

BOARD of SUPERVISORS



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MEMORANDUM

TO: John Rahaim, Director, Planning Department
Nadia Sesay, Executive Director, Office of Community Investment and
Infrastructure
Mohammed Nuru, Director, Public Works

FROM:  Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: February 13, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Kim on February 6, 2018:

File No. 180133

Ordinance accepting the irrevocable offer of public infrastructure acquisition facilities and real property associated with Seventh Street and Mission Bay Drive Phase 1 and Phase 2 Infrastructure Improvements, including portions of Seventh Street, Berry Street Connector, and Mission Bay Drive in Mission Bay South ("Seventh Street and Mission Bay Drive Public Infrastructure"); declaring City property and additional property as shown on official Public Works maps as open public right-of-way; dedicating the Seventh Street and Mission Bay Drive Public Infrastructure for public use and designating such Public Infrastructure for public street and roadway purposes; establishing official public right-of-way widths and street grades; amending Ordinance No. 1061, entitled "Regulating the Width of Sidewalks" to establish official sidewalk width on the abovementioned street areas; accepting the Seventh Street and Mission Bay Drive Public Infrastructure for City maintenance and liability purposes, subject to specified limitations; adopting findings under the California Environmental Quality Act; making findings of consistency with the General Plan, the eight priority policies of Planning Code, Section 101.1, and the Mission Bay South Redevelopment Plan; accepting a Public Works Order; and authorizing official acts in connection with this Ordinance.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

- c: Scott Sanchez, Planning Department
- Lisa Gibson, Planning Department
- AnMarie Rodgers, Planning Department
- Aaron Starr, Planning Department
- Joy Navarrete, Planning Department
- Laura Lynch, Planning Department
- David Steinberg, Public Works
- Jeremy Spitz, Public Works
- Jennifer Blot, Public Works
- John Thomas, Public Works
- Lena Liu, Public Works

1 [Mission Bay South - Accepting Portions of Seventh Street and Mission Bay Drive]

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3 **Ordinance accepting the irrevocable offer of public infrastructure acquisition facilities**
4 **and real property associated with Seventh Street and Mission Bay Drive Phase 1 and**
5 **Phase 2 Infrastructure Improvements, including portions of Seventh Street, Berry**
6 **Street Connector, and Mission Bay Drive in Mission Bay South (“Seventh Street and**
7 **Mission Bay Drive Public Infrastructure”); declaring City property and additional**
8 **property as shown on official Public Works maps as open public right-of-way;**
9 **dedicating the Seventh Street and Mission Bay Drive Public Infrastructure for public**
10 **use and designating such Public Infrastructure for public street and roadway**
11 **purposes; establishing official public right-of-way widths and street grades; amending**
12 **Ordinance No. 1061, entitled “Regulating the Width of Sidewalks” to establish official**
13 **sidewalk width on the abovementioned street areas; accepting the Seventh Street and**
14 **Mission Bay Drive Public Infrastructure for City maintenance and liability purposes,**
15 **subject to specified limitations; adopting findings under the California Environmental**
16 **Quality Act; making findings of consistency with the General Plan, the eight priority**
17 **policies of Planning Code, Section 101.1, and the Mission Bay South Redevelopment**
18 **Plan; accepting a Public Works Order; and authorizing official acts in connection with**
19 **this Ordinance.**

20 NOTE: **Unchanged Code text and uncodified text** are in plain Ariel font.
21 **Additions to Codes** are in *single-underline italics Times New Roman font.*
22 **Deletions to Codes** are in *strikethrough italics Times New Roman font.*
23 **Board amendment additions** are in double underlined Ariel font.
24 **Board amendment deletions** are in ~~strikethrough Ariel font.~~
25 **Asterisks (* * * *)** indicate the omission of unchanged Code
Subsections or parts of tables.

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

25 Section 1. **Background and Findings.**

1 (a) In this ordinance, all capitalized terms relating to Mission Bay shall have the
2 definitions ascribed to them pursuant to the Mission Bay South Redevelopment Plan and Plan
3 Documents described therein, that the City approved in Ordinance No. 335-98, a copy of
4 which is on file with the Clerk of the Board of Supervisors in File No. _____.

