

BOARD of SUPERVISORS



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MEMORANDUM

TO: Harlan Kelly, Jr., General Manager, Public Utilities Commission
Mohammed Nuru, Public Works
Phil Ginsburg, General Manager, Recreation and Parks Department
Andrico Penick, Director, Real Estate Division

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: October 2, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Breed on September 24, 2019:

File No. 190971

Ordinance ordering the vacation of streets in the India Basin Project site, located generally at Innes Avenue between Griffith Street and Earl Street, along the India Basin shoreline; reserving temporary public utility and access rights in favor of the City and temporary easement rights for existing PG&E gas and overhead electrical facilities; authorizing the City to quitclaim its interest in approximately 3.8 acres within Earl Street, Hudson Avenue, and Arelious Walker Drive to India Basin Investment LLC; authorizing the City to transfer approximately 1.1 acres within Arelious Walker Drive, Hudson Avenue, Earl Street, and Galvez Avenue to the State for purposes of having such property reconveyed to the City to be held by the Port, in trust, through implementation of the India Basin Public Trust Exchange; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings that the actions contemplated in this Ordinance are consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and authorizing official acts in connection with this Ordinance, as defined herein, including transmittal of the Ordinance by the Clerk of the Board of Supervisors to the Assessor Recorder for recording.

If you have comments or reports to be included with the files, 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: erica.major@sfgov.org.

- c: Juliet Ellis, Public Utilities Commission
- Donna Hood, Public Utilities Commission
- John Scarpulla, Public Utilities Commission
- Mona Panchal, Public Utilities Commission
- David Steinberg, Public Works
- Jeremy Spitz, Public Works
- Jennifer Blot, Public Works
- John Thomas, Public Works
- Lena Liu, Public Works
- Sarah Madland, Recreation and Parks Department
- Margaret McArthur, Recreation and Parks Department

1 [Street Vacation and Conveyance - India Basin Project]

2
3 **Ordinance ordering the vacation of streets in the India Basin Project site, located**
4 **generally at Innes Avenue between Griffith Street and Earl Street, along the India Basin**
5 **shoreline; reserving temporary public utility and access rights in favor of the City and**
6 **temporary easement rights for existing PG&E gas and overhead electrical facilities;**
7 **authorizing the City to quitclaim its interest in approximately 3.8 acres within Earl**
8 **Street, Hudson Avenue, and Arelious Walker Drive to India Basin Investment LLC;**
9 **authorizing the City to transfer approximately 1.1 acres within Arelious Walker Drive,**
10 **Hudson Avenue, Earl Street, and Galvez Avenue to the State for purposes of having**
11 **such property reconveyed to the City to be held by the Port, in trust, through**
12 **implementation of the India Basin Public Trust Exchange; affirming the Planning**
13 **Department's determination under the California Environmental Quality Act; adopting**
14 **findings that the actions contemplated in this Ordinance are consistent with the**
15 **General Plan, and the eight priority policies of Planning Code, Section 101.1; and**
16 **authorizing official acts in connection with this Ordinance, as defined herein, including**
17 **transmittal of the Ordinance by the Clerk of the Board of Supervisors to the Assessor**
18 **Recorder for recording.**

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

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

1 Section 1. Findings.

2 (a) California Streets and Highways Code Sections 8300 et seq. and San Francisco
3 Public Works Code Section 787(a) set forth the procedures that the City and County of San
4 Francisco ("City") follows to vacate public streets.

5 (b) The City and India Basin Investment, LLC ("Developer") are parties to an
6 agreement (the "Development Agreement") for the development of a mixed-use project and
7 improvement and expansion of the India Basin Open Space, a public open space under the
8 jurisdiction of the City's Recreation and Park Department (the "India Basin Project").

9 (c) The India Basin Project was approved by the Board of Supervisors by Motion M18-
10 136 and Ordinance Nos. 251-18, 252-18, and 261-18, copies of which are on file with the
11 Clerk of the Board in File Nos. 180842, 180680, 180681, and 180816, respectively, and
12 incorporated herein by reference.

13 (d) As contemplated under the Development Agreement, certain public streets within
14 the India Basin Project must be vacated in order to fulfill the public benefits to be obtained
15 through the Development Agreement.

16 (e) In furtherance thereof, on _____, 2019, the City adopted Resolution No.
17 _____ ("Resolution of Intention"), declaring the City's intent to vacate certain
18 public streets lying within the boundaries of the future mixed-use project and the existing and
19 future India Basin Open Space. The Resolution of Intention is on file with the Clerk of the
20 Board of Supervisors in File No. _____ and is incorporated herein by reference.

