

53-09

FILE NO. 090170

ORDINANCE NO.

1 [Mission Bay North-Acceptance of Blocks N4, N4A and N5 Public Infrastructure  
2 Improvements.]

3 **Ordinance accepting the Mission Bay Blocks N4, N4A and N5 Public Infrastructure**  
4 **Improvements on Berry Street Connector Road, King Street Frontage Road and**  
5 **portions of Berry Street and Fifth Street; designating street grades and sidewalk**  
6 **widths; accepting the Irrevocable Offers of the acquisition facilities for public use and**  
7 **maintenance purposes; adopting environmental findings and findings that such**  
8 **actions are consistent with the City's General Plan, eight priority policy findings of**  
9 **City's Planning Code section 101.1, and the Mission Bay North Redevelopment Plan;**  
10 **accepting Department of Public Works Order No. 178,006; and authorizing official acts**  
11 **in connection with this ordinance.**

12  
13 Note: Additions are single-underline italics Times New Roman;  
14 deletions are ~~strikethrough italics Times New Roman~~.  
15 Board amendment additions are double underlined.  
16 Board amendment deletions are ~~strikethrough normal~~.

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

18 **Section 1. Findings.**

19 (a) All capitalized terms relating to Mission Bay shall have the definitions ascribed to  
20 them pursuant to the Mission Bay North Redevelopment Plan and Plan Documents described  
21 therein, approved and adopted by the Board of Supervisors of the City and County of San  
22 Francisco by Ordinance No. 327-98, on October 26, 1998, a copy of which is in the Clerk of  
23 the Board of Supervisors File No. 981441.

24 (b) The San Francisco Redevelopment Agency, in a letter dated November 21, 2008,  
25 determined that the acceptance of the Mission Bay Blocks N4, N4A and N5 Public

1 Infrastructure Improvements constructed pursuant to Permits #05IE-0283, #05IE-0284 and  
2 05IE-0285, dated May 17, 2005 and other actions herein set forth are consistent with the  
3 Mission Bay North Redevelopment Plan ("Plan") and Plan Documents described therein. A  
4 copy of the Redevelopment Agency letter is on file with the Clerk of the Board of Supervisors  
5 in File No. 090170 and is incorporated herein by reference.

6 (c) The San Francisco Redevelopment Agency on January 9, 2009 signed and  
7 accepted the FOCIL-MB, LLC Conditional Assignment of Warranties and Guaranties  
8 regarding the Block N4A Public Infrastructure Improvements. A copy of said Conditional  
9 Assignment of Warranties and Guaranties on file with the Clerk of the Board of Supervisors in  
10 File No. 090170 and is incorporated herein by reference.

11 (d) The San Francisco Redevelopment Agency on January 9, 2009 signed and  
12 accepted the FOCIL-MB, LLC Conditional Assignment of Warranties and Guaranties  
13 regarding the Block N5 Public Infrastructure Improvements. A copy of the Conditional  
14 Assignment of Warranties and Guaranties is on file with the Clerk of the Board of Supervisors  
15 in File No. 090170 and is incorporated herein by reference.

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17 (e) The City Planning Department, in a letter dated November <sup>5</sup>/<sub>8</sub>, 2008 determined  
18 that the acceptance of the Mission Bay Blocks N4, N4A and N5 Public Infrastructure  
19 Improvements and other actions herein set forth are within the scope of the General Plan  
20 consistency findings of Case No. 2008.1165R, the Eight Priority Policies of Planning Code  
21 Section 101.1 and the contemplated actions do not trigger the need for subsequent  
22 environmental review pursuant the California Environmental Quality Act (CEQA) (California  
23 Public Resources Code Sections 21000 et seq.). A copy of the Planning Department letter is  
24 on file with the Clerk of the Board of Supervisors in File No. 090170 and is  
25 incorporated herein by reference.

1 (f) In DPW Order No. 178,006 dated January 7, 2009 the Director of the Department  
2 of Public Works and the City Engineer certified that: the Mission Bay Blocks N4A and N5  
3 Public Infrastructure Improvements have been inspected and were certified as complete on  
4 January 15, 2008; the Public Infrastructure Improvements have been constructed in  
5 accordance with the Project Plans and Specifications and all City codes, regulations,  
6 standards and Mission Bay North Plan and Plan Documents governing these projects; the  
7 Block N4A and Block N5 Public Infrastructure Improvements are ready for their intended use;  
8 and the acquisition facilities are recommended for acceptance for public use and maintenance  
9 purposes; the Block N4 Public Infrastructure Improvements are under construction and  
10 recommend that the Director of Public Works be authorized to act on behalf of the Board of  
11 Supervisors for delayed acceptance of the Block N4 acquisition facilities once they are  
12 certified to be complete and ready for their intended use and acknowledge the Conditional  
13 Assignment of Warranties and Guaranties by FOCIL- MB, LLC. A copy of the DPW Order is  
14 on file with the Clerk of the Board of Supervisors in File No. 090170 and is  
15 incorporated herein by reference.

