

1 [Mission Bay South Blocks 41-43, Phase 2 - Improvements]

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3 **Ordinance accepting the irrevocable offer of public infrastructure improvements**  
4 **associated with Mission Bay South Blocks 41-43, Phase 2, including acquisition**  
5 **facilities on Owens Street and within public utility easements in private streets;**  
6 **declaring City property as shown on official Department of Public Works maps as open**  
7 **public right-of-way; dedicating such improvements for public use and designating**  
8 **Owens Street and improvements for street and roadway purposes; establishing street**  
9 **grades and sidewalk widths on Owens Street; accepting said facilities for City**  
10 **maintenance and liability purposes, subject to specified limitations; adopting**  
11 **environmental findings and findings that such actions are consistent with the City's**  
12 **General Plan, eight priority policy findings of Planning Code Section 101.1, and the**  
13 **Mission Bay South Redevelopment Plan; accepting a Department of Public Works**  
14 **Order; and authorizing official acts in connection with this Ordinance.**

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16 Note: Additions are single-underline italics Times New Roman;  
17 deletions are ~~strikethrough italics Times New Roman~~.  
18 Board amendment additions are double underlined.  
19 Board amendment deletions are ~~strikethrough normal~~.

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

20 Section 1. Findings.

21 (a) All capitalized terms relating to Mission Bay shall have the definitions ascribed to  
22 them pursuant to the Mission Bay South Redevelopment Plan and Plan Documents described  
23 therein, approved and adopted by the Board of Supervisors of the City and County of San  
24 Francisco by Ordinance No. 335-98, on November 2, 1998, a copy of which is in the Clerk of  
25 the Board of Supervisors File No. 981441.

1 (b) The San Francisco Redevelopment Agency, in a letter dated January 10, 2011,  
2 determined that the acceptance of the Mission Bay Blocks 41-43 Phase 2 Public Infrastructure  
3 Improvements constructed pursuant to Permit #07IE-0293, dated August 23, 2008 ("Project")  
4 and other actions herein set forth are consistent with the Mission Bay South Redevelopment  
5 Plan ("Plan") and Plan Documents described therein. A copy of the Redevelopment Agency  
6 letter is on file with the Clerk of the Board of Supervisors in File No. 110995 and is  
7 incorporated herein by reference.

8 (c) The City Planning Department, in a letter dated November 29, 2007 determined  
9 that the acceptance of the Mission Bay Blocks 41-43 Phase 2 Public Infrastructure  
10 Improvements and other actions herein set forth are within the scope of the General Plan  
11 consistency findings of Case No. 2007.01236R, the Eight Priority Policies of Planning Code  
12 Section 101.1 and the contemplated actions do not trigger the need for subsequent  
13 environmental review pursuant the California Environmental Quality Act (CEQA) (California  
14 Public Resources Code Sections 21000 et seq.). A copy of the Planning Department letter is  
15 on file with the Clerk of the Board of Supervisors in File No. 110995 and is incorporated herein  
16 by reference.

17 (d) In DPW Order No. 179,517 dated September 8, 2011, including Map No. A-17-  
18 169, dated August 31, 2011 and the Drawing No. Q-20-700, dated August 31, 2011 and  
19 entitled "PROPOSED OFFICIAL STREET GRADES AND SIDEWALK WIDTHS ON OWENS  
20 STREET", the City Engineer and Director certified that: (a) FOCIL-MB, LLC ("Focil") has  
21 irrevocably offered the Project Improvement facilities to the City (the "Offer"), (b) the Mission  
22 Bay Blocks 41-43 Phase 2 Public Infrastructure Improvements have been inspected and were  
23 certified as complete on February 23, 2009 and August 20, 2009; the Project has been  
24 constructed in accordance with the Project Plans and Specifications and all City codes,  
25 regulations, standards and Mission Bay South Redevelopment Plan and Plan Documents

1 governing this project and such Improvements are ready for their intended use; (c) the  
2 facilities are recommended for acceptance as acquisition facilities, dedication of Owens Street  
3 as public right-of-way, dedication for public use and designation of Owens Street for street  
4 and roadway purposes; establishment of street grades and sidewalk widths Owens Street,  
5 and acceptance for City maintenance and liability purposes, subject to specified limitations. A  
6 copy of the DPW Order, including official City maps, and Offer are on file with the Clerk of the  
7 Board of Supervisors in File No. 110995 and are incorporated herein by reference.

8 Section 2. Adoptions and Approvals.

9 (a) The Board of Supervisors adopts as its own the Redevelopment Plan consistency  
10 findings of the San Francisco Redevelopment Agency in connection with the acceptance of  
11 the Project and other actions set forth herein.

12 (b) The Board of Supervisors adopts as its own the General Plan and Planning Code  
13 Section 101.1 consistency findings and CEQA findings of the Planning Department in  
14 connection with the Project and other actions set forth herein.

15 (c) The Board of Supervisors has reviewed and approves the City Engineer's  
16 certification and Director's recommendation concerning the acceptance of the Focil  
17 Irrevocable Offer of Improvements dated April 23, 2010 for the Project; acceptance of said  
18 facilities and Owens Street right-of-way for City maintenance and liability responsibilities;  
19 establishment of the street grades and sidewalk widths; and other related actions.

