Commission on Community Investment and Infrastructure

RESOLUTION NO. 15-2013
**Adopted May 21, 2013**

RESOLUTION ADOPTING ENVIRONMENTAL REVIEW FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND APPROVING THE PROPOSED REDEVELOPMENT PLAN AMENDMENT FOR THE MISSION BAY SOUTH REDEVELOPMENT PROJECT AREA TO ALLOW A MIXTURE OF HOTEL, RESIDENTIAL, AND RETAIL USE ON BLOCK 1; RECOMMENDING ADOPTION OF THE PROPOSED REDEVELOPMENT PLAN AMENDMENT BY THE BOARD OF SUPERVISORS; AND SUBMITTING THE SUCCESSOR AGENCY'S RECOMMENDATION, INCLUDING THE PROPOSED REDEVELOPMENT PLAN AMENDMENT, TO THE BOARD OF SUPERVISORS; MISSION BAY SOUTH REDEVELOPMENT PROJECT AREA

WHEREAS, The Commission of the former Redevelopment Agency of the City and County of San Francisco ("Redevelopment Commission") and the San Francisco Planning Commission, together acting as co-lead agencies for conducting environmental review for the Redevelopment Plans for the Mission Bay North Redevelopment Project area and the Mission Bay South Redevelopment Project Area (the "Plans"), the Mission Bay North Owner Participation Agreement ("North OPA") and the Mission Bay South Owner Participation Agreement ("South OPA"), and other permits, approvals and related and collateral action (the "Mission Bay Project"), prepared and certified a Final Subsequent Environmental Impact Report and have subsequently issued addenda thereto as described below (collectively referred to as the
FSEIR"); and,

WHEREAS, On September 17, 1998, the Redevelopment Commission adopted Resolution No. 182-98 which certified the Final Subsequent Environmental Impact Report ("FSEIR") as a program EIR for Mission Bay North and South pursuant to the California Environmental Quality Act ("CEQA") and State CEQA Guidelines Sections 15168 (Program EIR) and 15180 (Redevelopment Plan EIR). On the same date, the Redevelopment Commission also adopted Resolution No. 183-98, which adopted environmental findings (including without limitation a statement of overriding considerations and mitigation monitoring and reporting program) ("CEQA Findings"), in connection with the approval of the Mission Bay Project. The San Francisco Planning Commission ("Planning Commission") certified the FSEIR by Resolution No. 14696 on the same date. On October 19, 1998, the Board of Supervisors adopted Motion No. 98-132 affirming certification of the FSEIR by the Planning Commission and the Redevelopment Agency, and Resolution No. 854-98 adopting environmental findings (including without limitation a statement of overriding considerations and a mitigation monitoring and reporting program for the Mission Bay Project; and,

WHEREAS, On September 17, 1998, the Redevelopment Commission adopted Resolution No. 193-98, authorizing execution of an South OPA and related documents between Catellus Development Corporation, a Delaware corporation ("Catellus"), and the Redevelopment Agency. On November 2, 1998, the San Francisco Board of

Supervisors ("Board of Supervisors"), by Ordinance No. 335-98, adopted the Plan. The Plan and its implementing documents, as defined in the Plan, constitute the "Plan Documents"; and,

WHEREAS, Subsequent to certification of the FSEIR, the Planning Department and the Redevelopment Agency issued several addenda to the FSEIR. The addenda do not identify any substantial new information or new significant impacts or a substantial increase in the severity of previously identified significant effects that alter the conclusions reached in the FSEIR. The first addendum, dated March 21, 2000, analyzed temporary parking lots to serve the AT&T Ballpark. The second addendum, dated June 20, 2001, analyzed revisions to 7th Street bike lanes and relocation of a storm drain outfall provided for in the Mission Bay South Infrastructure Plan, a component of the South OPA. The third addendum, dated February 10, 2004, analyzed revisions to the Mission Bay South Design for Development ("Design for Development") with respect to the maximum allowable number of towers, tower separation and requires step-backs. The fourth addendum, dated March 9, 2004, analyzed the Design for Development with respect to the permitted maximum number of parking spaces for bio-technical and similar research facilities and the Mission Bay North OPA with respect to changes to reflect a reduction in permitted commercial development and associated parking. The fifth addendum, dated October 4, 2005, analyzed the UCSF proposal to establish a Phase I 400-bed hospital in the Mission Bay South Redevelopment Project Area ("Mission Bay South") on Blocks 36-39 and X-3. The sixth addendum, dated September 10, 2008, addressed revisions of the UCSF Medical Center at Mission Bay. The seventh addendum, dated January 7, 2010, addressed the construction of a Public Safety Building on Block 8 in Mission Bay South; and,

