



Mark Farrell, Mayor
Mohammed Nuru, Director

Public Works Order No: 187180

Re: Recommendation of formal acceptance of the Mission Bay South Public Infrastructure located at the intersection of Seventh Street and Mission Bay Drive including portions of Seventh Street, Mission Bay Drive and Berry Street Connector (“Seventh Street and Mission Bay Drive Intersection Public Infrastructure”); accepting an Irrevocable Offer of Dedication of real property on a portion of Mission Bay Drive; declaring City property and additional property as shown on official Public Works maps as open public right-of-way; dedicating such improvements for public use and designating such areas and improvements for public street and roadway purpose; establishing street grades and sidewalk widths; accepting said facilities for City maintenance and liability purposes, subject to specified limitations.

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 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 State of California quitclaimed to the City and Port certain properties subject to a public trust, including portions of Seventh Street and Berry Street Connector (“Seventh Street and Mission Bay Drive Intersection Public Infrastructure”); and,

WHEREAS, On June 1, 2001, the Redevelopment Agency and Catellus entered into the Mission Bay South Acquisition Agreement; 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 a Delaware Corporation (“CLDC”), 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 September 21, 2004, San Francisco Public Works approved under Street Improvement Permit No. 04IE-0600 the construction of certain permanent public infrastructure improvements, including the Seventh Street and Mission Bay Drive Intersection Phase 1; and

WHEREAS, On November 22, 2004, COLP and CLDC 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 May 17, 2005, San Francisco Public Works approved under Street Improvement Permit No. 05IE-0285 the construction of certain permanent public infrastructure improvements, including the Seventh Street and Mission Bay Drive Intersection Phase 2; and

WHEREAS, On April 30, 2007, Public Works issued a notice stating that the Project had been substantially completed pursuant to Improvement Permit No. 04IE-600 and the Phase 1 Seventh Street and Mission Bay Drive Intersection Improvements were ready for their intended use; and

WHEREAS, On October 17, 2007, the Director of Public Works signed and accepted the FOCIL Conditional Assignment of Warranties and Guaranties with regard to the Phase 1 Seventh Street and Mission Bay Drive Intersection Improvements; and

WHEREAS, On October 19, 2007, FOCIL irrevocably offered to the City the Seventh Street and Mission Bay Drive Phase 1 Improvements constructed in accordance with the Project Plans, and any authorized revisions or contract change orders thereto, and a Conditional Assignment of Warranties and Guaranties related to the construction of all the Seventh Street and Mission Bay Drive Phase 1 Improvements; and

WHEREAS, On January 15, 2008, Public Works issued a notice stating that the Project had been substantially completed pursuant to Improvement Permit No. 05IE-0285 and the Phase 2 Seventh Street and Mission Bay Drive Intersection Improvements were ready for their intended use; and

WHEREAS, On April 15, 2008, FOCIL irrevocably offered to the City the Seventh Street and Mission Bay Drive Phase 2 Improvements constructed in accordance with the Project Plans, and any authorized revisions or contract change orders thereto, and a Conditional Assignment of Warranties and Guaranties related to the construction of all the Seventh Street and Mission Bay Drive Phase 2 Improvements; and

WHEREAS, In a letter dated May 16, 2008, the San Francisco Planning Department determined that the acceptance of the Seventh Street and Mission Bay Drive Intersection Improvements and other actions specified herein are consistent with the findings of Case No. 2008.0490R regarding consistency with the General Plan and the eight priority policies of Planning Code Section 101.1, and that 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 9, 2009, the Director of Public Works signed and accepted the FOCIL Conditional Assignment of Warranties and Guaranties with regard to the Phase 2 Seventh Street and Mission Bay Drive Intersection Improvements; and

WHEREAS, On February 1, 2012, state law dissolved the Redevelopment Agency and the transfer of all rights, obligations and liabilities of the former Redevelopment Agency to the Successor Agency to the Redevelopment Agency of the City and County of San Francisco (“Successor Agency”), commonly known as the Office of Community Investment and Infrastructure (“OCII”); and

WHEREAS, On June 23, 2017 Peninsula Corridor Joint Powers Board (“PCJPB” and the City entered into a Railroad Maintenance Agreement for the maintenance of City Facilities located within PCJPB’s rail right-of-way.

