

1 [Mission Bay North-Park Parcels NP3, NP4 and NP5 Improvements.]

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3 **Ordinance designating a portion of State Trust Parcel 1, lying next to the Mission Creek**
4 **Channel for public open space and park purposes; naming the new park “Mission**
5 **Creek Park”;** accepting the irrevocable offer for the acquisition facilities; designating
6 **said facilities as public open space and for park purposes and accepting for**
7 **maintenance responsibilities and liability purposes; adopting environmental findings**
8 **and findings that such actions are consistent with the City’s General Plan, eight priority**
9 **policy findings of City’s Planning Code section 101.1, and the Mission Bay North**
10 **Redevelopment Plan; accepting Department of Public Works Order No. 177,882; and**
11 **authorizing official acts in connection with this Ordinance.**

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13 Note: Additions are single-underline italics Times New Roman;
14 deletions are ~~strikethrough italics Times New Roman~~.
15 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

17 Section 1. Findings.

18 (a) All capitalized terms relating to Mission Bay shall have the definitions ascribed to
19 them pursuant to the Mission Bay North Redevelopment Plan and Plan Documents described
20 therein, approved and adopted by the Board of Supervisors of the City and County of San
21 Francisco by Ordinance No. 327-98, on October 26, 1998, a copy of which is in Clerk of the
22 Board of Supervisors File No. 981441.

23 (b) The San Francisco Redevelopment Agency, in letter dated October 23, 2008,
24 determined that the acceptance of the Mission Bay Park Parcels NP3, NP4 and NP5
25 Improvements, constructed pursuant to Permit No. 06IE-263, dated May 12, 2006 (the

1 “Project”), and other actions herein set forth are consistent with the Mission Bay North
2 Redevelopment Plan (“Plan”) and Plan Documents described therein and recommends Board
3 of Supervisors acceptance. A copy of the Redevelopment Agency letter is on file with the
4 Clerk of the Board of Supervisors in File No. _____ and is incorporated by
5 reference as though fully set forth herein.

6 (c) The Redevelopment Agency on _____, 2008 signed and accepted the
7 FOCIL-MB, LLC Conditional Assignment of Warranties and Guaranties regarding the NP3
8 Improvements. A copy of which is on file with the Clerk of the Board of Supervisors in File
9 No. _____ and is incorporated by reference as though fully set forth herein.

10 (d) The Redevelopment Agency on _____, 2008 signed and accepted the
11 FOCIL-MB, LLC Conditional Assignment of Warranties and Guaranties regarding the NP4 and
12 NP5 Improvements. A copy of which is on file with the Clerk of the Board of Supervisors in
13 File No. _____ and is incorporated by reference as though fully set forth herein.

14 (e) The City Planning Department, in a letter dated October 9, 2008 determined that
15 the acceptance of the Project and other actions set forth herein are within the scope of the
16 General Plan consistency findings of Case No. 2008.0902R and the eight priority policies of
17 Planning Code Section 101.1 and the contemplated actions do not trigger the need for
18 subsequent environmental review pursuant the California Environmental Quality Act (CEQA)
19 (California Public Resources Code Sections 21000 et seq.). A copy of the Planning
20 Department letter is on file with the Clerk of the Board of Supervisors in File No. _____
21 and is incorporated by reference as though fully set forth herein.

22 (f) In DPW Order No. 177,882 dated October 27, 2008 the Director of the
23 Department of Public Works and the City Engineer certified that: Park Parcels NP3, NP4 and
24 NP5 (a) are currently a State Trust Parcel subject to City jurisdiction, (b) have been inspected,
25 were certified as complete by the Department of Public Works on February 1, 2008 for Park

1 Parcel NP3 and June 3, 2008 for Park Parcels NP4 and NP5, and that the project has been
2 constructed in accordance with the Project Plans and Specifications and all City codes,
3 regulations, standards and Mission Bay North Redevelopment Plans and Plan Documents
4 governing this Project, and that such improvements are ready for their intended use, (c) is
5 recommended to the Board of Supervisors for formal acceptance of acquisition facilities and
6 acceptance for maintenance and liability purposes. A copy of the DPW Order is on file with
7 the Clerk of the Board of Supervisors File No. _____ and is incorporated by reference
8 as though fully set forth herein.

9 Section 2. Adoptions and Approvals.

10 (a) The Board of Supervisors adopts as its own the consistency findings of the San
11 Francisco Redevelopment Agency in connection with the acceptance of the Parks NP3, NP4
12 and NP5 Improvements and other actions specified herein.

