

1 [Redevelopment Plan Amendment - Mission Bay South]

2

3 **Ordinance approving an amendment to the Mission Bay South Redevelopment Plan,**
4 **which modifies the land use designation for certain property to add residential as a**
5 **permitted use and to increase the permitted residential density in the Plan Area, but**
6 **does not increase the allocation of tax increment under a pre-existing enforceable**
7 **obligation; making environmental findings under the California Environmental Quality**
8 **Act; and making findings pursuant to the General Plan and Planning Code, Section**
9 **101.1(b).**

10

11 NOTE: Additions are *single-underline italics Times New Roman*;
12 deletions are ~~*strike-through italics Times New Roman*~~.
13 Board amendment additions are double-underlined;
14 Board amendment deletions are ~~strike-through normal~~.

14

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

16 Section 1. FINDINGS. The Board of Supervisors of the City and County of San
17 Francisco (the "Board of Supervisors" or "Board") hereby finds, determines and declares,
18 based on the record before it, including but not limited to information contained in the Report
19 to the Board of Supervisors on the Proposed Amendment to Redevelopment Plan for the
20 Mission Bay South Redevelopment Project Area ("Report on the Redevelopment Plan
21 Amendment"), that:

22 (a) On September 17, 1998, by Resolution No. 190-98, the Redevelopment Agency
23 of the City and County of San Francisco ("Agency" or "Redevelopment Agency") approved the
24 Mission Bay South Redevelopment Plan (the "Plan") for the Mission Bay South
25 Redevelopment Project Area (the "Plan Area"). On the same date, the Agency adopted

1 related documents, including Resolution No. 193-98 authorizing execution of an Owner
2 Participation Agreement (“South OPA”) and related documents between Catellus
3 Development Corporation, a Delaware corporation, and the Agency applicable to the Plan
4 Area. FOCIL-MB, LLC, a Delaware limited liability company (“FOCIL”), entered into an
5 Assignment, Assumption and Release Agreement, dated November 22, 2004, under which
6 FOCIL assumed the rights and obligations of the prior owner under the South OPA.

7 (b) The Board of Supervisors approved and adopted the Plan for the Plan Area by
8 Ordinance No. 335-98 on November 2, 1998.

9 (c) Assembly Bill No. 1x 26 (Chapter 5, Statutes of 2011-12, First Extraordinary
10 Session), as amended by Assembly Bill No. 1484 (Chapter 25, Statutes of 2011-12, Regular
11 Session) (collectively referred to in this Ordinance as “AB 26”) and the California Supreme
12 Court’s decision in California Redevelopment Association v. Matosantos, 53 Cal.4th 231
13 (2011):

14 (1) Dissolved by operation of law all redevelopment agencies in the State of
15 California (“State”) as of February 1, 2012;

16 (2) Required the transfer of their affordable housing assets and functions to
17 certain designated successor housing agencies and their non-affordable housing assets and
18 obligations to certain designated successor agencies, which AB 26 charged with satisfying
19 enforceable obligations of the former redevelopment agencies, preserving their assets for the
20 benefit of taxing entities and winding up their affairs under the supervision of a new oversight
21 board and review by the State Department of Finance and State Controller;

22 (3) Provided that a successor agency is a separate legal entity from the
23 public agency that provides for its governance and the successor agency retains the liabilities
24 of the dissolved redevelopment agency;

1 (4) Placed certain actions of the successor agencies under the supervision of
2 oversight boards, which have a fiduciary duty to the holders of enforceable obligations and the
3 taxing entities; and

4 (5) Authorized redevelopment plan amendments consistent with the terms
5 and conditions of AB 26.