5 (b) The Planning Department, in a letter dated May 16, 2008 (the "Planning
6 Department Letter," part of Planning Department Case No. 2008-0490R), determined that the
7 acceptance of the public infrastructure acquisition facilities and real property associated with
8 Seventh Street and Mission Bay Drive Phase 1 and Phase 2 Infrastructure Improvements
9 including portions of Seventh Street, Berry Street Connector, and Mission Bay Drive in
10 Mission Bay South ("Seventh Street and Mission Bay Drive Public Infrastructure") and other
11 actions set forth in this ordinance are, on balance, in conformance with the General Plan and
12 the eight priority policies of Planning Code Section 101.1. The Planning Department also
13 found that the contemplated actions do not trigger the need for subsequent environmental
14 review pursuant to the California Environmental Quality Act ("CEQA") (California Public
15 Resources Code Sections 21000 et seq.). A copy of the Planning Department Letter is on file
16 with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein
17 by reference.

18 (c) The Successor Agency to the San Francisco Redevelopment Agency, known as
19 the Office of Community Infrastructure and investment ("OCII"), in a letter dated January 29,
20 2018 (the "OCII Letter"), determined that the acceptance of the public infrastructure
21 acquisition facilities associated with the Seventh Street and Mission Bay Drive Public
22 Infrastructure, constructed pursuant to Permit No. 04IE-600 (Phase 1), dated September 21,
23 2004, and Permit No. 05IE-0285 (Phase 2), dated May 17, 2005, and other actions in this
24 ordinance are consistent with the Mission Bay South Redevelopment Plan (the "Plan") and
25 Plan Documents. OCII also recommended that the Board of Supervisors accept the Seventh

1 Street and Mission Bay Drive Public Infrastructure. A copy of the OCII letter is on file with the
2 Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by
3 reference.

4 (d) In Public Works (“PW”) Order No. _____, dated _____, 2017, including
5 Map No. A-17-179 and Drawing No. Q-20-961, both dated _____, 2017, the City
6 Engineer certified and the Public Works Director (the “PW Director”) recommended that: (1)
7 Seventh Street, Mission Bay Drive, and Berry Street Connector are currently a portion of City-
8 jurisdictional property located on a portion of State Trust Parcel 2; (2) FOCIL-MB, LLC
9 (“FOCIL”), has irrevocably offered the Seventh Street and Mission Bay Drive Public
10 Infrastructure facilities and real property to the City as set forth in the FOCIL Irrevocable Offer
11 such Public Infrastructure, dated October 19, 2007 (Phase 1) and on April 15, 2008 (Phase 2),
12 together (“FOCIL Offers”); (3) the Seventh Street and Mission Bay Drive Public Infrastructure
13 is consistent with the State Trust; and (4) Public Works inspected the facilities; determined
14 them to be complete as of April 30, 2007 (Phase 1) and January 15, 2008 (Phase 2); (5)
15 certified that they have been constructed in accordance with the Plans and Specifications and
16 all City codes, regulations, standards, and the Mission Bay South Redevelopment Plan and
17 Plan Documents governing the Seventh Street and Mission Bay Drive Public Infrastructure;
18 and (6) that are ready for their intended use.

19 (e) Consequently, the PW Director recommended to the Board of Supervisors that it
20 accept the Seventh Street and Mission Bay Drive Public Infrastructure as acquisition facilities,
21 dedicate it to public use as open public right-of-way, designate it for street and roadway
22 purposes, and accept it for City maintenance and liability purposes subject to the following: (1)
23 the portions of streets being accepted for street and roadway purposes are constructed from
24 back of sidewalk to back of curb, unless specified otherwise or as shown on Project
25 Improvement Plans; (2) acceptance of project facilities for City maintenance and liability

1 purposes is from back of curb to back of curb, unless specified otherwise, and sidewalk
2 maintenance is the responsibility of the adjacent property owners in accordance with the
3 Public Works Code; (3) encroachments that are permitted, not permitted, or both, are
4 excluded from acceptance; (4) the acceptance of the streets does not obviate, amend, alter,
5 or in any way affect existing maintenance agreements between the City and parties to such
6 agreements; and (5) FOCIL's conditional assignment of all warranties and guaranties to the
7 City related to the construction of the above listed improvements and its warranty obligations
8 under Street Improvement Permit No. 04IE-0600 and 05IE-0285. Copies of the PW Order
9 and FOCIL Offers including a grant deed for real property are on file with the Clerk of the
10 Board of Supervisors in File No. _____ and are incorporated herein by reference.

11 (f) In Public Works Order No. _____, the PW Director also recommended
12 establishment of public right-of-way widths, sidewalk widths, and street grades on portions of
13 Seventh Street, Mission Bay Drive, and Berry Street in accordance with Map No. A-17-179
14 and drawing No. Q-20-961. Copies of these documents are on file with the Clerk of the Board
15 of Supervisors in File No. _____ and are incorporated herein by reference.

