



**Edwin M. Lee, Mayor**  
**Mohammed Nuru, Director**

**DPW Order No: 181148**

March 26, 2013

Re: Recommendation for formal acceptance of Mission Bay Park P10 Improvements within the Mission Bay South Redevelopment Plan, dedication of City property within portions of State Trust Parcel 2 lying along Mission Bay Circle and Mission Bay Drive for public open space and park purposes and naming the new park "Mission Bay Park P10"; accepting the irrevocable offer for the acquisition facilities; dedication of said facilities to public use and acceptance for maintenance responsibilities and liability purposes.

WHEREAS, California Statutes of 1968, Chapter 1333 ("the Burton Act") and San Francisco Charter Section 4.114 empower the San Francisco Port Commission - to use, conduct , operate, maintain, manage, regulate and control the lands within Port Commission jurisdiction; and

WHEREAS, On November 2, 1998, the City, acting through its Board of Supervisors, approved the Mission Bay South Redevelopment Plan ("Mission Bay Plan") by its Ordinance No. 335-98; and

WHEREAS, On November 16, 1998, the Redevelopment Agency of the City and County of San Francisco, (the "Redevelopment Agency") and Catellus Development Corporation ("Catellus") entered into the Mission Bay South Owner Participation Agreement (the "South OPA"); and

WHEREAS, On November 16, 1998, the City and County of San Francisco (the "City") and the Redevelopment Agency entered into the South Interagency Cooperation Agreement; and

WHEREAS, on July 19, 1999, the City and Catellus entered into the Amended and Restated Mission Bay City Land Transfer Agreement (the "Land Transfer Agreement"); and

WHEREAS, On July 19, 1999, the City acting by and through the San Francisco Port Commission (the "Port"), and Catellus entered into a Master Lease for portions of the public trust properties; and

WHEREAS, On July 19, 1999, the State of California quitclaimed to the City certain properties as public trust of which Park P10 is a portion; and,



WHEREAS, On June 1, 2001, the Redevelopment Agency and Catellus entered into the Mission Bay South Acquisition Agreement; and

WHEREAS, On November 16, 2001 (dated for reference purposes only), the City, and with respect to certain portions under Port jurisdiction, the Port, as Landlord, and the Redevelopment Agency, as tenant, entered into that certain Agency Ground Lease (the "Ground Lease"), to implement the improvement of open space, park or plazas as contemplated by the Land Transfer Agreement and the Plan Documents, including the South OPA; and,

WHEREAS, On December 1, 2003, Catellus merged into Catellus Operating Limited Partnership, a Delaware limited partnership ("COLP"), and on December 31, 2003 COLP, as successor by merger to Catellus contributed most of its interests in Mission Bay to Catellus Land and Development Corporation ("CLDC") a Delaware Corporation, thereby making CLDC a wholly owned subsidiary of COLP following the merger, including all rights and obligations under the Project Permit and the Permit to Enter related to the Project; and

WHEREAS, On November 22, 2004, Catellus Operating Limited Partnership, a Delaware limited partnership, and Catellus Land and Development Corporation a Delaware Corporation granted all of its property in the grant deed, and assigned all rights and obligations under the OPA as stated in the Assumption Agreement, to FOCIL – MB, LLC, a Delaware limited liability company ("FOCIL"); and

WHEREAS, On March 18, 2011, the San Francisco Department of Public Works ("DPW") approved Instructional Bulletin #11 under Street Improvement Permit No. 10IE-0106 to construct certain permanent park improvements for Park P10(the "Project"); and

WHEREAS, In a letter (attached as Exhibit B) dated December 15, 2011 the City Planning Department determined that the acceptance of the Project improvements and other actions specified herein are consistent with the General Plan consistency findings of Case No. 2011.1139R, the eight priority policies of Planning Code Section 101.1 and the contemplated actions do not trigger the need for subsequent environmental review pursuant the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.); and

WHEREAS, On January 23, 2012, FOCIL irrevocably offered to the City the Mission Bay Park P10 improvements constructed in accordance with the Project Plans and any authorized revisions or contract change orders thereto and together with said offer an assignment of all guaranties and warranties related to the construction of all the improvements; and

WHEREAS, In a letter (attached as Exhibit A) dated January 30, 2012, the Redevelopment Agency determined the acceptance of the Project improvements and other actions specified herein are "consistent with the Mission Bay South Redevelopment Plan and Plan Documents and recommends Board of Supervisors accept the Permanent Park Improvements on behalf of the City"; and



WHEREAS, The Agency was terminated under State Legislature AB 26 and AB 1484. Subsequently, the San Francisco Board of Supervisors, by its Ordinance No. 215-12, established a new agency known as “Successor Agency to the Redevelopment Agency of the City and County of San Francisco” (“Successor Agency”). The Successor Agency assumed all rights, obligations and liabilities of the former Redevelopment Agency.