WHEREAS, Catellus, the original master developer of the Mission Bay North and South Redevelopment Project Areas, has sold most of its remaining undeveloped land in Mission Bay to FOCIL-MB, LLC, ("FOCIL-MB"), a subsidiary of Farallon Capital Management, LLC, a large investment management firm. The sale encompassed approximately 71 acres of land in Mission Bay, and the remaining undeveloped residential parcels in Mission Bay South. FOCIL-MB assumed all of Catellus' obligations under the North OPA and South OPA, as well as all responsibilities under the related public improvement agreements and land transfer agreements with the City and County of San Francisco ("City"). FOCIL-MB is bound by all terms of the OPAs and related agreements, including the requirements of the affordable housing program, equal opportunity program, and design review process; and,

WHEREAS, Under California Assembly Bill No. 1X26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) ("AB 26") and the California Supreme Court's decision in California Redevelopment Association v. Matosantos, No. 5194861, all redevelopment agencies in the State of California (the "State"), including the Redevelopment Agency, were dissolved by operation of law as of February 1, 2012, and their non-affordable housing assets and obligations were transferred to certain designated successor agencies; and,

WHEREAS, Under the provisions of AB 26, the City was designated as the successor agency to the Redevelopment Agency ("Successor Agency") to receive the assets of the Redevelopment Agency; and,

WHEREAS, In June of 2012, the California legislature adopted Assembly Bill 1484 ("AB 1484") amending certain provisions of AB 26, and the Governor of the

State signed the bill and it became effective on June 27, 2012. Among other things, AB 1484 provided that a successor agency is a separate public entity from the public agency that provides for its governance; and,

WHEREAS, Subsequent to the adoption of AB 1484, on October 2, 2012 the Board of Supervisors of the City, acting as the legislative body of the Successor Agency, adopted Ordinance No. 215-12 (the "Implementing Ordinance"), which Implementing Ordinance was signed by the Mayor on October 4, 2012, and which, among other matters: (a) acknowledged and confirmed that, as of the effective date of AB 1484, the Successor Agency, commonly known as the Office of Community Investment and Infrastructure ("OCII"), is a separate legal entity from the City, and (b) established this Successor Agency Commission ("Commission") and delegated to it the authority to (i) act in place of the Redevelopment Commission to, among other matters, implement, modify, enforce and complete the Redevelopment Agency's enforceable obligations, (ii) approve all contracts and actions related to the assets transferred to or retained by the Successor Agency, including, without limitation, the authority to exercise land use, development, and design approval, consistent with applicable enforceable obligations, and (iii) take any action that the Redevelopment Dissolution Law (AB 26 and AB 1484, as amended in the future) requires or authorizes on behalf of the Successor Agency and any other action that this Successor Agency Commission deems appropriate, consistent with the Redevelopment Dissolution Law, to comply with such obligations; and,

WHEREAS, The Board of Supervisors' delegation to this Commission, commonly known as the Commission on Community Investment and Infrastructure, includes the authority to grant approvals under specified land use controls for the Mission Bay Project consistent with the approved Plan and enforceable obligations, including amending a redevelopment plan as allowed under the California Community Redevelopment Law; and,

WHEREAS, The Successor Agency has prepared a proposed Redevelopment Plan Amendment for the Mission Bay South Redevelopment Project Area to allow a mixture of hotel, residential, and retail use on Block 1 ("Plan Amendment"); and,

WHEREAS, The Commission is currently considering approval of the Plan Amendment related to the Mission Bay Project (the "Implementing Action"); and,

WHEREAS, The proposed Plan Amendment would allow up to 350 dwelling units as a secondary use on Block 1 and provide for a corresponding increase in the total number of dwelling units permitted within the Mission Bay South Redevelopment Project Area; and,

WHEREAS, Pursuant to Section 33352 of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.), the Successor Agency has prepared a Report on the Plan Amendment ("Report"). The environmental document prepared in conjunction with the consideration of this proposed Plan Amendment has been included as part of the Successor Agency's Report, and is more particularly described below; and,

WHEREAS, The Successor Agency opened a public hearing on May 7, 2012 on adoption of the proposed Plan Amendment, notice of which was duly and regularly published in a newspaper of general circulation in the City and County of San Francisco once a week for three successive weeks beginning 21 days prior to the date of that

hearing, and a copy of that notice and affidavit of publication are on file with the Agency. The public hearing was continued until May 21, 2013; and,