21 (f) As contemplated by the Development Agreement, the following public streets to be
22 vacated under this ordinance will be conveyed by the City to Developer and developed as part
23 of the India Basin Project (collectively, the "Development Parcels"): portions of Hudson
24 Avenue, Earl Street, and Arelious Walker Drive that are identified as Parcels 12, 13, 15, and
25 16 on the Public Works ("PW") SUR Map No. 2019-004, dated September 20, 2019 (the "IB

1 SUR Map”), a copy of which is on file with the Clerk of the Board of Supervisors in File No.
2 _____, and incorporated herein by reference.

3 (g) The following public streets to be vacated under this ordinance are existing Port-
4 owned streets and, upon vacation, will remain in Port ownership, subject to the public trust,
5 but will be incorporated into the India Basin Open Space and managed by City’s Recreation
6 and Park Department (the “Port Parcels”): portions of Fairfax Avenue, Evans Avenue, Earl
7 Street, Arelious Walker Drive, and Fitch Street, that are identified as Parcels 1, 2, 3, 6, and 8
8 on the IB SUR Map.

9 (h) The following public streets to be vacated under this ordinance are existing City-
10 owned streets which, upon vacation, will remain City property, but quitclaimed to the State as
11 part of the Public Trust Exchange (as defined below) and immediately patented back to the
12 City, in trust, to be held under Port jurisdiction but incorporated into the India Basin Open
13 Space and managed by City’s Recreation and Park Department (the “City Future Trust
14 Parcels”): portions of Hudson Avenue, Arelious Walker Drive, Galvez Avenue, and Earl Street
15 that are identified as Parcels 4, 5, 7, 9, 10, 11, and 14 on the IB SUR Map.

16 (i) The Development Parcels, the Port Parcels and the City Future Trust Parcels are
17 referred to collectively in this ordinance as the “Vacation Area.”

18 (j) The Board of Supervisors finds it appropriate and in the public interest to pursue the
19 street vacations in the Vacation Area as described above as part of the India Basin Project.

20 (k) The Clerk of the Board of Supervisors has transmitted to the Director of Public
21 Works (“PW Director”) a certified copy of the Resolution of Intention, and the PW Director has
22 caused notice of adoption of said Resolution to be posted in the manner required by law.

23 (l) When such matter was considered as scheduled by the Board of Supervisors at its
24 regular meeting on _____, 2019, the Board heard all persons interested in the
25 vacation of the Vacation Area.

1 (m) As provided under Section 6.2 and Exhibit V of the Development Agreement and
2 contemplated by Ordinance No. 252-18, the City agreed to vacate the Development Parcels
3 and, following the vacation and satisfaction of any applicable City conditions, to convey the
4 underlying land to the Developer in connection with the land assembly required for the
5 Project. In return, Developer is obligated under the Development Agreement to convey
6 certain land to the City for future streets and parks. As required under the Development
7 Agreement, the City would convey a total of 3.8 acres of the Development Property to the
8 Developer in exchange for the following property to be received from the Developer: (1) a
9 conveyance of 2.6 acres of Developer-owned property (the "Trust Exchange Property") that
10 will be conveyed to the City for parks and open space in connection with the implementation
11 of the public trust exchange (the "Public Trust Exchange"), with 0.14 of those acres to be
12 conveyed separately, all as authorized under the Public Trust Exchange Agreement,
13 substantially in the form approved in Ordinance No. 252-18; and (2) the dedication to the City
14 of 3.8 acres of Developer-owned property for future right-of-ways that will be accepted by the
15 City upon completion of the applicable street improvements (the "Future Streets Dedication
16 Property").

17 (n) In furtherance of its obligations under the Development Agreement, the City is
18 undertaking the street vacation actions contemplated by this ordinance and the City proposes
19 to quitclaim its interest to Developer in the Development Parcels as part of the Public Trust
20 Exchange to help facilitate the development of the India Basin Project.

21 (o) In addition, to resolve title issues and implement the successful development of the
22 India Basin Open Space (an approximately 6.2-acre open space along the shoreline on
23 property which will be under the jurisdiction of the Recreation and Park Department and the
24 Port of San Francisco), City also wishes to vacate (1) the Port Parcels, which will continue to
25 be held by the Port for use within India Basin Open Space and managed by the Recreation

1 and Park Department, and (2) the City Future Trust Parcels, which will be quitclaimed to the
2 State and re-conveyed to the City, in trust, to be held by the Port for use within the India Basin
3 Open Space and managed by the Recreation and Park Department.