WHEREAS, In a letter dated January 29, 2018, OCII determined the acceptance of the Seventh Street and Mission Bay Drive Intersection Improvements and other actions specified herein are consistent with the Mission Bay South Redevelopment Plan and Plan Documents and recommended that the Board of Supervisors accept the Permanent Park Improvements on behalf of the City; and

WHEREAS, The Warranties and Guaranties with regard to the Seventh Street and Mission Bay Drive Intersection Public Infrastructure Phase 1 and Phase 2 are valid for a period of one (1) year and are now expired; and

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

- 1) The City currently holds jurisdiction over Seventh Street, Mission Bay Drive and Berry Street Connector, a portion of State Trust Parcel 2, on which the Seventh Street and Mission Bay Drive Intersection Public Infrastructure have been constructed and which is proposed to be used for street and roadway purposes. Such uses are consistent with the State Trust.
- 2) FOCIL has irrevocably offered the Seventh Street and Mission Bay Drive Intersection Public Infrastructure to the City.
- 3) On behalf of FOCIL, Mission Bay Development Group, 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 Seventh Street and Mission Bay Drive Public Infrastructure from all applicable public entities and/or non-City utilities.
- 4) Public Works has performed all applicable inspections, obtained test results, ensured compliance with permit conditions and mitigation measures, resolved punch list items, determined Street Improvement Permit terms have been or will be met, and received Street Improvement Plan as-built drawings.
- 5) We hereby certify to the Board of Supervisors that Public Works has determined that as of April 30, 2007 (Ph. 1) and January 9, 2009 (Ph. 2), the Seventh Street and Mission Bay Drive Intersection Public Infrastructure for Phase 1 and Phase 2 Improvements are ready for their intended use and have been completed substantially in conformity with the Plans and Specifications for Seventh Street and Mission Bay Drive Phase 1 and Phase 2, approved by or on



behalf of the PW Director, on September 21, 2004 (Phase 1) and May 17, 2005 (Phase 2), 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.

NOW THEREFORE BE IT ORDERED THAT,

With respect to facilities and right-of-way acceptance:

I hereby recommend the Board of Supervisors accept the Seventh Street and Mission Bay Drive Public Infrastructure, as referenced in the Acquisition Agreement dated June 1, 2001, and as further described in the Phase 1 and Phase 2 Seventh Street and Mission Bay Drive Intersection Irrevocable Offer of Improvements, dated October 19, 2007 (Ph.1) and January 9, 2009 (Ph. 2), dedicate the improvements for public use and designate for street and roadway purposes.

I further recommend that the Board of Supervisors acknowledge FOCIL's Conditional Assignment of Warranties and Guaranties to the City with regard to the Seventh Street and Mission Bay Drive Intersection Public Infrastructure.

I further recommend the Board of Supervisors approve Map No. A-17-179, and dedicate the area shown hatched as open public right-of-way and designate said areas for street and roadway purposes, subject to the following limitations: (1) the portions of streets being accepted for street and roadway purposes are constructed from back of sidewalk to back of sidewalk, unless specified otherwise or as shown on Project Improvement Plans, (2) encroachments that are permitted, not permitted, or both are excluded from acceptance, and (3) the acceptance of the streets does not obviate, amend, alter, or in any way affect existing maintenance agreements between the City and parties to such agreements.

I further recommend that the Board of Supervisors accept the FOCIL Irrevocable Offer of Dedication of additional property for right-of-way and roadway purposes, including the acceptance of Grant Deed.

I further recommend that the Board of Supervisors authorize the Director of Property to execute the Grant Deed.

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

With Respect to the Street Grades:

I hereby recommend the Board of Supervisors, relying on its own procedures pursuant to Administrative Code Section 1.51 et seq., and notwithstanding California Streets and Highways Code Sections 8000 et seq., establish the street grades for those portions of Seventh Street, Mission Bay Drive and Berry Street Connector as shown on the Public Works Drawing No. Q-20-961.

I further recommend the Board of Supervisors direct the Department of Public Works to revise the Official City Street Grade Maps to reflect the aforementioned action.



With Respect to the Sidewalk Widths:

I hereby recommend the Board of Supervisors amend Ordinance No. 1061 entitled “Regulating the Width of Sidewalks “by adding thereto a new section to read as follows:

Section 1607-The widths of sidewalks on those portions of Seventh Street, Mission Bay Drive and Berry Street Connector shall be established as shown on Public Works Drawing No. Q-20-961;

The establishment of sidewalk widths does not obviate, amend, alter, or in any other way affect existing maintenance obligations of the adjacent property owners.

I further recommend the Board of Supervisors direct the Department of Public Works to revise the Official City Sidewalk Width Maps to reflect the aforementioned action.

With Respect to Street Maintenance and Liability:

Pursuant to California Streets 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, subject to the limitations specified herein and below.

The acceptance is subject to the following: (1) acceptance of project facilities for City maintenance and liability purposes is from back of curb to back of curb, unless specified otherwise, (2) sidewalk maintenance is the responsibility of adjacent property owners in accordance with the Public Works Code, (3) encroachments that are permitted, not permitted, or both are excluded from acceptance, (4) the acceptance of the streets does not obviate, amend, alter, or in any way affect existing maintenance agreements between the City and parties to such agreements.

2/16/2018

2/21/2018

X 

Thomas, John
Approver 2
Signed by: Thomas, John

X Mohammed Nuru

Nuru, Mohammed
Approver 3
Signed by: Nuru, Mohammed

