

RESOLUTION NO 2010-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOSTER CITY APPROVING A UTILITY CONVEYANCE AND MAINTENANCE AGREEMENT BETWEEN THE CITY OF FOSTER CITY/ESTERO MUNICIPAL IMPROVEMENT DISTRICT AND GILEAD SCIENCES INC AND AUTHORIZING THE MAYOR TO EXECUTE THIS AGREEMENT

CITY OF FOSTER CITY

WHEREAS Gilead Sciences has requested the vacation of the portion of Lakeside Drive and an adjoining 19 ft Landscape Reserve (LR) and Public Utility Easement (PUE) between Reef Drive and Vintage Park Drive as part of the Gilead Sciences Corporate Master Plan improvements and

WHEREAS on December 3 2009 the Planning Commission reviewed and adopted Resolution P-38-09 that found the proposed street vacation and LR and PUE vacations are in conformance with the general land use goals and policies of the Foster City General Plan and

WHEREAS on December 20 2009 the City Council adopted Resolution No 2009-106 that initiated proceedings for the vacation of a portion of Lakeside Drive and the adjoining LR and PUE and set a Public Hearing date of January 19 2010 and

WHEREAS on January 19 2010 the City Council continued the Public Hearing to February 16 2010 per staff's recommendation and

WHEREAS on February 16 2010 by Resolution No 2010-21 the City Council in accordance with the provisions of the Streets and Highways Code of the State of California Division 9 Part 3 Chapter 3 thereof found that the vacated portion of Lakeside Drive and the LR and PUE were unnecessary for present or prospective public use and elected to vacate and abandon said street right-of-way and the adjoining LR and PUE and

WHEREAS on February 16 2010 by Ordinance No 554 the City Council approved a Development Agreement between Gilead Sciences and the City and Estero Municipal Improvement District to facilitate redevelopment of Gilead properties per the Gilead Sciences Master Plan and

WHEREAS on February 16 2010 by Resolution No 3092 the District Board of the Estero Municipal Improvement District approved a Development Agreement between Gilead Sciences and the City and Estero Municipal Improvement District to facilitate redevelopment of Gilead properties per the Gilead Sciences Master Plan and

WHEREAS a Utility Conveyance and Maintenance Agreement is necessary to formalize the transfer of City District infrastructure improvements to Gilead Sciences and whereas the subject agreement has been negotiated between the City/District and Gilead Sciences to document the transfer of infrastructure and the relinquishment of easements

related to the vacation of Lakeside Drive and the development of the Gilead Sciences corporate campus

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Foster City as follows

Section 1 Findings The City Council hereby incorporates by reference herein all of the findings made in Resolution No 2010-21 adopted by the City Council on February 16 2010 approving the vacation of a portion of Lakeside Drive and the adjoining easements Ordinance No 554 approving the Development Agreement between Gilead Sciences and the City and Estero Municipal Improvement District adopted by the City Council on February 16 2010 and Resolution No 3092 of the District Board approving the Development Agreement between Gilead Sciences and the City and Estero Municipal Improvement District adopted by the District Board on February 16 2010

Section 2 Utility Conveyance and Maintenance Agreement The City Council hereby (i) approves the Utility Conveyance and Maintenance Agreement with Gilead Sciences Inc as shown on Exhibit A attached hereto and made a part hereof subject to minor technical conforming changes as may be approved by the City Attorney and (ii) authorizes the Mayor to execute said Utility Conveyance and Maintenance Agreement and (iii) authorizes the City Manager to take further actions and execute such documents as are necessary to carry out the transactions set forth in the Utility Conveyance and Maintenance Agreement

Section 3 Severability If any section subsection sentence clause or phrase of this Resolution is for any reason held to be invalid such decision shall not affect the validity of the remaining portions of this Resolution The City Council of the City of Foster City hereby declares that it should have adopted the Resolution and each section subsection sentence clause or phrase thereof irrespective of the fact that any one or more sections subsections sentences clauses or phrases be declared unconstitutional


PASSED AND ADOPTED as a Resolution of the City Council of the City of Foster City at the regular meeting held on the 16th day of February 2010 by the following vote

AYES Councilmembers Frisella, Kiesel, Koelling, and Mayor Wykoff

NOES None

ABSENT None

ABSTAIN None



RICK WYKOFF MAYOR

ATTEST



DORIS L PALMER CITY CLERK

*Councilmember Bronitsky recused himself from this item as he participated as a Planning Commissioner when this item was considered by the Planning Commission