WHEREAS, On March 26, 2013 the DPW issued a notice stating that the Mission Bay Park P10 Improvements Project has been substantially completed pursuant to the Improvement Permit No. 10IE-0106 and is ready for its intended use; and

WHEREAS, On March 26, 2013 the Executive Director of the Successor Agency signed and accepted the FOCIL Conditional Assignment of Warranties and Guaranties with regard to the Mission Bay Park P10 improvements; and

WHEREAS, The City Engineer and Director hereby recommend and certify the following:

- 1) The City currently holds title to the proposed public park and open space for the Project as a portion of State Trust Parcel 2 subject to City jurisdiction and the use of the property as public park and open space is permitted under the terms of the State Trust.
- 2) FOCIL has irrevocably offered the project improvement facilities.
- 3) Mission Bay Development Group, LLC on behalf of FOCIL-MB, LLC, has submitted a copy of a record Notice of Completion, Assignments of Warranties and Guaranties, Assignments of Reimbursements to the City from third parties, if applicable, and evidence of acceptability of the facilities from all applicable public entities and/or non-City utilities.
- 4) All applicable inspections have been performed, test result have been obtained; permit conditions and mitigation measures have been complied with; punch list items have been resolved; Street Improvement Permit terms related to the Park P10 and Mission Bay Drive Median Project have been or will be met; and improvement plan As-Built drawings have been received.
- 5) We hereby certify to the Board of Supervisors that the Department of Public Works has determined that as of March 26, 2013, the Project is ready for its intended use and has been completed substantially in conformity with the Plans and Specifications for “ Park P10 and Mission Bay Drive Median”, which includes Mission Bay Park P10, approved by or on behalf of the DPW Director, on March 18, 2011, and any authorized revision thereto, and that the Project has been constructed in accordance with all City codes, regulations, standards and the Mission Bay South Plan and Plan Documents governing this Project with the noted exceptions.

**NOW THEREFORE BE IT ORDERED THAT,**

*With respect to facilities acceptance:*



I hereby recommend the Board of Supervisors accept the Project Acquisition Facilities, as referenced in the Acquisition Agreement dated June 1, 2001, and as further described in the Park P10 Irrevocable Offer of Improvements, dated January 23, 2012.

I further recommend that the Board of Supervisors acknowledge FOCIL's Conditional Assignment of Warranties and Guaranties to the Successor Agency with regard to the Mission Bay Park P10 Improvements

***With respect to public right-of-way as park and open space use:***

I hereby recommend the Board of Supervisors approve Map No. A-17-173, dated March 26, 2013 and dedicate the area shown hatched as open public right-of-way and designate said areas for open space and park purposes and naming the new park "Mission Bay Park P10".

I further recommend the Board of Supervisors authorize the Director of Public Works to direct the Department of Public Works to revise the Official City Right-of-Way Maps to reflect this action.

***With Respect to Acceptance for Maintenance and Liability:***

Pursuant to California Street and Highways Code Section 1806 and San Francisco Administrative Code Sections 1.51 et seq., I hereby recommend that the Board of Supervisors accept the facilities for maintenance and liability purposes on behalf of the Successor Agency, subject to the limitations below.

The acceptance is subject to the following: (i) it is for the Park P10 improvements only, excluding any encroachments permitted, not permitted or both (ii) Focil Conditional Assignment of Warranties and Guaranties to the City ii) Successor Agency maintenance obligations contained in the 3<sup>rd</sup> Amendment to the Ground Lease which is to be drafted.

3/26/2013

3/27/2013

X 

Swiss, Fuad  
Approver 2

X Mohammed Nuru

Nuru, Mohammed  
Approver 3

