

MEMORANDUM

TO: Commission on Community Investment and Infrastructure

FROM: Nadia Sesay, Executive Director

SUBJECT: Authorizing a Memorandum of Understanding with the San Francisco Public Utilities Commission for the maintenance of Stormwater Controls in Mission Bay Open Space; Mission Bay South Redevelopment Project Area

EXECUTIVE SUMMARY

The Office of Community Investment and Infrastructure (“OCII”) and the San Francisco Public Utilities Commission (“SFPUC”) have proposed a Memorandum of Understanding (“MOU”) that defines the maintenance responsibilities of the Stormwater Controls for the open space parcels managed by OCII in Mission Bay South. Stormwater Controls are planted or structural facilities, measures, or programs intended to reduce pollution in stormwater runoff and maximize the performance of the collection system by managing the quantity and/or improving the quality of stormwater runoff.

The purpose of this MOU is to establish a framework for achieving the following goals within the existing legal capacity of OCII: (i) support the City’s compliance with State permits, (ii) protect water quality, and (iii) protect City assets. In Mission Bay South, the Stormwater Controls are located in Open Spaces where Mission Bay Parks are currently performing preventative and remedial maintenance of the Stormwater Controls. The proposed MOU memorializes OCII will be responsible for this level of maintenance.

Staff recommends approving the proposed MOU with the San Francisco Public Utilities Commission.

BACKGROUND

Stormwater Controls

Stormwater Controls are planted or structural facilities, measures, or programs intended to reduce pollution in stormwater runoff and maximize the performance of the collection system by managing the quantity and/or improving the quality of stormwater runoff in accordance with the SFPUC’s Stormwater Management and Design Guidelines (the “**Guidelines**”), and applicable state and federal regulatory requirements. Stormwater Controls in Designated Open Spaces treat stormwater from the public right-of-way.

In Mission Bay, bioswales and bioretention are used for stormwater control.

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Bioswales are landscape elements designed to concentrate or remove debris and pollution out of surface runoff water. They consist of a swaled drainage course with gently sloped sides (less than 6%) and filled with vegetation, compost and/or riprap.^{[1]-19} The water's flow path, along with the wide and shallow ditch, is designed to maximize the time water spends in the swale, which aids the collection and removal of pollutants, silt and debris. Bioswales are also beneficial in groundwater recharge and are great stormwater mitigation tools.

Bioretention is the process in which contaminants and sedimentation are removed from stormwater runoff. Stormwater is collected into the treatment area which consists of a grass buffer strip, sand bed, ponding area, organic layer or mulch layer, planting soil, and plants. Runoff passes first over or through a sand bed, which slows the runoff's velocity, distributes it evenly along the length of the ponding area, which consists of a surface organic layer and/or groundcover and the underlying planting soil. The ponding area is graded and its center is depressed. Water is ponded and gradually infiltrates the bioretention area. The bioretention area is graded to divert excess runoff away from itself. Stored water in the bioretention area planting soil exfiltrates over a period of days into the underlying soils.

In order for the City of San Francisco ("City") to achieve compliance with its National Pollutant Discharge Elimination System (NPDES) permits issued by the California State Water Resources Control Board, under mandate from the United States Environmental Protection Agency, in April 2010 the City amended its Public Works Code and adopted Article 4.2 (the "**Stormwater Management Ordinance**") to require property owners and developers of certain development projects to install and maintain permanent stormwater quantity and/or quality protection measures in accordance with the Guidelines.

To comply with the Stormwater Management Ordinance and the Guidelines for the public rights-of-way and the Mitigation Monitoring and Reporting Program for Mission Bay South, FOCIL has constructed or is constructing Stormwater Controls in the Designated Open Spaces that will treat stormwater from the public right-of-way.

Mission Bay South Owner Participation Agreement

To implement the Redevelopment Plan, The Redevelopment Agency of the City and County of San Francisco ("**Redevelopment Agency**"), now OCII, and Catellus Development Corporation, a Delaware corporation, now FOCIL-MB, LLC ("**FOCIL**"), entered into that certain Mission Bay South Owner Participation Agreement (the "**OPA**") dated as of November 16, 1998. Under the OPA, FOCIL is required, among other things, to develop Open Space Parcels (as defined in the OPA) and convey the Open Space Parcels, once improved, to the City acting through either the City's Department of Real Estate or the San Francisco Port Commission, depending on the particular Open Space Parcel.

Also pursuant to the OPA, OCII is required to form and administer a community facilities district to fund maintenance of the Open Space Parcels ("Maintenance CFD"), and to lease the Open Space Parcels from the City, once transferred from FOCIL, to administer the maintenance of the Open Space Parcels. The Redevelopment Agency formed the Maintenance CFD in 1999 and entered into the lease with the City in 2001, which is scheduled to terminate in 2045, to implement the Redevelopment Agency's maintenance obligations ("**2001 Ground Lease**"). OCII contracts with MJM Management/Mission Bay Parks to perform landscaping, maintenance and security in Mission Bay Open Space.

The OPA, which includes the Mission Bay South Infrastructure Plan, was executed before the Stormwater Management Ordinance was enacted so the OPA did not originally include Stormwater Controls to treat the public rights-of-way. However, portions of Mission Bay South right-of way were permitted and constructed after the effective date of the Stormwater Management Ordinance and must meet the new requirements of the Guidelines.

DISCUSSION

Maintenance of Stormwater Controls

The MOU defines various categories for the maintenance of Stormwater Controls. OCII will be responsible for the following:

- Preventative maintenance and remedial maintenance on the typical components of the Stormwater Controls in accordance with the maintenance schedule included in the MOU, or in the event of non-scheduled preventative or remedial maintenance, within 30 days of discovering the conditions necessitating such maintenance;
- Preventative, remedial, and corrective maintenance as well as replacement and rehabilitation specifically for the decorative glass on the outside of the Stormwater pump station number 6, including: removal of graffiti, wiping down on a regular basis and replacement of glass;
- Comply with the maintenance schedule and perform the Annual Self-Inspection Checklist specified in the MOU for the Stormwater Controls.

The above responsibilities are routine maintenance activities currently performed by Mission Bay Parks.

Additionally, OCII shall not demolish, modify or remove the Stormwater Controls located in Designated Open Spaces in a manner that lessens their effectiveness. Prior written consent from the SFPUC is required for any material change to the Stormwater Controls.

The SFPUC will be responsible for the following:

- Perform corrective maintenance and replacement and rehabilitation on the typical components of the Stormwater Controls to ensure they are in good and working order so that these Stormwater Controls continue to function as originally designed and approved;
- Perform all preventative, remedial, and corrective maintenance as well as replacement and rehabilitation of specialized components of the Stormwater Controls.

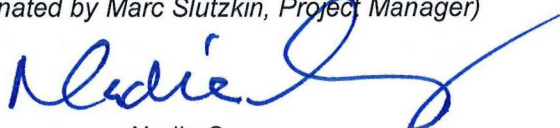
California Environmental Quality Act (CEQA)

The proposed MOU will result in minor alterations in the condition of land, water and vegetation, and is therefore categorically exempt from environmental review pursuant to CEQA Guidelines Section 15304.

STAFF RECOMMENDATION

Staff recommends that the Commission authorize the Executive Director to enter into the MOU.

(Originated by Marc Slutzkin, Project Manager)



Nadia Sesay
Executive Director