[Potrero-Hunters Point 115 kV Cable Project Property License]

Resolution approving Port License No. 13873, a non-exclusive sixty-six (66) year license between the Port and Pacific Gas and Electric Company (PG&E) for the use of Port property along the route for the Potrero-Hunters Point 115 kV Cable Project, in the vicinity of Illinois Street, 23rd Street, Tennessee Street, Marin Street and Evans Avenue, between Selby and Third Street.

WHEREAS, California Statutes of 1968, Chapter 1333 (the "Burton Act") and the San Francisco Charter Section B3.581 empower the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within the Port jurisdiction; and

WHEREAS, The Port Commission jurisdiction includes lands granted to the City and County of San Francisco (City) by the Burton Act, subject to the trust grant, that underlie the former and/or paper street areas known as Davidson, Ingalls, Custer, India and Evans Street, and shoreline areas in the vicinity (the Plant property); and

WHEREAS, Pacific Gas and Electric Company (PG&E) has used the Plant property for the Hunter's Point Power Plant, intake and outfall structures, supporting facilities and public access that it dedicated to BCDC as a condition of permit issuance, without first obtaining all necessary authorizations; and

WHEREAS, In April 2001, PG&E filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code and became a debtor in possession, and in October 2001, the City filed a claim asserting multiple debts and liabilities, including an encroachment claim with respect to the Plant property, which, as amended, claimed that PG&E encroached on 91,949 square feet of public trust property for which the Port was entitled to payment; and

Supervisor Maxwell
BOARD OF SUPERVISORS

July 29, 2005
WHEREAS, On September 13, 2004 PG&E filed a Motion for Partial Summary Judgment or Adjudication (Limited to Hunter’s Point Encroachment Claim) on Objection to City and County of San Francisco’s Prepetition Claim [NO.12640] and First through Fifth Administrative /claims [Docket Nos. 11078, 12137, 14290, 14476, and 14903] (the "Summary Judgment Motion"), and the City filed a Motion to Amend; and

WHEREAS, The Encroachment Claim, the Motion to Amend and the Summary Judgment Motion are pending in U.S. Bankruptcy Court, N.D. Cal., Case No. 01-30923 DM, however, the Port and PG&E desire to resolve the dispute with respect to the Plant property and thereby facilitate the closure of the Hunter’s Point Power Plant and to reach agreement on the land rights required for the construction of the Potrero-Hunters Point 115 kV Cable Project crossing Port property; and

WHEREAS, Pursuant to Charter Section 83.585, the City Attorney, with the approval of the Port Commission, may compromise, settle or dismiss any litigation or legal proceeding, pending for or on behalf of the Commission relative to any matter under its jurisdiction; and

WHEREAS, The Port is the State trust grantee of that certain real property located along a route extending from Illinois Street, 23rd Street, Tennessee Street, Marin Street and Evans Avenue, between Selby Street and Third Street, within which PG&E desires to install, operate and maintain a single-circuit, 115-kV solid dielectric underground circuit consisting of three cables between the Potrero and Hunters Point switchyards ("Potrero-Hunters Point 115 kV Cable Project" or "Project"); and

WHEREAS, The permitted right of way for the Potrero-Hunters Point 115 kV Cable Project is approximately 9132 sq. ft. in area, and shall include two power vaults (approximately 480 sq. ft.) and two communication vaults (approximately 45 sq. ft.); and

WHEREAS, The Potrero-Hunters Point 115 kV Cable Project will provide necessary upgrades to the electrical transmission system serving the City to improve reliability and
increase capacity, as well as to provide a critical component needed to meet the goal of closing PG&E’s Hunters Point Power Plant; and

WHEREAS, On November 10, 2004, the California Independent System Operator Board of Governors approved an action plan consisting of nine (9) transmission system upgrades necessary to remove “must-run” status from the Hunters Point Power Plant; and

WHEREAS, After conducting environmental review, the California Public Utilities Commission (CPUC) issued PG&E a Permit to Construct on December 2, 2004 that authorizes PG&E to construct the Potrero-Hunters Point 115 kV Cable Project subject to compliance with mitigation conditions listed in the CPUC’s Final Mitigated Negative Declaration; and

WHEREAS, As required by the CPUC, PG&E and the CPUC published public notifications in the San Francisco Chronicle of the application to construct the Potrero-Hunters Point 115 kV Cable Project on January 9 and 16 of 2004 and PG&E posted notices and mailed notices to addresses within three hundred (300) feet of the proposed route pursuant to the CPUC’s General Order 131-D; and

WHEREAS, On July 7, 2004, the CPUC mailed letters to numerous agencies, organizations, and individuals providing notice of an informational meeting that was held by the CPUC on July 22, 2004 at 1800 Oakdale Avenue in San Francisco regarding the Potrero-Hunters Point 115 kV Cable Project and on August 3, 2004 mailed a second letter to the same mailing list announcing that the Draft Initial Study was available for public review; and

WHEREAS, The CPUC established an information and comment telephone line, e-mail address and web site to enable the public to ask questions, provide comments and obtain additional information on the proposed Potrero-Hunters Point 115 kV Cable Project; and

WHEREAS, The environmental effects of the proposed project were analyzed in a Final Mitigated Negative Declaration (MND), prepared for and approved on November 19,
WHEREAS, The MND includes mitigation measures which were approved and
required by the CPUC as conditions of the Project, which would reduce environmental
impacts to a less than significant level; and

WHEREAS, In addition to the MND, Port staff reviewed the Port of San Francisco Final
Supplemental Environmental Impact Report (SEIR) to determine whether any mitigation
measures from that document also were applicable to this project, and found that the
mitigation measures in the MND were consistent with or exceeded those applicable in the
SEIR, and concurs with the analysis and conclusions presented in the Final MND; and.