16 17 Section 2. **Adoptions and Approvals.**

18 (a) The Board of Supervisors adopts as its own the CEQA findings and the General
19 Plan and Planning Code Section 101.1 consistency findings in the Planning Department
20 Letter, as referenced in Section 1(b) of this ordinance, in connection with the acceptance of
21 the Seventh Street and Mission Bay Drive Public Infrastructure and other actions specified in
22 this ordinance.

23 (b) The Board of Supervisors adopts as its own the Redevelopment Plan consistency
24 findings in the OCII Letter, as referenced in Section 1(c) of this ordinance, in connection with
25

1 the acceptance of the Seventh Street and Mission Bay Drive Public Infrastructure and other
2 actions specified in this ordinance.

3 (c) The Board of Supervisors has reviewed and approves PW Order No. _____,
4 including the City Engineer's certification and PW Director's recommendation, as referenced
5 in Section 1(d) of this ordinance, concerning the acceptance of the FOCIL Offers, Seventh
6 Street and Mission Bay Drive Public Infrastructure and other actions set forth in the Public
7 Works Order.

8
9 **Section 3. Acceptance of New Acquisition Facilities and Assumption of**
10 **Maintenance and Liability Responsibilities.**

11 (a) Pursuant to California Streets and Highways Code Section 1806 and San
12 Francisco Administrative Code Sections 1.51 et seq., the Acquisition Agreement dated June
13 1, 2001 by and between the San Francisco Redevelopment Agency and Catellus
14 Development Corporation, and Public Works Order No. _____, the Board of Supervisors
15 hereby accepts the FOCIL Offers and dedicates such facilities for public use.

16 (b) The FOCIL Offers also included real property for right-of-way purposes underlying
17 a portion of Mission Bay Drive, which is evidenced by a grant deed from ARE-San Francisco
18 No. 15, LLC for this property. The Board of Supervisors hereby accepts the grant deed and
19 authorizes the Director of Real Property to execute and record said deed.

20 (c) The Board of Supervisors hereby approves Map No. A-17-179, and declares the
21 areas shown hatched on said Map No. A-17-179 as open public right-of-way, and designates
22 these areas for street and roadway purposes.

23 (d) The Board of Supervisors hereby accepts the Seventh Street and Mission Bay
24 Drive Public Infrastructure for City maintenance and liability purposes, subject to the
25 conditions listed in subsections (e) and (f).

1 (e) The Seventh Street and Mission Bay Drive Public Infrastructure accepted
2 pursuant to subsections (a)-(d) is subject to the following: (1) the portions of streets being
3 accepted for street and roadway purposes are constructed from back of sidewalk to back of
4 curb, unless specified otherwise or as shown on Project Improvement Plans; (2) acceptance
5 of project facilities for City maintenance and liability purposes is from back of curb to back of
6 curb, unless specified otherwise, and sidewalk maintenance is the responsibility of adjacent
7 property owners in accordance with the Public Works Code; (3) encroachments that are
8 permitted, not permitted, or both, are excluded from acceptance; and (4) the acceptance of
9 the streets does not obviate, amend, alter, or in any way affect existing maintenance
10 agreements between the City and parties to such agreements.

11 (f) The Board of Supervisors hereby acknowledges FOCIL's conditional assignment
12 of all warranties and guaranties to the City related to the construction of the Seventh Street
13 and Mission Bay Drive Intersection Public Infrastructure and that its acceptance of this
14 Infrastructure is subject to FOCIL's warranty obligations under Street Improvement Permit No.
15 04IE-600 and Permit No. 05IE-0285.

16
17 **Section 4. Establishment of Public Right-of-Way Widths, Sidewalk Widths, and**
18 **Street Grades.**

19 (a) In accordance with PW Order No. _____, the Board of Supervisors hereby
20 establishes the official public right-of-way widths for portions of Seventh Street, Mission Bay
21 Drive, and Berry Street Connector as shown on PW Map No. A-17-179.

22 (b) In accordance with PW Order No. _____, Board of Supervisors Ordinance No.
23 1061, entitled "Regulating the Width of Sidewalks," a copy of which is in the Clerk of the Board
24 of Supervisors Book of General Ordinances, in effect May 11, 1910, is hereby amended by
25 adding thereto a new section to read as follows:

1 Section 1614. The width of sidewalks on Seventh Street, Mission Bay Drive, and Berry Street
2 Connector shall be modified as shown on the Public Works Drawing No. Q-20-961.

3 (c) The sidewalk widths established pursuant to subsection (b) for those portions of
4 Seventh Street, Mission Bay Drive, and Berry Street Connector do not obviate, amend, alter,
5 or in any other way affect the maintenance obligations of the adjacent property owners as set
6 forth in the Public Works Code.