4 (p) In PW Order No. 201923, dated September 20, 2019, on file with the Clerk of the
5 Board of Supervisors in File No. _____, the PW Director determined (1) the Vacation
6 Area is unnecessary for the City's present or prospective public street, sidewalk, and service
7 easement purposes, subject to a reservation of rights in favor of the City for a temporary non-
8 exclusive easement for right-of-ways over Parcels 15 and 16 on the IB SUR Map, comprising
9 approximately 1.5 acres of the Vacation Area, which easement will terminate automatically
10 upon (i) the PW Director's issuance of Determination of Completion for at least 1.3 acres of
11 public right-of-ways within Phase 1 of the Project in accordance with the Development
12 Agreement; or (ii) such earlier date at PW Director's discretion; (2) the public interest,
13 convenience, and necessity do not require easements or other rights to be reserved for any
14 public or private utilities or facilities that are in place and any rights based on such public or
15 private utilities or facilities are extinguished, except as provided for in subsections (b)(1) and
16 (b)(2) of Section 2 of this ordinance that reserve temporary rights for the benefit of PG&E and
17 San Francisco Public Utilities Commission ("SFPUC") within portions of the Vacation Area, to
18 be extinguished as provided therein; (3) in accordance with California Streets and Highways
19 Code Sections 892 and 8314, the Vacation Area is no longer useful as a nonmotorized
20 transportation facility; (4) the consent of all property owners adjacent to the Vacation Area
21 was obtained; and (5) the decision to quitclaim the City's interest in the Development Parcels
22 to Developer, following the vacation and satisfaction of any applicable City conditions, is
23 contemplated under Section 6.2 and Exhibit V of the Development Agreement and was
24 approved by the Board in Ordinance No. 252-18.

1 (q) The Board of Supervisors adopts as its own the recommendations of the PW
2 Director as set forth in PW Order No. 201923 concerning the vacation of the Vacation Area
3 and other actions in furtherance thereof and the Board hereby incorporates such
4 recommendations and findings by reference as though fully set forth herein.

5 (r) On July 26, 2018, by Motion No. 20247, the Planning Commission certified the
6 Final Environmental Impact Report ("FEIR") for the India Basin Project (Planning Case No.
7 2014-002541ENV) as accurate, complete, and in compliance with the California
8 Environmental Quality Act (California Public Resources Code Sections 21000 et seq.,
9 "CEQA") and Administrative Code Chapter 31. Said Motion is on file with the Clerk of the
10 Board of Supervisors in File No. 180681 and is incorporated herein by reference.

11 (s) On July 26, 2018, by Motion No. 20248, the Planning Commission approved CEQA
12 Findings, including adoption of a Mitigation Monitoring and Reporting Program ("MMRP"),
13 under Case No. 2014-002541ENV, for approval of the India Basin Project. Said Motion is on
14 file with the Clerk of the Board of Supervisors in File No. 180681, and is incorporated herein
15 by reference. The Board of Supervisors adopts and relies on these CEQA Findings for
16 purposes of all the actions contemplated in this ordinance.

17 (t) In a letter dated November 26, 2018 ("Planning Letter"), the Planning Department
18 determined that the proposed vacation of the Vacation Area and other actions contemplated
19 in this ordinance are consistent with the General Plan and priority policies of Planning Code
20 Section 101.1. A copy of said letter is on file with the Clerk of the Board of Supervisors in File
21 No. _____ and is incorporated herein by reference as though fully set forth herein. The
22 Board of Supervisors adopts as its own the consistency findings of the Planning Letter.

23 (u) Also in the Planning Letter, the Planning Department determined that the actions
24 contemplated in this ordinance comply with CEQA. The Board hereby affirms this
25 determination for the reasons stated therein.

1 (v) In a letter dated September 23, 2019, the Director of Property for the Real Estate
2 Division recommends the real property transactions related to the street vacation. This letter
3 is on file with the Clerk of the Board of Supervisors in File No. _____ and
4 incorporated herein by reference.

5 (w) The SFPUC General Manager has reviewed this ordinance pursuant to the
6 authority granted to the General Manager in the SFPUC's Consent to the Development
7 Agreement, and recommends approval of this ordinance, subject to the reservation of non-
8 exclusive easements within Arelious Walker Drive as provided in subsection (b)(2) of Section
9 2 of this ordinance.

