

[Golden State Warriors Events Center at Mission Bay – Street and Easement Vacations]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Ordinance ordering the summary vacation of four easements for water line, sanitary sewer, and/or storm water purposes and two offers of dedication within portions of Assessor’s Block No. 8722, Lot Nos. 1 and 8, within the Mission Bay South Redevelopment Plan Area for the Golden State Warriors Event Center and Mixed-Use Development at Mission Bay South Blocks 29-32; authorizing a termination and quitclaim of the easements and other City and County of San Francisco rights and interest in the vacated areas; authorizing the General Manager of the Public Utilities Commission and the Director of Property to execute the quitclaim deeds for the vacated easements and vacation area; ~~retroactively extending a providing~~ license agreement(s), including if appropriate, a retroactive extension of the previously ~~executed agreement~~, for the public’s use of the temporary Terry A. Francois Boulevard Connector Road; adopting findings pursuant to the California Environmental Quality Act; and making findings of consistency with the Mission Bay South Redevelopment Plan, the General Plan, and eight priority policies of Planning Code, Section 101.1, for the actions contemplated in this Ordinance.

18
19
20
21

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

22
23

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

24
25

Section 1. **General Findings.**

1 (a) GSW Arena LLC (“GSW”), an affiliate of the Golden State Warriors, LLC, which
2 owns and operates the Golden State Warriors National Basketball Association team,
3 proposes to construct a multi-purpose event center and a variety of mixed uses, including
4 office, retail, open space, and structured parking on an approximately 11-acre site on Blocks
5 29-32 (Assessor’s Block 8722, Lots 1 and 8) in Mission Bay South (the “Project”). The Project
6 site is bounded by South Street on the north, Third Street on the west, 16th Street on the
7 south, and by the future planned realigned Terry A. Francois Boulevard on the east. The
8 areas on the Project site shown in Public Works (“PW”) draft SUR Map Nos. 2015-004 and
9 2015-005 dated _____, 2015 (the “Vacation Area”) are subject to certain sanitary
10 sewer, storm drain, and water line easements (the “Public Utility Easements”) and certain
11 Offers of Dedication (for street and roadway purposes), as indicated on the maps. Copies of
12 the maps, the Offers, and Public Utility Easements are on file with the Clerk of the Board of
13 Supervisors in File No. 150997.

14 (b) In accordance with ~~the actions contemplated herein~~ a tentative subdivision map
15 approval, this Board adopted a ~~resolution concerning~~ motion that included findings pursuant to
16 the California Environmental Quality Act (California Public Resources Code sections 21000 et
17 seq.). For purposes of the actions contemplated herein, the Board relies on the
18 environmental findings in that motion. A copy of said ~~resolution is~~ motion and the
19 environmental findings are on file with the Clerk of the Board of Supervisors in File No.
20 ~~450994~~ 151205 and ~~is~~ are incorporated by reference as though fully set forth herein.

21 (c) The Planning Department, in a letter dated November 6, 2015, determined that the
22 actions contemplated in this ordinance are consistent, on balance, with the City’s General
23 Plan and eight priority policies of Planning Code Section 101.1. A copy of said letter is on file
24 with the Clerk of the Board of Supervisors in File No. 150997 and is incorporated herein by
25 reference.

1 (d) In a letter dated November 4, 2015, the Office of Community Investment and
2 Infrastructure found that the proposed vacation and other actions are consistent with the
3 Mission Bay South Redevelopment Plan and Plan Documents (the "OCII Letter"). A copy of
4 the OCII Letter is on file with the Clerk of the Board of Supervisors in File No. 150997 and is
5 incorporated herein by reference.

6 (e) On November 10, 2015, after a duly noticed public hearing, the San Francisco
7 Public Utilities Commission, in Resolution No. 15-0235, determined that the Public Utility
8 Easements were surplus and unnecessary for public utility purposes, and therefore,
9 recommended that the Board of Supervisors terminate and vacate such Easements subject to
10 the conditions in this ordinance and authorize the General Manager to quitclaim these real
11 property interests. A copy of this resolution is on file with the Clerk of the Board of
12 Supervisors in File No. 150997.

13 (f) The City and FOCIL-MB, LLC, the successor in interest to Catellus Development
14 Corporation, the original developer for Mission Bay, entered into a license agreement (the
15 "License Agreement") to allow public and vehicular access to and use of certain temporary
16 street improvements and underlying land comprising the temporary design of Terry A.
17 Francois Boulevard. A copy of the License Agreement is on file with the Clerk of the Board of
18 Supervisors in File No. 150997 and is incorporated herein by reference. The License
19 Agreement expired by its own terms on or about August 29, 2003, although the public
20 continues to have access to this temporary section of roadway. A portion of the land that is
21 subject to the License Agreement has been or will be acquired by GSW for the Project.

