

Public Works Order No.: 202033



Order Recommending Delegation of Authority to the Public Works Director to Accept Certain Mission Bay South Public Infrastructure Improvements for City Maintenance and Liability Purposes and Waive Warranties in regard to Specified Improvements.

London N. Breed
Mayor

Mohammed Nuru
Director

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Whereas, All capitalized terms relating to Mission Bay shall have the definitions ascribed to them pursuant to the Mission Bay South Redevelopment Plan and Plan Documents described therein, that the City approved in 1988 in Ordinance No. 335-98, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 981441; and

Whereas, This Public Works (“PW”) Order is a companion Order to PW Order No. 202032. dated October 16, 2019, in which the PW Director stated that he has issued determinations of completion (DOCs) under terms specified in that PW Order for identified Public Infrastructure Improvements; and

Whereas, In PW Order No. 202032, the PW Director made findings regarding outstanding work regarding completed Mission Bay South Public Infrastructure Improvements; consented to an agreement between the Office of Community Investment and Infrastructure and FOCIL, owner and master developer of Mission Bay regarding City repair of the outstanding work subject to reimbursement from eligible Mission Bay South Acquisition Funds; and released Security for certain Mission Bay Public Infrastructure Improvements for the reasons specified in that Order; and

Whereas, This PW Order recommends that despite the PW Punchlist Work and SFPUC Phase II Work identified in PW Order No. 202032 regarding certain Public Infrastructure Improvements in Mission Bay South (also “Improvements”), the City should proceed toward acceptance of such Improvements for City maintenance and liability purposes subject to the terms and conditions identified in this Order; and

Whereas, The PW Director recommends that the Board of Supervisors delegate to the Director, in consultation with other affected City departments, the authority to:

(a) accept certain required Public Infrastructure Improvements for City maintenance

and liability purposes that have been or will be constructed in accordance with the Project Plans and Specifications and all City codes, regulations, standards, and Mission Bay South Redevelopment Plan and Plan Documents governing this development (i) when the PW Director determines that such Public Infrastructure Improvements are ready for their intended use and (ii) when FOCIL has submitted all required documents for acceptance and the City has reviewed and approved such documents; (b) acknowledge the Conditional Assignment of Warranties and Guaranties on behalf of the Board of Supervisors in accordance with the Mission Bay South Acquisition Agreement subject to certain exceptions specified below; (c) dedicate to public use and as open public right-of-way the Public Infrastructure Improvements that have been constructed and designate such Improvements for street and roadway purposes or park and open space only, depending on the type of Improvement; and (d) take all other official acts necessary for or related to acceptance of the Public Infrastructure Improvements. Such official acts include, but are not limited to, changing or adopting sidewalk and public right-of-way widths, adopting any related official PW maps, and excluding from the acceptance action any permitted or unpermitted encroachments and the maintenance responsibility of fronting property owners pursuant to the Public Works Code, including, but not limited to, Public Works Code Section 706; and

Whereas, the PW Director acknowledges that the delegation of Public Infrastructure Acceptance and other official City actions related to it require a waiver to Administrative Code Section 1.51 in regard to following the general laws of California for establishment or change of street grades and a waiver of Administrative Code Section 1.52 in regard to the procedural step of the Board of Supervisors accepting Public Infrastructure Improvements and recommends to the Board that it approve the delegation and the waiver; and

Whereas, The PW Director recommends legislation to the Board of Supervisors to provide for the delegation to the Director of the authority to accept for City maintenance and liability purposes certain Mission Bay South Public Infrastructure Improvements including the projects for which:

- (a) DOCs have been issued, which involves the following projects:
 - (i) Block 1;
 - (ii) Blocks 5-6;

- (iii) Blocks 8/9/9A Phases 1 and 2
- (iv) Blocks 11-12;
- (v) Blocks 26-28 Phases 1, 2 and 3;
- vi) Block 40;
- (vii) Block 36-39;
- (viii) Terry Francois Boulevard between Mariposa and Sixteenth Streets; and
- (ix) SWPS #1.