WHEREAS, Pursuant to CEQA Guideline Section 15162, the Port staff has determined
that no new information of substantial importance has become available, no modification to
the project has occurred that would require important revisions to the MND, and no substantial
changes have occurred with respect to the circumstances under which the project is
undertaken, since the CPUC approved the MND; therefore, there is no need to conduct
additional environmental review; and

WHEREAS, The Port Commission received and reviewed the information presented in
the Final MND, including the CPUC-required mitigation measures presented on pages 1-23 to
1-44 of the MND; and

WHEREAS, The Project, if approved, will allow closure of the Hunters Point Power
Plant, thus ending that facility's reliance on San Francisco Bay water to cool the facility; and

WHEREAS, Closure of the Hunters Point Power Plant will enable the City to positively
respond to an environmental justice issue of major concern, particularly within the Bayview
Hunters Point community; and
WHEREAS, The Project will be restricted to public rights of way, within which public utility installations are an appropriate use; and

WHEREAS, Efforts to improve the stability and capacity of the electric utility system serving San Francisco also benefit Port property and the public trust; and

WHEREAS, PG&E has obtained Utility Excavation Permits from the City and County of San Francisco Department of Public Works to install facilities within the portions of the City streets along the proposed route; and

WHEREAS, On April 25, 2005, PG&E submitted a Port Building Permit Application Number 7039 to install facilities within the streets that are under Port's jurisdiction in conjunction with Potrero-Hunters Point 115 KV Cable Project; and

WHEREAS, On May 25, 2005, PG&E made an informational presentation to the Southern Waterfront Advisory Committee about the proposed Project; and

WHEREAS, By its Resolution No. 05-37, adopted June 14, 2005, the Port Commission found that the Final MND it is adequate, accurate, and objective, there is no need to prepare additional environmental review, and that there is no substantial evidence that the Project will have a significant effect on the environment, and thereby adopted the Final MND; and

WHEREAS, The Port Commission found that the Potrero-Hunters Point 115 KV Cable Project is a use that is consistent with the public trust; and

WHEREAS, The Port Commission adopted and required the inclusion and implementation of the mitigation measures set forth in the MND as conditions of approval of this project; and

WHEREAS, The Port Commission approved the proposed settlement agreement recommended by the City Attorney dated June 14, 2005 between the City and County of San Francisco and Pacific Gas and Electric Company ("Settlement Agreement") on file with the Clerk of the Board of Supervisors; and
WHEREAS, As part of the settlement agreement, the Port Commission approved two non-exclusive Licenses ("License No. 13872 and License No. 13873") between the Port and Pacific Gas and Electric Company (PG&E) for the use of Port property along the route for the Potrero-Hunters Point 115 kV Cable Project, in the vicinity of Illinois Street, 23rd Street, Tennessee Street, Marin Street and Evans Avenue, between Selby and Third Street, on file with the Clerk of the Board of Supervisors, and authorized the Executive Director to execute License No. 13872, and forward License No. 13873 to the Board of Supervisors for its review and approval pursuant to Charter Section 9.118, and if approved, to execute License II; and

WHEREAS, On June 14, 2006, the Board of Supervisors of the City and County of San Francisco adopted Resolution 465-05 urging the Port to facilitate PG&E’s construction of the Potrero-Hunters Point 115KV Cable Project and PG&E to obtain tenancy in good standing with the Port; now, therefore, be it

RESOLVED, That the Board of Supervisors hereby approves License No. 13873, a non-exclusive license agreement between the Port and Pacific Gas and Electric Company (PG&E) with a maximum term of sixty-six (66) years for the use of Port property along the route for the Potrero-Hunters Point 115 kV Cable Project, in the vicinity of Illinois Street, 23rd Street, Tennessee Street, Marin Street and Evans Avenue, between Selby and Third Street; and be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive Director of the Port ("Executive Director") to execute such License No. 13873 in substantially the form of such license on file with the Clerk of the Board of Supervisors in File No. 051381, in such final form as is approved by the Executive Director in consultation with the City Attorney; and be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive Director and other appropriate officers, agents or employees of the City to take any and all
actions as they deem necessary or appropriate, in consultation with the City Attorney, in order
to consummate the transactions under License No. 13873, in accordance with this resolution,
or to otherwise effectuate the intent of this resolution.
Resolution approving Port License No. 13873, a non-exclusive sixty-six (66) year license between the Port and Pacific Gas and Electric Company (PG&E) for the use of Port property along the route for the Potrero-Hunters Point 115 kV Cable Project, in the vicinity of Illinois Street, 23rd Street, Tennessee Street, Marin Street and Evans Avenue, between Selby and Third Street.

August 9, 2005 Board of Supervisors — ADOPTED
Ayes: 10 - Alioto-Pier, Daly, Dufty, Elsbem, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval
Excused: 1 - Ammiano
I hereby certify that the foregoing Resolution was ADOPTED on August 9, 2005 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Mayor Gavin Newsom