WHEREAS, Copies of the notice of public hearing were mailed by first-class mail to the last known address of each assessee of land in the Mission Bay South Redevelopment Project Area as shown on the last equalized assessment roll of the City; and,

WHEREAS, Copies of the notice of public hearing were mailed by first-class mail to all residential and business occupants in the Mission Bay South Redevelopment Project Area; and,

WHEREAS, Copies of the notice of public hearing were mailed, by certified mail, return receipt requested, to the governing body of each taxing agency which receives taxes from property in the Mission Bay South Redevelopment Project Area; and,

WHEREAS, The Successor Agency has provided an opportunity for all persons to be heard and has considered all evidence and testimony presented for or against any and all aspects of the proposed Plan Amendment; and,

WHEREAS, Since the certification of the FSEIR, adoption of the CEQA Findings, and approval of the Mission Bay Project, the Successor Agency prepared an Addendum #8 to the FSEIR, dated May 15, 2013 ("Addendum #8") that analyzes the Plan Amendment and an third amendment to the South OPA ("OPA Amendment") to allow up to 350 units of residential development on Block 1 as a secondary use, with a 250-room hotel and up to 25,000 square feet of retail uses; and,

WHEREAS, The Successor Agency prepared Addendum #8 in compliance with CEQA and the State CEQA Guidelines and it reflects the independent judgment and analysis of the Successor Agency. Addendum #8 concludes that the Mission Bay Project, as modified by the Plan Amendment and OPA Amendment is within the scope of the Mission Bay Project analyzed in the FSEIR and will not result in any new significant impacts or a substantial increase in the severity of previously identified significant effects that alter the conclusions reached in the FSEIR for the reasons stated in the Addendum #8; and,

WHEREAS, The Successor Agency staff, in making the necessary findings for the Implementing Action contemplated by this Resolution, considered and reviewed the FSEIR, and has made documents related to the Implementing Action, the FSEIR files, including Addendum #8, available for review by the Commission and the public, and these files are part of the record before the Commission; and,

WHEREAS, Copies of the FSEIR, including Addendum #8 and supporting documentation are on file with the Successor Agency Secretary and are incorporated in this Resolution by this reference; and,

WHEREAS, The Implementing Action is an undertaking pursuant to and in furtherance of the Mission Bay Project in conformance with CEQA Guidelines Section 15180; and,

WHEREAS, The FSEIR and CEQA Findings adopted by the Agency Commission by Resolution No. 183-98 dated September 17, 1998, reflected the independent judgment and analysis of the Agency Commission, were and remain adequate, accurate and objective and were prepared and adopted following the procedures required by CEQA, and the findings in such resolution are incorporated herein by reference as applicable to the Implementing Action; and,

WHEREAS, OCII staff has reviewed the Plan Amendment, and finds it acceptable and recommends approval thereof; now, therefore, be it

RESOLVED, The Commission has considered the FSEIR, the CEQA Findings that were previously adopted by the Redevelopment Commission, including the statement of overriding considerations and mitigation monitoring and reporting program, and the Addendum #8, and the Commission adopts the CEQA Findings and Addendum #8 as its own; and, be it further

RESOLVED, The Commission finds and determines that the Implementing Action is within the scope of the Mission Bay Project analyzed in the FSEIR and requires no further environmental review beyond the FSEIR pursuant to the State CEQA Guidelines Section 15180, 15162 and 15163 for the following reasons:

(1) implementation of the Plan Amendment does not require major revisions to the FSEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant impacts; and,

(2) no substantial changes have occurred with respect to the circumstances under which the project analyzed in the FSEIR will be undertaken that would require major revisions to the FSEIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the FSEIR; and,

(3) no new information of substantial importance to the project analyzed in the FSEIR has become available, which would indicated that (i) the Plan Amendment will have significant effects not discussed in the FSEIR; (ii) significant environmental effects will be substantially more severe; (iii) mitigation measures or alternatives found not feasible, which would reduce one or more significant effects, have become feasible; or (iv) mitigation measures or alternatives, which are considerably different from those in the FSEIR, will substantially reduce one or more significant effects on the environment that would change the conclusions set forth in the FSEIR; and, be it further

RESOLVED, That the Commission approves the Plan Amendment and recommends forwarding the Plan Amendment to the San Francisco Board of Supervisors for their approval, subject to the following condition:

1. The First Amendment to the Mission Bay South Redevelopment Plan is conditioned on final approval by the San Francisco Board of Supervisors.

I hereby certify that the foregoing resolution was adopted by the Successor Agency Commission at its meeting of May 21, 2013.

Natasha Jones
Commission Secretary