

1 [Mission Bay South - Storm Water Pump Station No. 5 Public Infrastructure Improvements]

2

3 **Ordinance accepting the irrevocable offer of public infrastructure improvements**

4 **associated with Mission Bay South Storm Water Pump Station No. 5, including**

5 **acquisition facilities located on and under portions of State Trust Parcel 5, adjacent to**

6 **Terry Francois Boulevard and 16th Street; accepting said facilities for City maintenance**

7 **and liability purposes, subject to specified limitations; approving an easement**

8 **agreement for the Pump Station control room; adopting findings under the California**

9 **Environmental Quality Act; making findings of consistency with the General Plan, the**

10 **eight priority policies of Planning Code, Section 101.1, and the Mission Bay South**

11 **Redevelopment Plan; adopting a Public Works Order; and authorizing official acts, as**

12 **defined herein, in connection with this Ordinance.**

13 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.

14 **Additions to Codes** are in *single-underline italics Times New Roman font*.

15 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.

16 **Board amendment additions** are in double-underlined Arial font.

17 **Board amendment deletions** are in ~~strikethrough Arial font~~.

18 **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or parts of tables.

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

19 Section 1. Definitions and Findings.

20

21 (a) All capitalized terms in this ordinance relating to Mission Bay shall have the

22 definitions ascribed to them under the Mission Bay South Redevelopment Plan and Plan

23 Documents described therein, which the City approved in 1998 in Ordinance No. 335-98, a

24 copy of which is on file with the Clerk of the Board of Supervisors in File No. 981441.

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1 (b) The Storm Water Pump Station No. 5 Improvements are located on a portion of
2 State Trust Parcel 5, adjacent to Terry Francois Boulevard and 16th Street in Mission Bay
3 South.

4 (c) The Successor Agency to the San Francisco Redevelopment Agency, the Office of
5 Community Infrastructure and Investment (“OCII”), in a letter dated June 21, 2019 (the “OCII
6 Letter”), determined that the acceptance of the Mission Bay Storm Water Pump Station No. 5
7 Public Infrastructure Improvements, that were constructed pursuant to Street Improvement
8 Permit No. 15IE-0451, dated December 1, 2015 (the “Storm Water Pump Station No. 5
9 Improvements”), is consistent with the Mission Bay South Redevelopment Plan and Plan
10 Documents described in the OCII Letter. The OCII Letter also recommended that the Board
11 of Supervisors accept the Storm Water Pump Station No. 5 Improvements. A copy of the
12 OCII Letter is on file with the Clerk of the Board of Supervisors in File No. 190754 and is
13 incorporated herein by reference.

14 (d) The Planning Department, in a letter dated May 14, 2019 (the “Planning
15 Department Letter”), determined that the acceptance of the Storm Water Pump Station No. 5
16 Public Infrastructure Improvements is, on balance, consistent with the General Plan and the
17 eight priority policies of Planning Code Section 101.1. In that letter, the Planning Department
18 also found that the contemplated actions do not trigger the need for a subsequent
19 environmental review pursuant to the California Environmental Quality Act (“CEQA”)
20 (California Public Resources Code Sections 21000 et seq.). A copy of the Planning
21 Department Letter is on file with the Clerk of the Board of Supervisors in File No. 190754 and
22 is incorporated herein by reference.

23 (e) The General Manager of the San Francisco Public Utilities Commission (the
24 “SFPUC”) on July 11, 2019, signed and accepted the FOCIL-MB, LLC (“FOCIL”) Conditional
25 Assignment of Warranties and Guaranties regarding the Storm Water Pump Station No. 5

1 Improvements. A copy of said Conditional Assignment of Warranties and Guaranties is on file
2 with the Clerk of the Board of Supervisors in File No. 190754 and is incorporated herein by
3 reference.

4 (f) The SFPUC in a letter dated _____, 2019, acknowledged the issuance of
5 the Determination of Completeness for Mission Bay Stormwater Pump Station No. 5 as a
6 required step in its acceptance for City maintenance and liability purposes (“SFPUC Letter”).
7 A copy of the SFPUC Letter is on file with the Clerk of the Board of Supervisors in File No.
8 _____ and is incorporated herein by reference.