22
23 **Section 2. Summary Vacation of the Public Utility Easements and Offers of**
24 **Dedication in the Vacation Area.**

25 (a) **Findings.**

1 (1) California Street and Highways Code Sections 8300 et seq. and San
2 Francisco Public Works Code Section 787(a) set forth the procedures that the City and
3 County of San Francisco follows to vacate public streets and public service easements.
4 California Street and Highways Code Sections 8330 et seq. permits the summary vacation of
5 a public street or public service easement if certain conditions are satisfied.

6 (2) Section 8333(a) of the California Streets and Highways Code provides that
7 the legislative body of a local agency may summarily vacate a public service easement under
8 certain circumstances.

9 (3) Section 8334(a) of the California Streets and Highways Code provides that
10 the legislative body of a local agency may summarily vacate an excess right-of-way of a street
11 or highway under certain circumstances. In this case, San Francisco is treating the existing
12 Offers of Dedication for street and roadway purposes as the equivalent of excess street right-
13 of-way even though no street improvements have been constructed on the areas identified in
14 the Offers of Dedication.

15 (4) In PW Order No. 184229, dated November 6, 2015, the Director of Public
16 Works (the "PW Director") determined: (A) the Public Utility Easements within the Vacation
17 Area can be summarily vacated under California Streets and Highways Code Section 8333(a)
18 because the subject easements have not been used for the purposes dedicated or acquired
19 for five consecutive years prior to the vacation action; (B) the Offers of Dedication within the
20 Vacation Area can be summarily vacated under California Streets and Highways Code
21 Section 8334(a) because the Offers of Dedication for public right-of-way are the equivalent of
22 excess right-of-way that is not required for street or highway purposes as these areas will be
23 replaced with other offers of dedication for larger areas in accordance with the Mission Bay
24 South Redevelopment Plan street design requirements; (C) there are no functioning in-place
25 public or private utility facilities that would be affected by the vacation of the Public Utility

1 Easements within the Vacation Area, which allows the City to proceed with a summary
2 vacation under Streets and Highways Code Section 8334.5; (D) the areas within the Vacation
3 Area offered for street and roadway purposes and the Public Utility Easements are
4 unnecessary for the City's present or prospective public street, sidewalk, and service
5 easement purposes; (E) pursuant to the Streets and Highways Code Section 892(a), the
6 Vacation Area hereunder is no longer useful as a nonmotorized transportation facility, as
7 defined in Section 887 of said Code, because the design of the Project contains new facilities
8 for bicycle and pedestrian movement that are equal to or in excess of what may currently
9 exist; and (F) the public interest, convenience, and necessity do not require any easements or
10 other rights be reserved for any public or private utility facilities that are in place in the
11 Vacation Area and that any rights based upon any such public or private utility facilities shall
12 be extinguished automatically upon the effectiveness of the vacation. A copy of the PW Order
13 is on file with the Clerk of the Board of Supervisors in File No. 150997 and incorporated herein
14 by reference.

15 (5) In addition, in PW Order No.184229, the PW Director recommends that the
16 Board retroactively extend the License Agreement for the temporary design of Terry A.
17 Francois Boulevard Connector Road to allow continued public and vehicular access to and
18 use of that street segment until such time as the PW Director, in consultation with other
19 affected City departments, approves alternative traffic routing during construction and,
20 subsequently, when the permanent design for Terry A. Francois Boulevard in this location is
21 publicly dedicated and open for public use. In addition, the PW Director recommends that the
22 Board delegate to the Director of Property the authority to enter into a license with GSW for
23 public access over that portion of the licensed area acquired by GSW (the "GSW Access
24 License"), in substantially the form of the proposed license agreement on file with the Clerk of
25 the Board of Supervisors in File No. 150997 and incorporated herein by reference. The

1 process to publicly dedicate and open streets for public use, such as the subject segment of
2 Terry A. Francois Boulevard, is described in companion legislation concerning the delegation
3 of public improvement approvals that is on file with the Clerk of the Board of Supervisors in
4 File No. 150996.

5 (b) **Ordering a Summary Vacation of the Public Utility Easements and Offers of**
6 **Dedication in the Vacation Area.**

7 (1) The Board of Supervisors finds that the street and easement vacation action
8 (the "Vacation Action ") and related approvals specified herein are consistent with the General
9 Plan and Planning Code Section 101.1 for the reasons set forth in the November 6, 2015
10 determination of the Planning Department and adopts said findings as its own.

11 (2) The Board of Supervisors finds that the Vacation Action and related
12 approvals specified herein are consistent with the Mission Bay South Redevelopment Plan for
13 the reasons set forth in the OCII Letter and adopts said findings as its own.