(b) FOCIL already has started construction of the Improvement, including:

- (i) Blocks 33-34;
- (ii) Block 12 Mid-Block; and
- (iii) Park P22.

(c) Where FOCIL has or will file permit applications with Public Works and will commence work on such Improvements in FY 2019-2020, including

- (i) Park P3;
- (ii) Park P19; and
- (iii) Park P27; and

Whereas, The PW Director recommends that the Board of Supervisors waive the requirement for FOCIL's Conditional Assignment of Warranties and Guaranties for items (1)-(9) of Section (a) of the preceding paragraph with the exception of FOCIL's exclusive work on Terry Francois Boulevard between Mariposa and 16th Streets as otherwise required under Section 4.3(c) of the Mission Bay South Acquisition Agreement. In addition, the PW Director recommends that the Board of Supervisors waive the requirement for FOCIL's Conditional Assignment of Warranties and Guaranties for Parks P2 Parking Lot, P11-11A, and P23-24, which is the subject of Board of Supervisors Ordinance No. 179-19, which is on file with the Clerk of the Board of Supervisors in File No. 190755; and

Whereas, The PW Director also recognizes that acceptance of Public Infrastructure Improvements for City maintenance and liability purposes is subject to the Acquisition Agreement dated June 1, 2001 by and between the San Francisco Redevelopment Agency and Catellus Development

Corporation and the post-acceptance conditions of the following paragraph. In addition, acceptance requires PW's receipt of: (a) an OCII determination that the acceptance of the Mission Bay South Public Infrastructure Improvements is consistent with the Mission Bay South Redevelopment Plan (the "Plan") and Plan Documents and (b) a Planning Department letter determining that the acceptance of the Public Infrastructure Improvements is, on balance, in conformance with the General Plan and the eight priority policies of Planning Code Section 101.1 and does not trigger the need for subsequent environmental review pursuant to the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.); and

Whereas, The PW further recommends that despite the PW Punchlist Work and SFPUC Phase II Work associated with the Public Infrastructure Improvements as identified in PW Order No. 202032, the City should proceed toward acceptance of the Public Infrastructure Improvements for City maintenance and liability purposes subject to the City's review and approval of all required documents, addressing any outstanding provisions of applicable public improvement agreements and street improvement permits, future City work to address the PW Punchlist Work and SFPUC Phase II Work that will occur post-acceptance, reimbursement for all eligible costs from Acquisition Funds to the extent such Funds are available, and other conditions identified herein and in the delegation ordinance pending before the Board of Supervisors that is the subject of this Order; and

Whereas, The PW Director recommends a delegation to the Director of the Real Estate Division ("RED") the authority to enter into an extended license for public use of the Public Infrastructure Improvements specified in this Order where the PW Director has issued or will issue a DOC but prior to acceptance for City maintenance and liability purposes. The PW Director acknowledges that this delegation requires a waiver of Administrative Code Chapter 23 to allow the initial terms of such licenses to be for period not to exceed five years, and thereafter followed by annual extensions after the initial term until the time of acceptance. The PW Director recommends that the Board of Supervisors approve this delegation and its associated waiver; and

Whereas, The general basis for the recommendation in PW Order No. 202032 is to allow for expedited processing for City acceptance of completed Public Infrastructure Improvements required

under the Mission Bay South Redevelopment Plan. Copies of the PW issued permits and plans for the Public Infrastructure Improvements identified in the Order are on file with Public Works Bureau of Street Use and Mapping at 1155 Market Street, 3rd Floor; now, therefore, be it

Resolved, The PW Director recommends that the Board of Supervisors approve the ordinance regarding delegation of authority to accept Mission Bay South Infrastructure Improvements for City maintenance and liability purposes and the other actions as specified in this Order.

X DocuSigned by:
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Deputy Director and City Engineer

X DocuSigned by:
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Director

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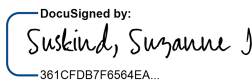
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Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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