6 (d) In accordance with AB 26, by Ordinance 215-12, the Board of Supervisors, as
7 the legislative body of the Successor Agency, named the Successor Agency to the
8 Redevelopment Agency of the City and County of San Francisco (the "Successor Agency"),
9 as the successor agency to the Redevelopment Agency; created the Successor Agency
10 Commission; and delegated to the Successor Agency Commission, among other powers, the
11 authority to act in place of the former redevelopment agency to implement, modify, enforce
12 and complete surviving redevelopment projects, including, without limitation, three major
13 integrated, multiphase revitalization projects, which are the Mission Bay North and Mission
14 Bay South Projects, the Hunters Point Shipyard/Candlestick Point Project, and the Transbay
15 Transit Center Project (collectively, the "Major Approved Development Projects"), and which
16 are subject to enforceable obligations requiring the implementation and completion of those
17 projects. The Mission Bay South Redevelopment Plan Project encompasses the Plan Area.

18 (e) With respect to the Major Approved Development Projects, Ordinance 215-12
19 granted the Successor Agency Commission authority to approve all contracts and actions
20 related to the assets transferred to or retained by the Successor Agency, including, without
21 limitation, the authority to exercise land use, development and design approval authority for
22 the Major Approved Development Projects. The authority of the Successor Agency
23 Commission, with respect to the Major Approved Development Projects includes the authority
24 to approve amendments to redevelopment plans as allowed under AB 26, subject to adoption
25

1 of such plan amendments by the Board of Supervisors and any required approval by the
2 Oversight Board, consistent with applicable enforceable obligations.

3 (f) Ordinance 215-12 acknowledged that the Successor Agency has retained
4 enforceable obligations for the development of affordable housing required to fulfill the Major
5 Approved Development Projects.

6 (g) As required by AB 26, by Resolution No. 11-12, the Board of Supervisors timely
7 established a seven-member oversight board of the Successor Agency (the "Oversight
8 Board"). The Mayor appointed, and the Board confirmed, four members to the Oversight
9 Board. The Bay Area Rapid Transit District, the Chancellor of the California Community
10 Colleges, and the County Superintendent of Education, each appointed one of the remaining
11 three members of the Oversight Board.

12 (h) As set forth more fully in Section 1, subparagraph (k) of this Ordinance, the
13 Successor Agency Commission recommends approval of a proposed amendment to the Plan
14 (the "Plan Amendment"), which would modify the land use designation for certain property
15 within the Plan Area (Block 1) to add residential land use as a permitted secondary use, if the
16 criterion for a secondary use is met, and to increase the permitted residential density in the
17 Plan Area.

18 (i) In accordance with Sections 33450 through 33458 and Section 33352 of the
19 California Community Redevelopment Law (Health and Safety Code Sections 33000 et seq.,
20 the "Redevelopment Law"), the Successor Agency has prepared the Report on the Plan
21 Amendment and made the Report available to the public on or before the date of the notice of
22 the public hearing, held in accordance with Section 33452, on this Ordinance approving the
23 Plan Amendment; said hearing is referenced in Section 1, subparagraph (k) of this Ordinance.

24 (j) General Plan and Planning Code Section 101.1 Findings. The Successor
25 Agency transmitted the proposed Plan Amendment to the Planning Commission for the

1 Planning Commission's report and recommendation concerning the conformity of the Plan
2 Amendment with the General Plan. On June 13, 2013, at a duly noticed public hearing, the
3 Planning Commission adopted Motion No. 18905, which found that the Plan Amendment is,
4 on balance, consistent with the General Plan and in conformity with the priority policies in
5 Planning Code Section 101.1. A copy of the Planning Commission Motion is on file with the
6 Clerk of the Board of Supervisors in File No. 130458 and incorporated in this Ordinance by
7 this reference as though fully set forth. This Board, for the reasons specified in the Motion No.
8 18905 adopts as its own the findings of the Planning Commission that the Plan Amendment is
9 consistent with the General Plan and in conformity with Planning Code Section 101.1.

