plan and Plan Documents. The Director also recommended that  
24 the Board of Supervisors accept certain offers of real property and improvements related to  
25 the UCSF Street and Utility Improvements and other actions contemplated in the Master

1 Agreement and delegate to the Director of DPW and other City agencies the authority to  
2 accept on behalf of the City certain traffic improvements and real property conveyances  
3 related thereto as contemplated in the Master Agreement upon completion of such public  
4 improvements. Copies of the above mentioned Permit and Maintenance Agreements are on  
5 file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and are  
6 incorporated herein by reference.

7 (o) Competitive Bidding Waiver. The Board finds that, due to the unique location of  
8 the UCSF Campus and its medical and educational facilities, infrastructure, and existing and  
9 proposed public amenities, competitive bidding related to the Lease and utility easements is  
10 impractical or infeasible.

11 (p) Unless specified otherwise herein, all capitalized terms relating to Mission Bay  
12 shall have the terms ascribed to them pursuant to the Mission Bay South Redevelopment  
13 Plan and Plan Documents, described therein, approved and adopted by the Board of  
14 Supervisors of the City and County of San Francisco by Ordinance No. 335-98, on  
15 November 2, 1998, a copy of which is in Clerk of the Board of Supervisors File No.

16 \_\_\_\_\_.

17 Section 2. **Environmental Findings.** (a) The Planning Department in letters dated  
18 November 20, 2001, January 28, 2004, and December 15, 2011 determined that the  
19 previously installed University utilities identified were in compliance with the California  
20 Environmental Quality Act (California Public Resources Codes Sections 21000 et seq.,  
21 “CEQA”). Copies of said letters are on file with the Clerk of the Board of Supervisors in File  
22 Nos. 021454, 040139, 120003 respectively, and are incorporated herein by reference. For  
23 the actions contemplated herein related to the previously installed University utilities, the  
24 Board of Supervisors continues to rely on said determinations.

1 (b) The Regents, as the lead agency under CEQA and the California Code of  
2 Regulations Sections 15000 et seq., ("CEQA Guidelines"), for the UCSF Medical Center at  
3 Mission Bay prepared and certified the Final Environmental Impact Report on the UCSF  
4 Medical Center at Mission Bay on September 17, 2008 (the "MCMB EIR").

5 (c) The Regents adopted CEQA Findings, including a statement of overriding  
6 considerations and a mitigation monitoring and reporting program and approved the first  
7 phase of the UCSF Medical Center at Mission Bay on September 17, 2008, which documents  
8 are on file with the Oversight Board \_\_\_\_\_ and incorporated in this Ordinance by this  
9 reference.

10 (d) The Regents, through the University President, prepared and certified the MCMB –  
11 Fourth Street Public Plaza FEIR ("Project FEIR") on May 18, 2012, which tiers off of the  
12 MCMB EIR.

13 (e) The Project FEIR analyzes the environmental effects of having the University  
14 construct and maintain a public plaza on Fourth Street between Sixteenth Street and  
15 Mariposa Street; it also analyzes the effects of implementing eleven (11) traffic improvement  
16 measures identified by the University, some of which are necessary to avoid significant traffic  
17 effects if the University approves and implements the second phase of the UCSF Medical  
18 Center at Mission Bay. The Project FEIR concludes that mitigation measures incorporated  
19 into the Project would fully mitigate any significant effects that could result from the Project.

20 (f) The University President adopted environmental findings, including a mitigation  
21 monitoring and reporting program for the Project on May 18, 2012, which findings are  
22 incorporated in this resolution by reference.

23 (g) The Oversight Board and this Board of Supervisors, are responsible agencies as  
24 defined by CEQA Guidelines Section 15381 and these Boards, through the Planning  
25

1 Department, have complied with the requirements for a responsible agency as set forth in  
2 CEQA Guidelines Section 15096.

3 (h) The Oversight Board reviewed the information contained in the Project FEIR as  
4 relevant to its approval of schematic design for the pedestrian bridges over Fourth Street and  
5 the environmental findings contained in The Regents' and University approval actions related  
6 to the Project and the mitigation monitoring and reporting program. The Oversight Board also  
7 adopted findings for the project (the "CEQA Findings") in accordance with CEQA, the CEQA  
8 Guidelines, and San Francisco Administrative Code Chapter 31 ("Chapter 31") which findings  
9 are found in Attachment A to the Oversight Board's Resolution No. \_\_\_\_\_, and its  
10 Exhibit 1, the Mitigation Monitoring and Reporting Program. Said Resolution is incorporated  
11 herein by reference.

