

Public Works Order No.: 200676



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Mayor

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Director

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Re: Recommendation of formal acceptance of the Mission Bay Park P5 Improvements within the Mission Bay South Redevelopment Plan, dedication of City jurisdictional property within portions of State Trust Parcel 2, adjacent to El Dorado Street North and El Dorado Street South between Channel Street and Long Bridge Street; acceptance of the irrevocable offer for the acquisition facilities; dedication of said facilities to public use; designation for public open space and park purposes; acceptance for maintenance responsibilities and liability purposes, subject to specified exceptions; and naming the new park "Mission Bay Dog Park".

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 City acting by and through the Real Estate Division and 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 and Port certain properties subject to a public trust, including Mission Bay Park P5 ("Park P5"); 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 Mission Bay Plan “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 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 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 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, In a letter dated September 28, 2015 the San Francisco Planning Department determined that the acceptance of the Acquisition Facilities and other actions specified herein are consistent with the findings of Case No. 2015-010877GPR 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 March 2, 2016, San Francisco Public Works approved under Street Improvement Permit No. 16IE-0176 the construction of certain permanent park improvements (“Acquisition Facilities”) for Park P5 (the “Project”) adjacent to El Dorado Street North and El Dorado Street South between Channel Street and Long Bridge Street; and

WHEREAS, On December 19, 2018, FOCIL irrevocably offered to the City the Acquisition Facilities 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 Acquisition Facilities; and

WHEREAS, On December 21, 2018, Public Works issued a notice stating that the Project had been substantially completed pursuant to the Improvement Permit No. 16IE-0176 and the Acquisition Facilities were ready for their intended use; and

WHEREAS, In a letter dated February 4, 2019, OCII determined the acceptance of the Acquisition Facilities 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, On February 8, 2019, the Executive Director of OCII signed and accepted the FOCIL Conditional Assignment of Warranties and Guaranties with regard to the Acquisition Facilities; and

WHEREAS, The Director recommends and the City Engineer hereby certifies the following:

- 1) The City currently holds jurisdiction over Mission Bay Park P5, a portion of State Trust Parcel 2, on which the Project has been constructed and which is proposed to be used for public park and open space purposes. Such uses are consistent with the State Trust.
- 2) FOCIL has irrevocably offered the Acquisition Facilities 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 Acquisition Facilities from all applicable public entities and/or non-City utilities.
- 4) Public Works has performed all applicable inspections, obtained test result, 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 December 21, 2018, the Acquisition Facilities are ready for their intended use and have been completed substantially in conformity with the Plans and Specifications for Park P5, approved by or on behalf of the PW Director, on March 2, 2016, 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 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 P5 Irrevocable Offer of Improvements, dated December 19, 2018.

I further recommend that the Board of Supervisors acknowledge FOCIL's Conditional Assignment of Warranties and Guaranties to OCII with regard to the Acquisition Facilities.

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

I hereby recommend the Board of Supervisors approve Map No. A-17-181; dedicate the area shown hatched as open public right-of-way; designate said areas for open space and park purposes only; and name Park P5 "Mission Bay Dog Park".

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 acceptance for 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 Acquisition Facilities for maintenance and liability purposes on behalf of the City and OCII, subject to the limitations below.

The acceptance is subject to the following: (i) it is for the Acquisition Facilities only, excluding any encroachments permitted, not permitted or both; (ii) the FOCIL Conditional Assignment of Warranties and Guaranties, dated February 8, 2019; and (iii) OCII's maintenance obligations for the Park Improvements until the Redevelopment Plan terminates.

X DocuSigned by:
John Thomas

Thomas, John B3944D53BAFD487...
Dep Dir IV

X DocuSigned by:
Mohammed Nuru

Nuru, Mohammed 45AB17F474FA...
Director