

1 [Mission Bay - Parks NP1 & NP2 Improvements]

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3 **Ordinance designating a portion of State Trust Parcel 1 lying next to Channel for public**  
 4 **open space and park purposes; naming the new park “Mission Creek Park”; accepting**  
 5 **the irrevocable offer for the acquisition facilities; designating said facilities to public**  
 6 **open space and park purposes and accepting for maintenance responsibilities and**  
 7 **liability purposes; adopting findings that such actions are consistent with the City’s**  
 8 **General Plan, priority policy findings of City Planning Code section 101.1, and the**  
 9 **Mission Bay North Redevelopment Plan; accepting Department of Public Works Order**  
 10 **No. 176,149 and authorizing official acts in connection with this Ordinance.**

11 Note: Additions are *single-underline italics Times New Roman*;  
 12 deletions are ~~*strikethrough italics Times New Roman*~~.  
 13 Board amendment additions are double underlined.  
 Board amendment deletions are ~~strikethrough normal~~.

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

15 Section 1. Findings.

16 (a) All capitalized terms relating to Mission Bay shall have the terms ascribed to  
 17 them pursuant to the Mission Bay North Redevelopment Plan and Plan Documents described  
 18 therein, approved and adopted by the Board of Supervisors of the City and County of San  
 19 Francisco by Ordinance No. 335-98, on November 2, 1998, a copy of which is in Clerk of the  
 20 Board of Supervisors File No. 981441.

21 (b) The San Francisco Redevelopment Agency, in a letter dated June 16, 2006,  
 22 determined that the acceptance of the Parks NP1 & NP2 Improvements, constructed pursuant  
 23 to Permit No. 03IE-580, dated August 4, 2003 (the “Project”), and other actions herein set  
 24 forth are consistent with the Mission Bay North Redevelopment Plan (“Plan”) and Plan  
 25 Documents described therein and recommends Board of Supervisors acceptance. A copy of

1 the Redevelopment Agency letter is on file with the Clerk of the Board of Supervisors in File  
2 No. \_\_\_\_\_ and is incorporated by reference by reference as though fully set forth  
3 herein.

4 (c) The Redevelopment Agency on June 28, 2006, signed and accepted the  
5 FOCIL's Conditional Assignment of Warranties and Guaranties. A copy of the Assignment is  
6 on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is  
7 incorporated by reference as though fully set forth herein.

8 (d) The City Planning Department, in a letter dated June 29, 2006, determined that  
9 the acceptance of the Parks NP1 & NP2 Improvements and other actions herein set forth are  
10 in conformance with the General Plan consistency findings of Case No. 96.771R, the eight  
11 priority policies of Planning Code Section 101.1 and the contemplated actions do not trigger  
12 the need for subsequent environmental review pursuant the California Environmental Quality  
13 Act ("CEQA") (California Public Resources Code Sections 21000 et seq.). A copy of the  
14 Planning Department letter is on file with the Clerk of the Board of Supervisors in File No.  
15 \_\_\_\_\_ and is incorporated by reference as though fully set forth herein.

16 (e) In DPW Order No. 176,149, dated June 21, 2006, the DPW Director certified  
17 that: Parks NP1 & NP2, (a) are currently a State Trust Parcel subject to City jurisdiction, (b)  
18 has been inspected and was certified as complete on September 8, 2005, and that the Project  
19 has been constructed in accordance with the Project Plans and Specifications and all City  
20 codes, regulations, standards and Mission Bay North Redevelopment Plan and Plan  
21 Documents governing this Project, and that such improvements are ready for their intended  
22 use, (c) is recommended for formal acceptance of acquisition facilities, and acceptance for  
23 maintenance and liability purposes. A copy of the DPW Order is on file with the Clerk of the  
24 Board of Supervisors in File No. \_\_\_\_\_ and is incorporated by reference as though  
25 fully set forth herein.

1 Section 2. Adoptions, Approvals.

2 (a) The Board of Supervisors adopts as its own the consistency findings of the  
3 Redevelopment Agency in connection with the acceptance of the Parks NP1 & NP2  
4 Improvements, and other actions specified herein.