9 (g) In Public Works (“PW”) Order No. 201504, dated July 11, 2019, the City Engineer
10 certified and the PW Director determined that: (1) Stormwater Pump Station No. 5 is currently
11 on a portion of property under Port jurisdiction located on a portion of State Trust Parcel 5; (2)
12 FOCIL has irrevocably offered the Storm Water Pump Station No. 5 Improvements to the City
13 as set forth in the FOCIL Irrevocable Offer of such Public Infrastructure, dated June 13, 2019
14 (“FOCIL Offer”); (3) Public Works inspected the pump station facilities and determined them to
15 be complete as of June 14, 2019; (4) the Improvements have been constructed in accordance
16 with the Plans and Specifications and all City codes, regulations, standards, and the Mission
17 Bay South Redevelopment Plan and Plan Documents governing the Stormwater Pump
18 Improvements; and (5) the Improvements are ready for their intended use.

19 (h) In addition, in the PW Order, the PW Director recommended to the Board of
20 Supervisors that the Board accept the Stormwater Pump Station No. 5 Improvements as
21 acquisition facilities and for City maintenance and liability purposes. A copy of the PW Order
22 is on file with the Clerk of the Board of Supervisors in File No. 190754 and is incorporated
23 herein by reference.

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1 (i) The City requires an easement to access, operate, and maintain the Stormwater
2 Pump Station No. 5 control room on private property. A draft of the easement agreement is
3 on file with the Clerk of the Board of Supervisors in File No. 190754 and is incorporated herein
4 by reference.

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6 Section 2. Adoptions of Findings and Recommendations Related to the Pump Station.

7 (a) The Board of Supervisors adopts as its own the CEQA findings, the General Plan
8 consistency findings, and the eight priority findings of Planning Code Section 101.1 in the
9 Planning Department Letter in connection with the acceptance of the Stormwater Pump
10 Station No. 5 Improvements.

11 (b) The Board of Supervisors adopts as its own the Mission Bay South Redevelopment
12 Plan consistency findings in the OCII Letter in connection with the acceptance of the Storm
13 Water Pump Station No. 5 Improvements.

14 (c) The Board of Supervisors adopts PW Order No. 201504, including the City
15 Engineer's certification and PW Director's recommendation concerning the acceptance of the
16 FOCIL Offer, Storm Water Pump Station No. 5 Improvements, and other actions set forth in
17 section 1(g) and (h) of this ordinance, and adopts said recommendation and other actions as
18 its own.

19
20 Section 3. Acceptance of New Acquisition Facilities and Assumption of City
21 Maintenance and Liability Responsibilities.

22 (a) The Board of Supervisors accepts the FOCIL Offer for the Storm Water Pump
23 Station No. 5 Infrastructure Improvements located on and under a portion of State Trust
24 Parcel No. 5 and lying adjacent to Terry Francois Boulevard and 16th Street.

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1 (b) Pursuant to Administrative Code Sections 1.51 et seq., the Acquisition Agreement
2 dated June 1, 2001 by and between the Redevelopment Agency of the City and County of
3 San Francisco and Catellus Development Corporation, and PW Order No. 201504, the Board
4 of Supervisors hereby dedicates the facilities in the FOCIL Offer for public use and accepts
5 such facilities for City maintenance and liability purposes. The Board's acceptance of
6 improvements pursuant to this subsection (b) is for the Mission Bay Storm Water Pump
7 Station No. 5 Improvements only and is subject to the warranty obligation under the Storm
8 Water Pump Station No. 5 Street Improvement Permit No. 15IE-0451.

9 (c) The Board of Supervisors hereby acknowledges FOCIL's conditional assignment of
10 all warranties and guaranties to the Public Utilities Commission related to the construction of
11 the Stormwater Pump Station No. 5 Public Infrastructure Improvements and that its
12 acceptance of this Infrastructure is subject to FOCIL's warranty obligations under Street
13 Improvement Permit No. 15IE-0451 and the Mission Bay Acquisition Agreement.

14
15 Section 4. Approval of an Easement Agreement for the Pump Station Control Room.
16 The Board of Supervisors hereby approves the easement agreement in substantially the
17 same form as the easement agreement on file with the Clerk of the Board of Supervisors.
18 The Board delegates final approval authority to the Director of the Real Estate Division
19 ("RED"). Within 30 days of recording the final easement agreement, the Director of RED shall
20 forward the agreement to the Clerk of the Board of Supervisors to be included in Board File
21 No. 190754 for purposes of this ordinance.

22
23 Section 5. Authorization for Implementation. The Mayor, Clerk of the Board of
24 Supervisors, and PW Director are hereby authorized and directed to take any and all actions
25 which they or the City Attorney may deem necessary or advisable to effectuate the purpose

1 and intent of this ordinance, including, but not limited to, the filing of the ordinance in the
2 Official Records of the City and County of San Francisco.

3
4 Section 6. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

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9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

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12 By: _____
13 JOHN D. MALAMUT
14 Deputy City Attorney
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