10 (k) On May 21, 2013, after holding a duly noticed public hearing in accordance with
11 Redevelopment Law Section 33452, by Resolutions Nos. 15-2013, 16-2013, and 18-2013, the
12 Successor Agency Commission approved the Report on the Plan Amendment and consistent
13 with its authority under AB 26 and Ordinance 215-12, determined that an amendment to the
14 Plan and the South OPA that would permit residential use of Block 1 and an increase in
15 residential density is necessary and desirable for the implementation of the Plan, and adopted
16 the Plan Amendment. The Successor Agency has transmitted to the Board of Supervisors
17 certified copies of these Resolutions and attached its Report on the Plan Amendment. Copies
18 of the Plan Amendment and the Successor Agency Commission's Resolutions Nos. 15-2013,
19 16-2013, and 18-2013, on file with the Clerk of the Board of Supervisors in File No. 130458
20 are incorporated in this Ordinance by this reference.

21 (l) The Oversight Board, consistent with its authority under AB 26 to approve
22 amendments to agreements between the dissolved redevelopment agency and private parties
23 where it finds that amendments or early termination would be in the best interests of the
24 taxing entities, after holding a duly noticed public hearing in accordance with Redevelopment
25 Law Section 33452, by Resolution No. 5-2013, determined that an amendment to the South

1 OPA that would permit residential use of Block 1 as a secondary use and an increase in
2 residential density in the Plan Area is in the best interests of the taxing entities.

3 (m) Under Redevelopment Dissolution Law, the California Department of Finance
4 (“DOF”) must receive notice and information about all Oversight Board actions, which do not
5 take effect until DOF has either not requested review within five days of the notice or
6 requested review and approved the action within 40 days of its review request. On June 10,
7 2013, the Successor Agency provided a copy of Oversight Board Resolution No. 5-2013 to
8 DOF, which did not object to the amendment to the South OPA within the statutory time
9 period for its review, or which approved the amendment to the South OPA within the statutory
10 time period of the Successor Agency’s review request.

11 (n) The Board of Supervisors held a public hearing on June 25, 2013, on the
12 adoption of the proposed Plan Amendment in the Board Legislative Chamber, 1 Dr. Carlton B.
13 Goodlett Place, Room 250, San Francisco, California. The hearing has been closed. Notice
14 of such hearing was duly and regularly published in a newspaper of general circulation in the
15 City and County of San Francisco, once per week for three successive weeks prior to the date
16 of such hearing in accordance with Redevelopment Law Section 33452. At such hearing the
17 Board considered the report and recommendations of the Successor Agency Commission, the
18 Oversight Board, the Planning Commission, the Final Subsequent Environmental Impact
19 Report for the Mission Bay North and South Redevelopment Plans (the “FSEIR”), and
20 Addendum No. 8 to the FSEIR (“Addendum No. 8”), and all evidence and testimony for and
21 against the proposed Plan Amendment. The Board hereby adopts findings to the extent
22 required by the Community Redevelopment Law as set forth in Section 5 of this Ordinance.

23 (o) CEQA Findings.

24 (1) On September 17, 1998, the Redevelopment Agency Commission by
25 Resolution No. 190-98 and the San Francisco Planning Commission by Resolution No. 14696

1 and in accordance with the California Environmental Quality Act (Public Resources Code
2 Sections 21000 et seq., "CEQA") certified the FSEIR. On October 19, 1998, the Board of
3 Supervisors, by Motion No. 98-132 affirmed certification of the FSEIR and by Resolution No.
4 854-98, adopted CEQA findings, including a statement of overriding considerations and a
5 Mission Bay mitigation monitoring and reporting program ("Mission Bay MMRP") in support of
6 various approval actions taken by the Board to implement the Mission Bay North and Mission
7 Bay South Redevelopment Plans. Resolution No. 854-98 is on file with the Clerk of the Board
8 in File No. 130458 and incorporated in this Ordinance by this reference.