13 (b) The Board of Supervisors adopts as its own the consistency findings and CEQA
14 findings of the Planning Department in regard to the acceptance of the Parks NP3, NP4 and
15 NP5 Improvements and other actions specified herein.

16 (c) The Board of Supervisors has reviewed and approves the Director of the
17 Department of Public Works recommendation concerning the acceptance of the FOCIL-MB,
18 LLC Irrevocable Offer of Improvements for the Park NP3 Improvements, dated February 1,
19 2008, and for the Parks NP4 and NP5 Improvements dated June 3, 2008 and maintenance
20 and liability responsibilities for said facilities and open space.

21 Section 3. Designation of Park Name, Acceptance of New Acquisition Facilities, and
22 Assumption of Maintenance and Liability Responsibilities.

23 (a) The Board of Supervisor's designates those portions of the State Trust Parcel 1,
24 as shown on Exhibit "A" of the Park NP3 Offer of Improvements and Exhibit "A" of the Parks
25 NP4 and NP5 Offer of Improvements, for open space and park use and designates the park

1 name as "Mission Creek Park".

2 (b) Pursuant to the Acquisition Agreement dated June 1, 2001 by and between the
3 Redevelopment Agency and Catellus Development Corporation, the DPW Order No. 177,882
4 dated October 27, 2008, and pursuant to California Streets and Highways Code Section 1806
5 and San Francisco Administration Code Sections 1.52 et. Seq., the Board of Supervisors
6 hereby accepts the FOCIL-MB, LLC Irrevocable Offer of Improvements dated February 1,
7 2008, for Park NP3 and the Irrevocable Offer of Improvements dated June 3, 2008, for Parks
8 NP4 and NP5, designates such facilities for public open space and park use,
9 and accepts said facilities for maintenance and liability purposes, subject to subsection (c)
10 and (d) but excluding therefrom (i) the portion of Park NP4 located within Assessor Block
11 8707, Lot 3 Improvements and (ii) the NP5 Maintenance Building. These facilities have been
12 excluded and are proposed for delayed acceptance because the Maintenance Building is
13 currently under construction and the portion of land within Assessor's Block 8707, Lot 3 has
14 not been accepted by the City. Copies of said Offer of Improvements are on file with the Clerk
15 of the Board of Supervisors in File No. _____ and are incorporated herein by reference.

16 (c) The Board's acceptance of improvements pursuant to Subsection (a) are for
17 the Parks NP3, NP4 and NP5 Improvements only, are subject to FOCIL-MB, LLC warranty
18 obligations under the Project Permit No. 06IE-263 and are subject to the maintenance
19 obligations of the Redevelopment Agency subject to the 3rd Amendment to Agency Ground
20 Lease.

21 (d) The Parks NP3, NP4 and NP5 Improvements accepted by the Board pursuant to
22 Subsection (a) are subject to the following: (i) acceptance is for the Project only, (ii)
23 encroachments that are permitted, not permitted, or both are excluded from acceptance, and
24 (iii) acceptance is subject to FOCIL-MB, LLC warranty obligations under the Project Permit.

25 (e) The Board of Supervisors hereby acknowledges FOCIL-MB, LLC conditional

1 assignment of all warranties and guaranties related to the construction of the Parks NP3, NP4
2 and NP5 Improvements.

3 (f) Authority to accept the delayed Improvements mentioned in subsection (b) is
4 hereby delegated to the Director of Public Works acting on behalf of the Board of Supervisors
5 to accept said Improvements in the future in accordance with the Mission Bay North
6 Acquisition Agreement.

7 Section 5. All actions heretofore taken by the officers of the City with respect to such
8 Ordinance are hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board,
9 Director of Property, and Director of Public Works are hereby authorized and directed to take
10 any and all actions which they or the City Attorney may deem necessary or advisable in order
11 to effectuate the purpose and intent of this Ordinance, including, but no limited to, the filing of
12 the Ordinance in the Official Records of the City and County of San Francisco.

13

14 RECOMMENDED:

15 DEPARTMENT OF PUBLIC WORKS

16 By: _____

17 Edward D. Reiskin

18 Director of Public Works

19

20 APPROVED AS TO FORM:

21 Dennis J. Herrera

22 City Attorney

23 By: _____

24 John D. Malamut

25 Deputy City Attorney

DESIGNATION CERTIFIED BY:

DEPARTMENT OF PUBLIC WORKS

By: _____

James Chia

Acting City Engineer