14 (3) The Board of Supervisors adopts the findings of the PW Director in PW
15 Order No. 184229 as its own.

16 (4) The Board of Supervisors finds that the Vacation Area is unnecessary for
17 present or prospective public use, subject to the conditions described in this ordinance.

18 (5) The Board of Supervisors hereby summarily vacates the areas within the
19 Vacation Area offered for street and roadway purposes and the Public Utilities Easements, as
20 shown on draft SUR Map Nos. 2015-004 and 2015-005, pursuant to California Street and
21 Highways Code Sections 8300 et seq. and San Francisco Public Works Code Section 787(a)
22 and quitclaims its interest in the Vacation Area as described in draft quitclaim deeds and
23 related termination agreements in substantially the form on file with the Clerk of the Board of
24 Supervisors in File No. 150997.

1 (6) The public interest and convenience require that the Vacation Action and
2 related approvals be done as declared in this ordinance.

3 (7) The Vacation Actions shall be conditioned upon: ~~(A) notification from the~~
4 ~~San Francisco Public Utilities Commission to the PW Director that the Public Utility~~
5 ~~Easements are surplus and no longer required because they are proposed to be abandoned~~
6 ~~and/or replaced with equivalent or better public utility facilities as part of the Project and its~~
7 ~~public improvement requirements under the Mission Bay South Infrastructure Plan and (B) the~~
8 City's receipt of replacement irrevocable offers of public improvements and recordation of
9 irrevocable offers for real property underlying such public improvements. Upon the
10 satisfaction of the conditions, the vacations shall be effective automatically and without the
11 requirement for further Board action whatsoever as to all of the Vacation Area. The
12 replacement irrevocable offers of public improvements and real property are described in
13 companion legislation concerning the delegation of public improvement approvals that is on
14 file with the Clerk of the Board of Supervisors in File No. 150996 and incorporated herein by
15 reference. Copies of the draft irrevocable offers are on file with the Clerk of the Board of
16 Supervisors are in File No. 150996.

17
18 Section 3. **License Agreement for the Temporary DesignUse of Terry A. Francois**
19 **Boulevard Connector Road.** The Board of Supervisors approves the ~~retroactive extension~~
20 ~~the License Agreement~~execution of a license agreement or agreements, substantially in the
21 form of the License Agreement, which, if feasible and appropriate may include a retroactive
22 extension of the prior License Agreement. to allow continued public and vehicular access to
23 and use of the temporary segment of Terry A. Francois Boulevard until such time as the PW
24 Director, in consultation with other affected City departments, approves alternative traffic
25 routing during construction and, subsequently, when the permanent design for Terry A.

1 Francois Boulevard in this location is publicly dedicated and open for public use. The Board
2 of Supervisors hereby delegates to the Director of Property, in consultation with the PW
3 Director and the City Attorney, the authority to ~~retroactively extend the term of the License~~
4 ~~Agreement~~ negotiate and execute such license agreement(s) in accordance with the
5 conditions set forth in this ordinance and to take all actions necessary to implement the intent
6 of this ordinance in regard to the ~~extension of the~~ temporary Connector Road License
7 Agreement. The Board of Supervisors hereby authorizes the Director of Property to execute
8 the GSW Access License in substantially the form presented to this Board and to enter into
9 any additions, amendments, or other modifications to the GSW Access License (including,
10 without limitation, the attached exhibits) that the Director of Property, in consultation with the
11 PW Director and the City Attorney, determines is in the best interest of the City, do not
12 materially increase the obligations or liabilities of the City, and are necessary or advisable to
13 implement the intent of this ordinance in regard to providing continued public access to the
14 segment of the temporary Terry A. Francois Boulevard Connector Road located on property
15 owned by GSW until such time as the PW Director, in consultation with other affected City
16 departments, approves alternative traffic routing during construction or when the permanent
17 design for Terry A. Francois Boulevard in this location is publicly dedicated and open for
18 public use.

19

20 Section 4. **Official Acts in Furtherance of the Ordinance.** The Board of Supervisors
21 directs the PW Director, the Director of Property, and the General Manager of the San
22 Francisco Public Utilities Commission, in consultation with the City Attorney, to take all actions
23 necessary to implement the intent of this ordinance, including finalizing and recording of
24 replacement irrevocable offers of public improvements and real property underlying such

25

1 improvements and the finalizing and recording of the termination agreements and quitclaim
2 deeds that release the City's interests in the Vacation Area.

3
4 Section 5. **Effective Date.** This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

8
9
10
11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By: _____
14 John D. Malamut
Deputy City Attorney

15 n:\legana\as2015\1600159\01066740.doc