9 (2) The former Redevelopment Agency issued several addenda to the FSEIR
10 to address various issues in the Plan Area. The Successor Agency most recently issued
11 Addendum No. 8 to address the development that would result from the Plan Amendment,
12 including development of Block 1 and additional dwelling units in the Plan Area. Addendum
13 No. 8 concludes that the proposed Plan Amendment is within the scope of the project
14 analyzed in the FSEIR and will not result in any new significant impacts or a substantial
15 increase in the severity of previously identified significant effects that would alter the
16 conclusions reached in the Mission Bay FSEIR. Addendum No. 8 and any supporting
17 documents have been made available to the Board of Supervisors and the public, are on file
18 with the Clerk of the Board of Supervisors in File No. 130458 and Addendum No. 8 is
19 incorporated in this Ordinance by this reference.

20 (3) The Board has reviewed and considered the CEQA Findings and
21 statement of overriding considerations that it previously adopted in Resolution No. 854-98,
22 and reviewed and considered the CEQA Findings contained in Addendum No. 8 and hereby
23 adopts these additional CEQA Findings as its own. The Board additionally finds that: (A)
24 implementation of the Plan Amendment does not require major revisions in the FSEIR due to
25 the involvement of new significant environmental effects or a substantial increase in the

1 severity of previously identified significant effects; (B) no substantial changes have occurred
2 with respect to the circumstances under which the project analyzed in the FSEIR will be
3 undertaken that would require major revisions to the FSEIR due to the involvement of new
4 significant environmental effects, or a substantial increase in the severity of effects identified
5 in the FSEIR; and (C) no new information of substantial importance to the project analyzed in
6 the FSEIR has become available which would indicate that (i) the Plan Amendment will have
7 significant effects not discussed in the FSEIR; (ii) significant environmental effects will be
8 substantially more severe; (iii) mitigation measures or alternatives found not feasible which
9 would reduce one or more significant effects have become feasible; or (iv) mitigation
10 measures or alternatives which are considerably different from those in the FSEIR will
11 substantially reduce one or more significant effects on the environment.

12 Section 2. PURPOSE AND INTENT. The purpose and intent of the Board of
13 Supervisors with respect to the Plan Amendment is to permit residential land uses in Block 1
14 and an increase in residential density within the Plan Area that will contribute to and
15 complement the overall goals and objectives of the Redevelopment Plan, facilitate the
16 completion of redevelopment of the Plan Area, and expeditiously wind down the activities of
17 the dissolved redevelopment agency as required under AB 26.

18 Section 3. PLAN INCORPORATION BY REFERENCE. The Plan as amended by this
19 Ordinance is incorporated in and made a part of this Ordinance by this reference with the
20 same force and effect as though set forth fully in this Ordinance.

21 Section 4. REDEVELOPMENT PLAN AMENDMENT.

22 (a) Section 103(G) of the Plan is hereby amended to read as follows:

23 Strengthening the community's supply of housing by facilitating economically feasible,
24 affordable housing through installation of needed site improvements and expansion and
25 improvement of the housing supply by the construction of up to approximately ~~3,000~~3,440 very

1 low-, low-, and moderate-income and market-rate units, including approximately 1,100 units of
2 very low-, low- and moderate-income housing.

3 (b) Section 103(H) of the Plan is hereby amended to read as follows:

4 Strengthening the economic base of the Plan Area and the community by
5 strengthening retail and other commercial functions in the Plan Area through the addition of up
6 to approximately 335,000 Leasable square feet of retail space and a hotel of up to 500 rooms ~~at~~
7 ~~500-room hotel~~ and associated uses, depending on the amount of residential uses constructed in the
8 Hotel land use district, and about 5,953,600 Leasable square feet of mixed office, research and
9 development and light manufacturing uses.

10 (c) Section 302.2 of the Plan is hereby amended to add at the end of the existing
11 text in the section, the following language:

12 The following secondary uses shall be permitted in the Hotel district if the criterion for a
13 secondary use as set forth in Section 302 is met:

14 Dwelling Units, as long as they do not preclude within the Hotel land use district the
15 development of an economically feasible hotel (subject to the limitations in Section 304.5 of this
16 Plan)that will comply with the Design for Development and other Plan Documents, which
17 determination the Agency shall make at the time it approves any dwelling units in the Hotel land use
18 district.