5 (b) The Board of Supervisors adopts as its own the consistency findings and CEQA  
6 findings of the Planning Department in regard to the acceptance of the Parks NP1 & NP2  
7 Improvements and other actions specified herein.

8 (c) The Board of Supervisors has reviewed and approves the City Engineer's  
9 certification and DPW Director's recommendation concerning the acceptance of the FOCIL-  
10 MB ("FOCIL") irrevocable offer of improvements, dated April 20, 2006, of the Park NP1 & NP2  
11 Improvements, and maintenance and liability responsibilities for said facilities and open  
12 space.

13 Section 3. Designation of Park Name, Acceptance of New Acquisition Facilities, and  
14 Assumption of Maintenance and Liability Responsibilities.

15 (a) The Board of Supervisors designates that portion of the State Trust Parcel 1, as  
16 shown on Exhibit "A" of the Offer of Improvements, for public open space and park use and  
17 designates the park name as "Mission Creek Park".

18 (b) Pursuant to the Acquisition Agreement dated June 1, 2001 by and between the  
19 Redevelopment Agency and Catellus Development Corporation, the DPW Order No. 176,149,  
20 dated June 21, 2006, and pursuant to California Streets and Highways Code Section 1806  
21 and San Francisco Administration Code Section 1.52 et seq. the Board of Supervisors hereby  
22 accepts the FOCIL's irrevocable Offer of the Parks NP1 & NP2 Improvements dated April 20,  
23 2006, and designates such facilities for public open space and park use, maintenance and  
24 liability purposes, subject to the conditions listed in subsection (c) and (d) but excluding  
25 therefrom 1) the damaged bench at Mercy Housing, 2) the planters adjacent to Mercy

1 Housing, 3) the promenade pavers at the Fourth Street Bridge and 4) with interim shoreline  
2 trails around Channel Street.

3 A copy of said Offer is on file with the Clerk of the Board of Supervisors in File No.  
4 \_\_\_\_\_.

5 (c) The Board's acceptance of improvements pursuant to Subsection (a) are for the  
6 Parks NP1 & NP2 Improvements only, are subject to FOCIL's warranty obligations under the  
7 Parks NP1 & NP2 Project Permit No. 03IE-580 and are subject to the maintenance obligations  
8 of the Redevelopment Agency subject to the Agency Ground Lease and Redevelopment  
9 Agency and Port as set forth in a Memorandum of Agreement, to be developed between the  
10 respective agencies.

11 (d) The Parks NP1 & NP2 Improvements accepted by the Board pursuant to  
12 Subsection (a) and (b) are subject to the following: (1) acceptance is for the Project  
13 infrastructure only, (2) encroachments that are permitted, not permitted, or both are excluded  
14 from acceptance, and (3) acceptance is subject to FOCIL's warranty obligations under the  
15 Project Permit.

16 (e) The Board of Supervisors hereby acknowledges FOCIL's Conditional  
17 Assignment of all warranties and guaranties related to the construction of the above listed  
18 Improvements.

19 (f) Authority to accept the delayed improvements which have not been constructed  
20 is hereby delegated to the Director of Public Works acting on behalf of the Board of  
21 Supervisors to accept said improvements in the future in accordance with the Mission Bay  
22 North Acquisition Agreement.

23 Section 5. The Mayor, Clerk of the Board, Director of Property, and Director of Public  
24 Works are hereby authorized and directed to take any and all actions that they or the City  
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1 Attorney may deem necessary or advisable in order to effectuate the purpose and intent of  
2 this Ordinance.

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RECOMMENDED:  
DEPARTMENT OF PUBLIC WORKS  
By: \_\_\_\_\_  
FRED V. ABADI, Ph.D.  
Director of Public Works

APPROVED AS TO FORM:  
DENNIS J. HERRERA  
City Attorney  
By: \_\_\_\_\_  
JOHN D. MALAMUT  
Deputy City Attorney

DESIGNATION CERTIFIED BY:  
DEPARTMENT OF PUBLIC WORKS  
By: \_\_\_\_\_  
Robert P. Beck  
Deputy Director of Engineering, DPW