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

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

20 (b) The Board of Supervisors adopts as its own the consistency findings and CEQA  
21 findings of the Planning Department in connection with the Project.

22 (c) The Board of Supervisors has reviewed and approves the Director of the  
23 Department of Public Works recommendation concerning the acceptance of the FOCIL-MB,  
24 LLC, Irrevocable Offer of Improvements for Block N4A and Irrevocable Offer of Improvements  
25 for Block N5, both dated April 15, 2008, respectively, and maintenance responsibility with

1 respect thereto and delegates the authority to the Director of Public Works to accept the Block  
2 N4 Public Infrastructure Improvements pursuant to Section 3(a).

3 **Section 3. Acceptance of Offer of Improvements.**

4 Pursuant to San Francisco Administrative Code Sections 1.51 et seq., the  
5 Acquisition Agreement dated June 1, 2001 by and between the Redevelopment Agency of the  
6 City and County of San Francisco and Catellus Land Development Corporation with respect to  
7 Project, and the Department of Public Works Order No. 178,006 dated January 7, 2009, the  
8 Board of Supervisors hereby accepts the Block N4A Irrevocable Offer of Improvements and  
9 the Block N5 Irrevocable Offer of Improvements, both dated April 15, 2008, respectively, and  
10 designates such facilities for public use and maintenance purposes, subject to subsection (b)  
11 of this Section but excluding therefrom the Block N4 Public Infrastructure Improvements which  
12 are proposed for delayed acceptance. Copies of said Offer of Improvements are on file with  
13 the Clerk of the Board of Supervisors in File No. 090170 and are incorporated herein by  
14 reference.

15 (a) The Board of Supervisors acceptance of improvements is for the Blocks N4A and  
16 Block N5 Public Infrastructure Improvements only. Authority to accept the Block N4 Public  
17 Infrastructure Improvements and acknowledge the Conditional Assignment of Warranties and  
18 Guaranties is granted to the Director of Public Works. The accepted Public Infrastructure  
19 improvements are subject to the FOCIL-MB, LLC warranty obligations under the Block N4A  
20 Public Improvements Permit No. 05IE-0284 and the Block N5 Public Improvements Permit  
21 No. 05IE-0285.

22 (b) The Board of Supervisors hereby acknowledges FOCIL-MB, LLC Conditional  
23 Assignment of Guaranties and Warranties related to the construction of the above Public  
24 Infrastructure Improvements.

1 (c) Authority to accept the delayed improvements for Block N4 and to acknowledge  
2 the Conditional Assignment of Warranties and Guaranties mentioned in subsection (a) of this  
3 Section is hereby delegated to the Director of Public Works acting on behalf of the Board of  
4 Supervisors to accept said Public Infrastructure Improvements in the future in accordance with  
5 the Mission Bay North Acquisition Agreement and when improvements have been inspected  
6 and determined to be ready for their intended uses by the Director of Public Works.

7 **Section 4. Acceptance of Right-of-Way, Maintenance, Liability and**  
8 **Warranties and Guaranties.**

9 (a) The Board of Supervisors approves Department of Public Works Map No. A-17-  
10 161 dated January 7, 2009 and Map No. A-17-162 dated January 7, 2009, and hereby directs  
11 the Department of Public Works to revise the Official City Street Right-of-Way Maps to reflect  
12 the new construction of Berry Street Connector Road, King Street Frontage Road and that  
13 portion of Berry Street as shown on said maps and accepted for maintenance and liability  
14 purposes.

15 (b) The Board of Supervisors hereby authorizes the Director of Public Works to  
16 approve the future Department of Public Works drawing showing the city right-of-way of that  
17 portion of Fifth Street with regard to the future acceptance of the Block N4 Public  
18 Improvements.

19 **Section 5. Acceptance of Street Grades.**

20 (a) In addition to the California Streets and Highways Code Sections 8000 et seq., the  
21 Board of Supervisors, in accordance with San Francisco Administrative Code Sections 1.51 et  
22 seq., chooses to follow its own procedures for the establishment of street grades and hereby  
23 accepts and designates the street grades for those portions of Berry Street Connector Road,  
24 King Street Frontage Road and Berry Street as set forth in the Department of Works Order  
25 No. 178,006, Drawing Nos. Q-20-678, dated January 7, 2009 and Q-20-679, dated January 7,

1 2009 and hereby directs the Department of Public Works to revise the Official City Street  
2 Grade Maps in accordance with this Ordinance.

3 (b) The Board of Supervisors hereby authorizes the Director of Public Works to  
4 approve the future Department of Public Works drawing showing the street grades of a portion  
5 of Fifth Street with regard to the future acceptance of the Block N4 Public Improvements and  
6 hereby directs the Department of Public Works to revise the Official City Maps to reflect this  
7 action.