19 (d) Section 304.4 of the Plan is amended to read as follows:

20 The number of Dwelling Units presently in the Plan Area is currently none, and shall be
21 approximately ~~3,000~~ 3,440 under this Plan. Of those 3,440 Dwelling Units, 350 are allocated to the
22 Hotel land use district and cannot be constructed on any site other than Block I, with the remaining
23 Dwelling Units allocated to the Mission Bay South Residential land use district. The total number of
24 Dwelling Units that may be constructed within the Hotel land use district must not exceed 350 Dwelling
25 Units and must not preclude the development of a hotel within the Hotel land use district as provided

1 for in Section 302.2. Further, inclusion of Dwelling Units within the Hotel land use district will reduce
2 the total hotel size and Leasable square footage of retail allowed in the Plan Area as provided for in
3 Section 304.5.

4 (e) Section 304.5 of the Plan is amended to add the following language at the end
5 of the existing text in the section:

6 If Dwelling Units are constructed within the Hotel land use district, the maximum size of the
7 hotel will be reduced to 250 rooms and the maximum amount of retail square footage will be reduced
8 to 25,000 Leasable square feet.

9 (f) Attachment 3 (Redevelopment Land Use Map) of the Plan is amended so that
10 the label of "Hotel" in the legend will read as follows:

11 HOTEL (Mixed use including Residential and Retail)

12 Section 5. FURTHER FINDINGS AND DETERMINATIONS UNDER COMMUNITY
13 REDEVELOPMENT LAW. The Board of Supervisors hereby further finds, determines and
14 declares, based on the record before it, including but not limited to information contained in
15 the Report on the Plan Amendment that:

16 (a) Block 1 of the Plan Area remains a blighted area and remains undeveloped.
17 The redevelopment of Block 1 is necessary to effectuate the public purposes declared in the
18 Redevelopment Law. The Plan Amendment will improve or alleviate the physical and
19 economic conditions of blight on Block 1, by allowing for a diversity of land uses, including
20 residential use and hotel use, and thus will support the full economic use of Block 1.

21 (b) The Plan Amendment will redevelop the Plan Area as set forth in the Report on
22 the Plan Amendment in conformity with the Redevelopment Law and in the interest of the
23 public peace, health, safety, and welfare. The carrying out of the Plan Amendment will
24 promote the public peace, health, safety and welfare of the community and effectuate the
25 purposes and policies of the Redevelopment Law, as amended by AB 26, which requires the

1 expeditious wind down of redevelopment activities. The development of dwelling units on
2 Block 1 will provide flexibility in the development of the Plan Area to respond readily and
3 appropriately to market conditions, providing opportunities for participation by owners in the
4 redevelopment of their properties, strengthening the economic base of the Plan Area and the
5 community by strengthening retail and other commercial functions in the Plan Area, and
6 achieving these objectives in the most expeditious manner feasible.

7 (c) The adoption and carrying out of the Plan Amendment is economically sound
8 and feasible as described in the Report on the Plan Amendment. Development of Block 1 for
9 mixed-use residential, retail and hotel will significantly increase revenues generated from
10 property taxes payable to the taxing entities, including the City and County of San Francisco,
11 the Bay Area Rapid Transit District, the San Francisco Community College District, and the
12 San Francisco Unified School District for reasons set forth in the Report on the Plan
13 Amendment. The Plan Amendment does not propose any new capital expenditures by the
14 Successor Agency nor any change in the Successor Agency's overall method of financing the
15 redevelopment of the Plan Area, but nonetheless accelerates the completion of development
16 under the Plan and thus benefits the taxing entities by ensuring that they receive increased
17 property tax revenues through pass-through and other payments.