20 Section 3. Acceptance of New Acquisition Facilities and Assumption of Maintenance  
21 Responsibilities.

22 (a) The Board of Supervisors accepts the Focil Irrevocable Offer of Improvements.

23 (b) The Board of Supervisors approves Map No. A-17-169 and designates the areas  
24 shown hatched on said Map No. A-17-169 to be open public right-of-way, and hereby directs  
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1 the Department of Public Works to revise the official City Street Right-of-Way Maps in  
2 accordance with this Ordinance.

3 (c) Pursuant to California Streets and Highways Code Section 1806 and San  
4 Francisco Administrative Code Sections 1.51 et seq., the Acquisition Agreement dated June  
5 1, 2001 by and between the Redevelopment Agency of the City and County of San Francisco  
6 and Catellus Development Corporation, a Delaware Corporation, and the Department of  
7 Public Works Order No. 179,517 dated September 8, 2011, the Board of Supervisors hereby  
8 dedicates facilities described in the Focil Irrevocable Offer of Improvements for public use;  
9 designates such facilities for street and roadway purposes; and accepts such facilities for City  
10 maintenance and liability purposes, subject to the conditions listed in subsections (d) and (e).  
11 The Board's acceptance of improvements pursuant to this Subsection is for the Blocks 41-43  
12 Phase 2 Public Infrastructure Improvements only and is subject to the warranty obligations  
13 under the Blocks 41-43 Phase 2 Public Improvements Permit No. 07IE-0293.

14 (d) The Blocks 41-43 Phase 2 Public Infrastructure Improvements accepted by the  
15 Board pursuant to Subsections (b) and (c) are subject to the following: (1) the portions of  
16 streets being accepted for street and roadway purposes are constructed from back of  
17 sidewalk to back of sidewalk, unless specified otherwise or as shown on Project Improvement  
18 Plans, (2) acceptance of project facilities for City maintenance and liability purposes is from  
19 back of curb to back of curb, unless specified otherwise, (3) encroachments that are  
20 permitted, not permitted, or both are excluded from acceptance, and (4) the acceptance of the  
21 streets does not obviate, amend, alter, or in any way affect existing maintenance agreements  
22 between the City and parties to such agreements.

23 (e) The Board of Supervisors hereby acknowledges Focil's Conditional Assignment of  
24 Guaranties and Warranties in accordance with the related Street Improvement Permit and the  
25 Mission Bay South Acquisition Agreement.

1 Section 4. Establishment of Street Grades.

2 (a) Notwithstanding California Streets and Highways Code Sections 8000 et seq., the  
3 Board of Supervisors, in accordance with San Francisco Administrative Code Sections 1.51 et  
4 seq., chooses to follow its own procedures for the establishment of street grades. The Board  
5 hereby establishes the street grades for that portion of Owens Street as set forth in the  
6 Department of Works Order No. 179,517, Drawing No. Q-20-700, dated August 31, 2011 and  
7 hereby directs the Department of Public Works to revise the Official City Street Grade Maps in  
8 accordance with this Ordinance.

9 Section 5. Establishment of Sidewalk Widths.

10 (a) In accordance with the recommendation in Department of Public Works Order  
11 No. 179,517, Board of Supervisors Ordinance No. 1061, entitled "Regulating the Width of  
12 Sidewalks, a copy of which is in the Clerk of the Board of Supervisor's Book of General  
13 Ordinances, in effect May, 11, 1910, is hereby amended by adding thereto a new section to  
14 read as follows:

15 Section 15 . *The width of sidewalks on that portion of Owens Street shall be modified*  
16 *as shown on the Department of Public Works Drawing No. Q-20-700 , dated August 31, 2011.*

17 (b) The street sidewalk widths established by the Board pursuant to Subsection (a)  
18 for that portion of Owens Street do not obviate, amend, alter, or in any other way affect the  
19 maintenance obligations of the adjacent property owners as set forth in the Public Works  
20 Code.

21 (c) The Board of Supervisors hereby directs the Department of Public Works to add  
22 these sidewalk segments to its Official City Maps in accordance with this Ordinance.

23 Section 6. Authorization for Implementation.

24 All actions heretofore taken by the officers of the City with respect to such Ordinance  
25 are hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board and Director

1 of Public Works are hereby authorized and directed to take any and all actions which they or  
2 the City Attorney may deem necessary or advisable in order to effectuate the purpose and  
3 intent of this Ordinance, including, but not limited to, the recordation of this Ordinance and the  
4 accompanying A-17 Map in the Official Records of the City and County of San Francisco.

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9 RECOMMENDED:

10 DEPARTMENT OF PUBLIC WORKS

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12 By: \_\_\_\_\_

13 Mohammed Nuru

14 Interim Director of Public Works

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16 APPROVED AS TO FORM:

17 Dennis J. Herrera

18 City Attorney

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20 By: \_\_\_\_\_

21 John D. Malamut

22 Deputy City Attorney

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DESIGNATION CERTIFIED BY:

DEPARTMENT OF PUBLIC WORKS

By: \_\_\_\_\_

Fuad S. Sweiss

Deputy Director of Engineering  
and City Engineer