8 **Section 6. Designation of Sidewalks.**

9 (a) In accordance with the recommendation in Department of Public Works Order  
10 No. 178,006 the Board of Supervisors hereby designates those variable sidewalk widths as  
11 shown on the Department of Public Works Drawing Nos. Q-20-678, dated January 7, 2009  
12 and Q-20-679, dated January 7, 2009 for Berry Street Connector Road, King Street Frontage  
13 Road and those portions of Berry Street.

14 (b) The street sidewalk widths designated by the Board of Supervisors pursuant to  
15 Subsection (a) of this section for the Berry Street Connector Road and King Street Frontage  
16 Road and that portion of Berry Street do not obviate, amend, alter, or in any other way affect  
17 the maintenance obligations of the adjacent property owners.

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

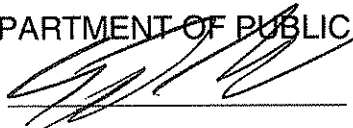
20 (d) The Board of Supervisors hereby authorizes the Director of Public Works to  
21 approve the Department of Public Works drawing showing sidewalk widths of that portion of  
22 Fifth Street and direct the Department of Public Works to revise the Official City Maps to  
23 reflect this action with regard to the future acceptance of the Block N4 Public Improvements.

1                   **Section 7. Authorization for Implementation**

2                   All actions heretofore taken by the officers of the City with respect to such  
3 Ordinance are hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board  
4 and Director of Public Works are hereby authorized and directed to take any and all actions  
5 which they or the City Attorney may deem necessary or advisable in order to effectuate the  
6 purpose and intent of this Ordinance, including, but not limited to, the filing of the Ordinance in  
7 the Official Records of the City and County of San Francisco.

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10  
11 RECOMMENDED:

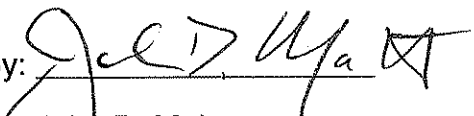
12 DEPARTMENT OF PUBLIC WORKS

13 By: 

14                   Edward D. Reiskin  
15                   Director of Public Works

16  
17  
18 APPROVED AS TO FORM:

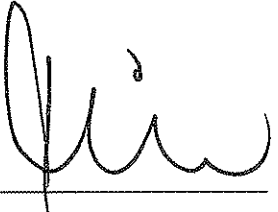
19 Dennis J. Herrera  
20 City Attorney

21  
22 By: 

23                   John D. Malamut  
24                   Deputy City Attorney

DESIGNATION CERTIFIED BY:

DEPARTMENT OF PUBLIC WORKS

By: 

25                   Fuad Sweiss  
                    Deputy Director of Engineering  
                    and City Engineer



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails

## Ordinance

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**File Number:** 090170

**Date Passed:**

Ordinance accepting the Mission Bay Blocks N4, N4A and N5 Public Infrastructure Improvements on Berry Street Connector Road, King Street Frontage Road and portions of Berry Street and Fifth Street; designating street grades and sidewalk widths; accepting the Irrevocable Offers of the acquisition facilities for public use and maintenance purposes; adopting environmental findings and findings that such actions are consistent with the City's General Plan, eight priority policy findings of City's Planning Code Section 101.1, and the Mission Bay North Redevelopment Plan; accepting Department of Public Works Order No. 178,006; and authorizing official acts in connection with this ordinance.

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March 24, 2009 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

March 31, 2009 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi



File No. 090170

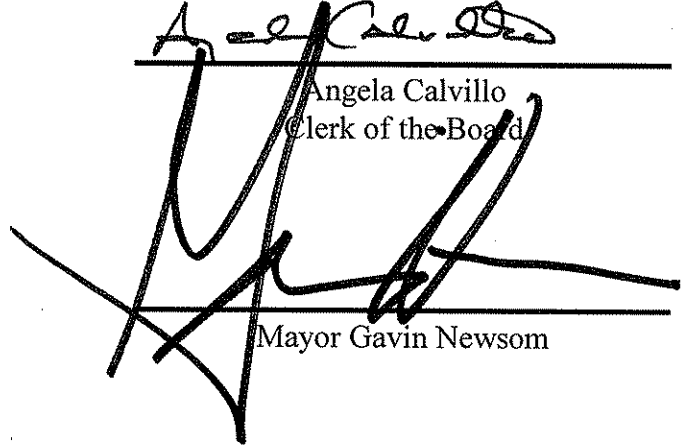
I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on March 31, 2009 by the Board of Supervisors of the City and County of San Francisco.

4/8/09

Date Approved



Angela Calvillo  
Clerk of the Board



Mayor Gavin Newsom