12 (i) The MCMB FEIR and Project FEIR, prepared and certified as adequate by The  
13 Regents and the University, have been made available for review by the Board and the public  
14 and these documents are part of the record before the Board.

15 (j) The Board has reviewed and considered the MCMB FEIR and Project FEIR and the  
16 record as a whole, finds that the MCMB FEIR and Project FEIR are adequate for its use as  
17 the decision-making body for the approval of the Project under California Public Resources  
18 Code Section 21161.5 and hereby adopts and incorporates into this Ordinance by this  
19 reference the Oversight Board's CEQA Findings as its own. In addition, this Board hereby  
20 includes those mitigation measures within the City's jurisdiction as conditions to the approval  
21 of this Ordinance.

22 (k) The Board finds that the approval of the actions contemplated in this Ordinance are  
23 within the scope of the project analyzed in the Project EIR.

24 (l) The Board finds that since The Regents certified the Project FEIR, there have been  
25 no substantial project changes and no substantial changes in project circumstances that

1 would require major revisions to the Project FEIR due to the involvement of the new  
2 significant environmental effects or an increase in the severity of previously identified  
3 significant impacts, and there is no new information of substantial importance that would  
4 change the conclusions set forth in the Project FEIR.

5 (m) The Board has not identified any feasible alternative or additional feasible  
6 mitigation measures within its powers that would substantially lessen or avoid any significant  
7 effect the project would have on the environment.

8 Section 3. **Approval of Major Encroachment Permit, Maintenance Agreements**  
9 **and Fee Modification.**

10 (a) Pursuant to Public Works Code Section 786, and consistent with the UCSF Street  
11 and Utility Improvements plan, the Board of Supervisors hereby grants revocable permission  
12 to The Regents to occupy a portion of the public right-of-ways to construct, install, use, and  
13 maintain the UCSF Street and Utility Improvements consistent with the Permit and  
14 Maintenance Agreements, subject to the conditions set forth herein. The Permit shall  
15 specifically allow for future maintenance services of the UCSF Street and Utility Improvements  
16 as set forth in the Maintenance Agreements, and shall specifically allow for, among others,  
17 fixed and moveable outdoor café tables and chairs, specialty paving, tree wells, planted “rain  
18 gardens,” new lighting and drainage features, seating throughout the Fourth Street Public  
19 Plaza for the use of the general public, a multi-use pedestrian/bike path, other public  
20 improvements, art, music and food-related events and performances open to the public,  
21 farmer’s markets, concerts, health fairs and blood drives, festivals and carnivals, exercise  
22 classes, and the temporary closure to the public of portions of the Fourth Street Public Plaza  
23 area or the Fourth Street Improvements area, subject to obtaining applicable City permits and  
24 approvals as set forth in the Permit.

1 (b) The Board of Supervisors hereby authorizes the Director of DPW to approve,  
2 subject to any reasonable conditions that the Director deems appropriate, such uses and  
3 physical improvements that are substantially consistent with those uses and improvements  
4 described in the major encroachment permit application and the permit applicant's plans. The  
5 Director shall incorporate such uses and conditions into the Permit to establish a record of  
6 such actions. The Board of Supervisors further authorizes the Director to modify the Permit  
7 as necessary to address future changes and to approve future encroachments associated  
8 with the UCSF Street and Utility Improvements within the Director's jurisdiction, including,  
9 without limitation, future utility boxes or vaults located within the sidewalk area, additional  
10 utilities and connections, and ancillary structures below and above ground to be located within  
11 the dedicated street area, subject to DPW review and approval of plans for such additional  
12 encroachments.

13 (c) In addition to the other conditions set forth herein, The Regents, at its sole expense  
14 and as is necessary as a result of the Permit, shall make the following arrangements:

15 (1) To provide for the support and protection of facilities belonging to the City and  
16 public utility companies;

17 (2) To provide future access from the UCSF Street and Utility Improvements plan area  
18 to such facilities to allow said entities to construct, reconstruct, maintain, operate or repair  
19 such facilities at said entities' sole expense; and

20 (3) To remove or relocate such facilities if installation of the UCSF Street and Utility  
21 Improvements requires said removal or relocation and to make all necessary arrangements  
22 with the owners of such facilities, including the payment for all their costs, should said removal  
23 or relocation be required solely as a result of the installation of the UCSF Street and Utility  
24 Improvements.