10
11 Section 2. Street Vacation.

12 (a) The Board of Supervisors hereby vacates the Vacation Area, as shown on the IB
13 SUR Map, pursuant to California Streets and Highways Code Sections 8300 et seq. and
14 Public Works Code Section 787(a).

15 (b) The Board of Supervisors finds that the Vacation Area is unnecessary for present
16 or prospective public use, subject to:

17 (1) The reservation of rights for existing PG&E gas facilities in Arelious Walker
18 Drive and existing overhead electrical facilities in a portion of Earl Street identified as Parcel
19 13 on the IB SUR Map, which will terminate effective automatically with no requirement for
20 further action on the earlier to occur of (i) the relocation or removal of the facilities, with
21 concurrence of PG&E, (ii) termination of service to customers through the facilities, or (iii)
22 City's acceptance for City maintenance and liability of new public right of ways within the India
23 Basin Project that include equivalent or better gas and electric facilities.

24 (2) The reservation of non-exclusive easements for the City to maintain an
25 existing 8-inch water main and four hydrants within the portion of the Development Parcels

1 that lies within the existing Arelious Walker cul-de-sac, to further the public interest,
2 convenience, and necessity. The reserved easements will be extinguished by quitclaim deed
3 upon acceptance of the replacement facilities or earlier at PW Director's discretion based on
4 consultation with the affected City departments.

5 (3) The reservation of rights in favor of the City for a temporary non-exclusive
6 easement for right-of-ways over Parcels 15 and 16 on the IB SUR Map, comprising
7 approximately 1.5 acres of the Vacation Area, which easement will terminate automatically
8 upon (i) the PW Director's issuance of Determination of Completion for at least 1.3 acres of
9 public right-of-ways within Phase 1 of the Project in accordance with the Development
10 Agreement, or (ii) such earlier date at PW Director's discretion.

11
12 Section 3. Real Property Transaction; Delegation of Authority.

13 (a) The Board of Supervisors adopts the recommendations of the Director of Property
14 in the letter dated September 23, 2019. Notwithstanding the provisions of Administrative
15 Code Chapter 23 and as contemplated in the Development Agreement and the Public Trust
16 Exchange Agreement, the Board of Supervisors approves the following conveyances: (1)
17 City's quitclaim of its interests in the Development Parcels to Developer, and (2) City's
18 quitclaim of its interest in the City Future Trust Parcels in connection with the Public Trust
19 Exchange to the State, which City Future Trust Parcels will be re-conveyed to the City, in
20 trust, to be held by the Port for use within India Basin Open Space and managed by the
21 Recreation and Park Department.

22 (b) The Board of Supervisors delegates to the Director of Property, in consultation with
23 the City Attorney's Office, the authority to make nonmaterial changes in, and to finalize and
24 execute, the quitclaim deed(s) on behalf of the City, conveying the Development Parcels and
25 the City Future Trust Parcels, all in accordance with the terms of the Development

1 Agreement, the Public Trust Exchange Agreement, and as set forth in this ordinance, upon
2 the satisfaction of all conditions to closing contemplated in the Development Agreement and
3 the Public Trust Exchange Agreement, including, but not limited to, the following:

4 (1) The Public Trust Exchange has occurred or will be occurring concurrently
5 with the closing, and Developer has conveyed to the City, or will concurrently with the closing
6 convey to the City, the Trust Exchange Property; and

7 (2) The Director of Property has made a finding that the quitclaim of the
8 applicable Development Parcel will not result in a net loss of acreage for the City, as follows:

9 (i) the acreage, calculated cumulatively as of the date of the quitclaim, of Trust Exchange
10 Property and Future Streets Dedication Property conveyed by Developer to the City, plus the
11 acreage of temporary easements reserved by the City pursuant to subsection (b)(3) of
12 Section 2 of this ordinance, on the one hand, and (ii) the acreage, calculated cumulatively as
13 of the date of the quitclaim, of the Development Parcel to be quitclaimed to Developer, on the
14 other hand.

15 (c) Copies of the draft quitclaim deeds referenced in this ordinance are on file with the
16 Clerk of the Board of Supervisors in File No. _____ and incorporated herein by
17 reference.

18
19 Section 4. Official Acts in Connection with this Ordinance.