18 (d) For the reasons set forth in Section 1, subparagraph (j) of this Ordinance, the
19 Plan Amendment is consistent with the General Plan of the City and County of San Francisco,
20 including, but not limited to, the housing element of the General Plan, which substantially
21 complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3
22 of Division 1 of Title 7 of the California Government Code and other applicable requirements
23 of law, and is consistent with the priority policies in City Planning Code Section 101.1.

1 (e) The Plan Amendment does not change any provisions of the Plan concerning
2 the condemnation of real property. Under Redevelopment Law, the authority to condemn real
3 property provided for in the Plan expired on November 2, 2010.

4 (f) No persons will be displaced, temporarily or permanently, from housing facilities
5 as a result of the Plan or Plan Amendment. Accordingly, no residential relocation plan is
6 required.

7 (g) There are no non-contiguous areas in the Plan Area.

8 (h) The Plan Amendment does not change the boundaries of the Plan Area and,
9 therefore, does not include any additional area for the purpose of obtaining any allocation of
10 tax increment revenues from the Plan Area pursuant to Redevelopment Law Section 33670.

11 (i) The Plan Area is predominately urbanized, as defined by Redevelopment Law
12 Section 33320.1(b).

13 (j) The Plan Amendment does not change the time limitation and the limitation on
14 the number of dollars to be allocated to the Agency.

15 Section 6. OFFICIAL PLAN. As required by Redevelopment Law Sections 33457.1
16 and 33367, the Board of Supervisors hereby approves and adopts the Plan, as amended by
17 the Plan Amendment, as the official redevelopment plan for the Plan Area.

18 Section 7. COOPERATION IN IMPLEMENTING PLAN AS AMENDED. By Ordinance
19 335-98, the Board of Supervisors approved an Interagency Cooperation Agreement with the
20 Redevelopment Agency (the "Interagency Cooperation Agreement"), to provide for
21 cooperation between the City and the Redevelopment Agency in administering the process for
22 control and approval of subdivisions, and all other applicable land use, development,
23 construction, improvement, infrastructure, occupancy and use requirements and in
24 establishing the policies and procedures relating to such approvals. The Board hereby agrees
25

1 to cooperate with the Successor Agency through the Interagency Cooperation Agreement in
2 carrying out the Plan as amended.

3 Section 8. CONTINUED EFFECT OF PREVIOUS ORDINANCES AS AMENDED.
4 Ordinance No. 335-98 is continued in full force and effect as amended by this Ordinance.

5 Section 9. TRANSMITTAL OF PLAN AS AMENDED. The Clerk of the Board of
6 Supervisors shall without delay (a) transmit a copy of this Ordinance to the Successor
7 Agency, whereupon the Successor Agency shall be vested with the responsibility for carrying
8 out the Plan as amended, and (b) record or ensure that the Successor Agency records a
9 notice of the approval and adoption of the Plan Amendment pursuant to this Ordinance,
10 containing a statement that proceedings for the redevelopment of the Plan Area pursuant to
11 the Plan Amendment have been instituted under the Redevelopment Law.

12 Section 10. RATIFICATION OF PRIOR ACTS. All actions taken by City officials, the
13 Oversight Board and the Successor Agency Commission in preparing and submitting the Plan
14 Amendment to the Board of Supervisors for review and consideration are hereby ratified and
15 confirmed, and the Board of Supervisors hereby authorizes all subsequent action to be taken
16 by City officials, the Oversight Board and the Successor Agency Commission consistent with
17 this Ordinance.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25

1 Section 11. Effective Date. In accordance with Sections 33378(b)(2) and 33450 of the
2 California Redevelopment Law (California Health and Safety Code secs. 33378(b)(2) and
3 33450), this ordinance shall become effective 90 days from the date of passage.

4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6
7 By: _____
8 ELAINE C. WARREN
9 Deputy City Attorney
10 n:\land\as2013\1300330\00846614.doc