25 (d) The Permit also is subject to the following conditions:

1 (1) No structures shall be erected or constructed within said street right-of-ways except  
2 as specifically permitted herein or by the Director of DPW;

3 (2) The Regents shall become a member of, participate in and share costs associated  
4 with, Underground Service Alert (U.S.A.) Northern California Region;

5 (3) Except as otherwise set forth in the Maintenance Agreements, The Regents shall  
6 assume all costs for the maintenance and repair of the UCSF Street and Utility Improvements  
7 and no cost or obligation related to the encroachments shall accrue to DPW or any other City  
8 entity or agency by reason of this permission granted; and,

9 (4) As set forth in the Maintenance Agreements, The Regents' maintenance and repair  
10 obligations for the UCSF Street and Utility Improvements shall be coterminous with this  
11 Permit. The conditions of the Permit shall bind the future assignees and transferees of the  
12 Permit.

13 (e) The rights granted herein do not constitute a cable TV franchise and do not  
14 authorize transmission of video programming over the City right-of-way or any other signals  
15 that would constitute Cable TV service.

16 (f) Fee Modification for Owens Street Encroachment. Notwithstanding the public right-  
17 of-way occupancy assessment fee set forth in Public Works Code Section 786.7, which would  
18 be \$2,040.00 annually based on the square foot calculation of the subject encroachment, the  
19 Board of Supervisors hereby assesses a one-time fee of \$\_\_\_\_\_.00 for the permitted  
20 facilities located in the Owens Street right-of-way and serving the Gladstone Institute. This  
21 fee amount is based on a net present value of the useful life of the permitted encroachment.

22 (g) Permit Revocation. Revocation of the Permit, in whole or in part, shall require a  
23 final and effective Board of Supervisors' Resolution.

24 **Section 4. Acceptance of Offers of Dedication and Real Property Conveyances.**  
25



1 (a) The Board of Supervisors hereby approves the recommendations contained in  
2 DPW Order No. \_\_\_\_\_ regarding the UCSF Street and Utility Improvements plan and  
3 regarding Fourth Street between Sixteenth and Mariposa Streets among other actions.

4 (b) University, PAC, and FOCIL Offers of Dedication for Fourth Street, Owens Street,  
5 and Other Improvements. The Board of Supervisors accepts the Offers of Dedication, accepts  
6 the grant deeds, quitclaim deed, or easements related to those improvements already  
7 constructed and approved by the City, conditionally accepts the fee title and easement  
8 conveyances described therein for those improvements not yet constructed and delegates to  
9 the Director of Property the authority to accept the Offers of Dedication and record the  
10 accompanying Grant Deeds, Quitclaim Deed, or easement once the public improvements  
11 have been constructed to the City's satisfaction or earlier in the discretion of the Director of  
12 Property. The Board of Supervisors also delegates to the DPW Director the authority to  
13 accept for public use those improvements yet to be constructed subject to the DPW Director's  
14 determination that the improvements are complete and ready for their intended use.

15 (c) Limitations If the Fourth Street Public Plaza Is Not Built. In the event that the  
16 Fourth Street Public Plaza is not constructed as specified in the Master Agreement, then the  
17 Board of Supervisors decision in this Section regarding the improvements and real estate  
18 conveyances for the widening of Owens Street, the bulb-out at the northwest corner of the  
19 Owens and Sixteenth Streets intersection, the right turn lane at Third and Mariposa Streets,  
20 the restriping of the eastbound approach of Sixteenth Street to Third Street, and the restriping  
21 of the westbound approach of Sixteenth Street to Third Street shall be null and void and the  
22 DPW Director and Director of Property are authorized to cooperate with The Regents to  
23 remove any property encumbrances that are no longer necessary for public improvements  
24 required as a result of the Fourth Street Public Plaza.

25 **Section 5. Approval of Easement Agreements.**

1 (a) The Board of Supervisors hereby approves the Easement Agreement  
2 (Underground Utilities — Under Fourth Street between Sixteenth Street and Mission Bay  
3 Boulevard South) by and between the University and the City (the "UCSF Utility Easement") in  
4 substantially the form in the Clerk of the Board of Supervisors' files and hereby approves and  
5 accepts the following easements in substantially the form in the Clerk of the Board of  
6 Supervisors' files: (i) the Easement Agreement (ADA Compliant Curb Ramps Easement) by  
7 and between the University and the City, (ii) the Easement Agreement (Third Street — Energy  
8 Center Turnout Public Sidewalk, Street Light and Utility Easement) by and between the  
9 University and the City, and (iii) the Easement Agreement (ADA Compliant Curb Ramps  
10 Easement) by and between PAC Operating Limited Partnership and the City (collectively, the  
11 "City Easements", and collectively with the UCSF Utility Easement, the "Easements"). The  
12 Director of Property may sign and record the Easements upon the effective date of this  
13 Ordinance. To the extent the City Easements relate to UCSF Street and Utility Improvements  
14 not yet constructed, the Board of Supervisors delegates to the Director of Property the  
15 authority without further Board of Supervisor action to sign and record any documents  
16 required to make technical corrections to one or more City Easement to reflect any non-  
17 material corrections to the property descriptions in such City Easement following completion  
18 of the public improvements thereon. Copies of the Easements are on file with the Clerk of the  
19 Board of Supervisors in File No. \_\_\_\_\_ and are incorporated herein by reference.