20 (a) The Mayor, Clerk of the Board of Supervisors, Director of Property, County
21 Surveyor, Assessor-Recorder, Port Director, and PW Director are hereby authorized and
22 directed to take any and all actions which they or the City Attorney may deem necessary or
23 advisable to effectuate the purpose and intent of this ordinance (including, without limitation,
24 the filing of this ordinance in the Official Records of the City; confirmation of satisfaction of the
25 conditions to the effectiveness of the vacation of the Vacation Area hereunder; and execution

1 and delivery of any evidence of the same, which shall be conclusive as to the satisfaction of
2 the conditions upon signature by any such City official or the official's designee, and
3 completion and recordation of quitclaim(s)).

4 (b) The Clerk of the Board of Supervisors is directed to transmit to the Office of the
5 Assessor Recorder a certified copy of this ordinance, the legal description of the Vacation
6 Area, the Assessor's Parcel Number(s) or reserved Assessor's Parcel Number(s), and the IB
7 SUR Map. Promptly upon the effective date of this vacation, the County Recorder shall
8 record this ordinance, the legal description of the Vacation Area, and the IB SUR Map.

9
10 Section 5. This ordinance shall become effective 30 days after enactment. Enactment
11 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or
12 does not sign the ordinance within ten days of receiving it, or the Board of Supervisors
13 overrides the Mayor's veto of the ordinance.

14
15 Section 6. Within 30 days of recordation of any conveyance documents authorized to
16 be executed by this ordinance, the Real Estate Director shall provide copies of the recorded
17 documents to the Clerk of the Board of Supervisors for the Board's File for this ordinance.

18
19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: _____

23 ANDREA RUIZ-ESQUIDE
24 Deputy City Attorney

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LEGISLATIVE DIGEST

[Street Vacation and Conveyance - India Basin Project]

Ordinance ordering the vacation of streets in the India Basin Project site, located generally at Innes Avenue between Griffith Street and Earl Street, along the India Basin shoreline; reserving temporary public utility and access rights in favor of the City and temporary easement rights for existing PG&E gas and overhead electrical facilities; authorizing the City to quitclaim its interest in approximately 3.8 acres within Earl Street, Hudson Avenue, and Arelious Walker Drive to India Basin Investment LLC; authorizing the City to transfer approximately 1.1 acres within Arelious Walker Drive, Hudson Avenue, Earl Street, and Galvez Avenue to the State for purposes of having such property reconveyed to the City to be held by the Port, in trust, through implementation of the India Basin Public Trust Exchange; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings that the actions contemplated in this Ordinance are consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and authorizing official acts in connection with this Ordinance, as defined herein, including transmittal of the Ordinance by the Clerk of the Board of Supervisors to the Assessor Recorder for recording.

Existing Law

California Streets and Highways Code sections 8300 et seq. and Public Works Code section 787(a) govern the process for the vacation of City streets and public service easements.

Hudson Avenue, Earl Street, Arelious Walker Drive, Fairfax Avenue, Evans Avenue, Fitch Street, and Galvez Avenue are streets in the India Basin Project site, which is generally located at Innes Avenue between Griffith Street and Earl Street, along the India Basin shoreline.

Amendments to Current Law

This legislation would vacate the following streets, as depicted in the Public Works SUR Map incorporated by reference into the legislation, and subject to some reservations listed in the ordinance:

- Portions of Hudson Avenue, Earl Street and Arelious Walker Drive, to be conveyed by the City to the India Basin Investment, LLC, and developed as part of the India Basin Project;
- Portions of Fairfax Avenue, Evans Avenue, Earl Street, Arelious Walker Drive and Fitch Street, which are currently owned by the Port of San Francisco (Port), and which upon

vacation would remain under Port ownership, subject to the public trust, and incorporated into the India Basin Open Space; and

- Portions of Hudson Avenue, Arelious Walker Drive, Galvez Avenue and Earl Street, which are currently City-owned streets and which, upon vacation, will remain City property but will be subject to the public trust and will be incorporated into the India Basin Open Space.

The ordinance affirms the Planning Department's determination under the California Environmental Quality Act and adopt findings that the legislative actions are consistent with the San Francisco General Plan and eight priority policies of San Francisco Planning Code section 101.1. The ordinance also authorizes official acts in connection with its implementation, such as transmittal of the ordinance by the Clerk of the Board of Supervisors to the Assessor Recorder for recording.

Background Information

The Board of Supervisors approved a series of entitlements for the India Basin Project in 2018, including a Development Agreement which anticipated the vacation of certain streets within the project site, in order to fulfill the public benefits to be obtained through the Development Agreement. This ordinance implements the Development Agreement.

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