7 (d) Notwithstanding California Streets and Highways Code Sections 800 et seq., the
8 Board of Supervisors, in accordance with San Francisco Administrative Code Sections 1.51 et
9 seq., chooses to follow its own procedures for the establishment of street grades. The Board
10 of Supervisors hereby establishes the street grades for Seventh Street, Mission Bay Drive,
11 and Berry Street Connector as set forth in the Public Works Drawing No. Q-20-961.


12 (e) The Board of Supervisors hereby directs Public Works to revise the Official Public
13 Right-of-Way, Sidewalk Width, and Street Grade maps in accordance with this ordinance.

14
15 Section 5. **Authorization for Implementation.** The Mayor, Clerk of the Board of
16 Supervisors, Director of Real Estate, and PW Director are hereby authorized and directed to
17 take any and all actions which they or the City Attorney may deem necessary or advisable in
18 order to effectuate the purpose and intent of this ordinance, including, but not limited to, the
19 filing of the ordinance and the A-17 Map and Q-20 drawing in the Official Records of the City
20 and County of San Francisco.

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22 Section 6. **Effective Date.** This ordinance shall become effective 30 days after
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
25 of Supervisors overrides the Mayor's veto of the ordinance.

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

By: 
ANDREA RUIZ-ESQUIDE
Deputy City Attorney

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LEGISLATIVE DIGEST

[Mission Bay South - Accepting portions of Seventh Street and Mission Bay Drive]

Ordinance accepting the irrevocable offer of public infrastructure acquisition facilities and real property associated with Seventh Street and Mission Bay Drive Phase 1 and Phase 2 Infrastructure Improvements, including portions of Seventh Street, Berry Street Connector, and Mission Bay Drive in Mission Bay South (“Seventh Street and Mission Bay Drive Public Infrastructure”); declaring City property and additional property as shown on official Public Works maps as open public right-of-way; dedicating the Seventh Street and Mission Bay Drive Public Infrastructure for public use and designating such Public Infrastructure for public street and roadway purposes; establishing official public right-of-way widths and street grades; amending Ordinance No. 1061, entitled “Regulating the Width of Sidewalks” to establish official sidewalk width on the abovementioned street areas; accepting the Seventh Street and Mission Bay Drive Public Infrastructure for City maintenance and liability purposes, subject to specified limitations; adopting findings under the California Environmental Quality Act; making findings of consistency with the General Plan, the eight priority policies of Planning Code, Section 101.1, and the Mission Bay South Redevelopment Plan; accepting a Public Works Order; and authorizing official acts in connection with this Ordinance.

Existing Law

The Board of Supervisors adopted the Redevelopment Plan for the Mission Bay South Project Area by Ordinance No. 335-98 on November 2, 1998. This Ordinance and related Mission Bay legislation established a process by which the project developer (FOCIL - MB, LLC) would construct specified public improvements and dedicate said improvements to the City. Upon dedication, the City would initiate the local and State law procedures to designate the area for public street and roadway purposes, establish official right-of-way width, grade, and sidewalk width and take related actions. Board of Supervisors’ Ordinance No. 1061 established the official sidewalk widths throughout San Francisco. Ordinance No. 1061 is uncodified, but can be located in the Clerk of the Board of Supervisors Book of General Ordinances, in effect May 11, 1910, which is on file with the Clerk of the Board of Supervisors.

Amendments to Current Law

This legislation would accept offers of dedication for improvements and real property, including a grant deed; dedicate these improvements for public use as open public right-of-way; designate these improvements for Public use as open public right-of-way; designate the improvements for street and roadway purposes; establish official right-of-way and sidewalk widths and street grades; accept the public infrastructure improvements on portions of

Seventh Street, Mission Bay Drive and Berry Street Connector for maintenance and liability purposes, subject to certain exceptions, all in accordance with the procedures established for the Mission Bay South Redevelopment Project and applicable local and State law. This ordinance would approve a Public Works Order, including its Map No A-17-179 (for right-of-way width) and Drawing No. Q-20-961 (sidewalk width and street grade). This legislation also would make certain findings that the legislation is consistent with the Mission Bay South Redevelopment Plan, the General Plan, and the priority policy findings of the Planning Code Section 101.1.

Background Information

This legislation relates to the Infrastructure Improvements on portions of Seventh Street, Mission Bay Drive and Berry Street Connector within the Mission Bay South Redevelopment Plan, located on portions of State Trust Parcel 2, subject to City jurisdiction.

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