20 (b) For purposes of this Section and the Lease set forth in Section 6 of this Ordinance,  
21 the Board of Supervisors hereby authorizes the Director of Property to approve future  
22 encroachments associated with the UCSF Street and Utility Improvements, including, without  
23 limitation, future utility boxes or vaults located within the sidewalk area, additional utilities and  
24 connections, and ancillary structures below and above ground to be located within the City's  
25 proprietary street area, subject to review and approval of plans for such additional

1 encroachments and further subject to the consent of the Director of DPW. Any proposed use  
2 or occupancy of the public right-of-ways determined by the Director of DPW to be outside the  
3 scope of those substantially consistent with those uses and improvements described in the  
4 major encroachment permit application and the Permit approved herein shall be subject to all  
5 applicable provisions of the Public Works Code and local law.

6           Section 6. **Approval of Lease for Public Trust Property Above and Below Fourth**  
7 **Street.**

8           (a) The Board of Supervisors acknowledges the non-typical nature of the proposed  
9 Fourth Street right-of-way between Sixteenth and Mariposa Streets that will be vertically-  
10 delineated to accommodate the Lease. In Ordinance Nos. 52-04 and 42-12, the Board of  
11 Supervisors previously approved such vertical differentiation on the Fourth Street right-of-way  
12 between Mission Bay Boulevard South and Sixteenth Streets for other University facilities and  
13 improvements in the Mission Bay campus. The Board of Supervisors hereby directs DPW to  
14 return to the Board of Supervisors with legislation and appropriate documentation for public  
15 street dedication and acceptance of the surface portions of Fourth Street right-of-way once  
16 the permitted street and utility work is complete in accordance with the Mission Bay South  
17 Redevelopment Plan and Plan Documents.

18           (b) The Board of Supervisors hereby approves the Lease.

19           (c) The Board of Supervisors hereby directs the Director of Property to apply all funds  
20 received pursuant to the above-mentioned Lease solely to the administration, use, and  
21 enjoyment of Public Trust property where the City is Trustee. No Lease revenue shall be co-  
22 mingled with General Fund revenues and the Director of Property shall work with the  
23 Controller's Office to properly address the accounting and use of the funds in accordance with  
24 the terms of this Ordinance.

25           Section 7. **Approval of Master Agreement.**

1 The Board of Supervisors hereby approves the Master Agreement in substantially the  
2 form presented to the Board of Supervisors.

3 Section 8. **Authorization to Effectuate the Ordinance.**

4 All actions heretofore taken by the officers of the City with respect to this Ordinance are  
5 hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board, DPW Director,  
6 and Director of Property are hereby authorized and directed to take any and all actions that  
7 they or the City Attorney may deem necessary or advisable in order to effectuate the  
8 purposes and intent of this Ordinance, including without limitation, authorizing the Director of  
9 DPW to sign the Master Agreement, the Permit, and the Maintenance Agreements, accept  
10 public improvements where the Board of Supervisors has delegated this authority to the DPW  
11 Director, and file documents in the official records of the Department of Public Works, and  
12 authorizing the Director of Property to sign the Lease and sign and record real estate  
13 conveyance documents and Easements. The Board of Supervisors authorizes the DPW  
14 Director or Director of Property to enter into any amendments or modifications to the Master  
15 Agreement, Permit, Maintenance Agreements, Easements, or Lease (including, without  
16 limitation, the exhibits) that the DPW Director or Director of Property determines, in  
17 consultation with the City Attorney, are in the best interest of the City, do not materially  
18 increase the obligations or liabilities of the City, are necessary or advisable to effectuate the  
19 purposes of the applicable agreement or this Ordinance, and are in compliance with all  
20 applicable laws, including the City Charter.

21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA, City Attorney

23 By: \_\_\_\_\_  
24 John D. Malamut  
25 Deputy City Attorney

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25