

1 [Resolution of Intent - Streets and Public Service Easement Vacation - Parkmerced
2 Development Project]

3 **Resolution declaring the intent of the Board of Supervisors to order the conditional**
4 **vacation of portions of Higuera Avenue, Vidal Drive, Arballo Drive, and Garces Drive**
5 **(the “Street Vacation Area”), and certain San Francisco Public Utilities Commission**
6 **public service easements (the “Easement Vacation Area”), all within the Parkmerced**
7 **Development Project area, an approximately 152-acre site located in the Lake Merced**
8 **District in the southwest corner of San Francisco and generally bounded by Vidal**
9 **Drive, Font Boulevard, Pinto Avenue, and Serrano Drive to the north, 19th Avenue and**
10 **Junipero Serra Boulevard to the east, Brotherhood Way to the south, and Lake Merced**
11 **Boulevard to the west; reserve various easement rights in favor of the City and third**
12 **party utilities, subject to conditions specified; adopt findings under the California**
13 **Environmental Quality Act; adopt findings that the vacations are consistent with the**
14 **Parkmerced Development Agreement, the General Plan, and the eight priority policies**
15 **of Planning Code, Section 101.1; and authorize actions by City officials in furtherance**
16 **of the street vacation ordinance, as specified herein; direct the Clerk of the Board of**
17 **Supervisors to make certain transmittals; and set a hearing date for all persons**
18 **interested in the proposed vacation of said street areas and public service easements.**

19
20 WHEREAS, Parkmerced Owner, LLC (together, with its successors and assigns, the
21 “Project Sponsor”) submitted two applications for tentative subdivision maps pursuant to the
22 requirements of the California Subdivision Map Act for Subphases 1C and 1D of the
23 Parkmerced Project; those map applications are dated April 13, 2022, and October 29, 2021,
24 respectively; Tentative Map No. 10699 (the “Subphase 1C Tentative Map”) requested
25 approval to subdivide Assessor’s Parcel Block Nos. 7333, 7333-A, 7333-B, 7334, and 7337

1 (Parkmerced Planning Blocks 3W and 4); Tentative Map No. 10700 (the “Subphase 1D
2 Tentative Map”) requested approval to subdivide Assessor’s Parcel Block No. 7331, Lot No.
3 253 (Parkmerced Planning Block 21S); and

4 WHEREAS, Following the approval by Public Works (“PW”) of these Tentative Maps,
5 the Project Sponsor will pursue the approval of a final subdivision map for each of the
6 Subphase 1C and 1D Tentative Maps (each, a “Final Map”); and

7 WHEREAS, This vacation proceeding is for vacations needed to facilitate Subphase
8 1C of the Project which are: (1) portions of Higuera Avenue, Vidal Drive, Arballo Drive, and
9 Garces Drive (the "Street Vacation Area"); and (2) certain public service easements owned by
10 the SFPUC located within and outside of existing streets (the “Easement Vacation Area”); and

11 WHEREAS, No street or public service easement vacations are required for Subphase
12 1D; and

13 WHEREAS, These street and public easement vacation actions are conducted under
14 the general vacation procedures of the Public Streets, Highways and Service Easements
15 Vacation Law (California Streets and Highways Code, Sections 8300 et seq.); and

16 WHEREAS, Section 787(a) of the San Francisco Public Works Code provides that the
17 street and easement vacation procedures for the City and County of San Francisco (the
18 “City”) shall be in accordance with the applicable provisions of the California Streets and
19 Highways Code and such rules and conditions as are adopted by the Board of Supervisors;
20 and

21 WHEREAS, The Street Vacation Area is shown in Public Works SUR Map Nos. 2022-
22 003, 2022-004, 2022-005, 2022-006, 2022-007, and 2022-008, and the Easement Vacation
23 Area is shown in Public Works SUR Map Nos. 2022-009, 2022-010, 2022-011, 2022-012,
24 2022-013, 2022-014, and 2022-015; copies of these maps are on file with the Clerk of the
25 Board in File No. 220734 and are incorporated herein by reference; and

1 WHEREAS, The proposed vacation of the Street Vacation Area and Easement
2 Vacation Area is part of an action to implement the Parkmerced Development Agreement,
3 approved by this Board of Supervisors by Ordinance No. 89-11 (the “Development
4 Agreement”) and to fulfill the objectives of the Parkmerced Special Use District (Planning
5 Code, Section 249.64); and

6 WHEREAS, The proposed vacations and other actions contemplated herein implement
7 the Project contemplated by the Parkmerced Project Approvals, including the construction of
8 buildings and streets consistent with the Parkmerced Design Standards and Guidelines, the
9 Parkmerced Transportation Plan, and the Parkmerced Infrastructure Report, all of which are
10 incorporated by reference into the Development Agreement; and

11 WHEREAS, The City proposes to quitclaim its interest in the Street Vacation Area;
12 however, because these streets will remain in use until specified times, no portion of the
13 Street Vacation Area shall be vacated until all the following conditions are satisfied:

14 (a) The City reserves a public right of way easement to continue public street
15 and utility use until the Project Sponsor replaces the same in new public rights of way; and

16 (b) The Project Sponsor shall provide an irrevocable offer of dedication to the
17 City in form substantially similar to that provided in Exhibit L of the Development Agreement
18 for all lands needed for construction of proposed improvements shown on the Street
19 Improvement Permit for Subphase 1C of the Project. The Project Sponsor shall make such
20 irrevocable offers of dedication prior to City approval of the Final Map or issuance of a Street
21 Improvement Permit for Subphase 1C of the Project, whichever is earlier. The offer of
22 dedication shall be subject to the reservation of an easement in favor of the Project Sponsor
23 for all domestic water utilities and recycled water systems, within the dedicated area, which
24 easement, as to the domestic water utilities, shall be extinguished upon completion of all
25 Development Phases of the Project and formal acceptance of the domestic water utilities by

1 the City, and, as to the recycled water systems, shall be extinguished upon completion of
2 Development Phase 1 and formal acceptance of the recycled water systems by the City, all
3 pursuant to the Development Agreement. The sum total of the square footage of the land
4 proposed for dedication to the City shall be equal to or exceed the square footage of the
5 Street Vacation Area; and

6 (c) The Project Sponsor shall provide PW with an acceptable Public
7 Improvement Agreement (“PIA”) pursuant to Section 1351 of the San Francisco Subdivision
8 Code and the California Subdivision Map Act for all improvements within the Final Map or
9 required for development of the area shown in the Final Map prior to approval of a Final Map
10 or issuance of a Street Improvement Permit for Subphase 1C of the Project, whichever is
11 earlier. Such PIA shall address security provisions and provide interim easements or licenses
12 via separate offer, such that the City can complete the improvements if the Project Sponsor
13 fails to do so; and

14 (d) Where a future Development Phase of the Project (Development Phase 2
15 and onward) anticipates a future dedication of right of way adjacent to a street shown on a
16 tentative map as being partially improved, PW shall require the Project Sponsor, prior to
17 submittal of a Final Map mylar for such future phase (Development Phase 2 and onward), but
18 after acceptance and recordation of the quitclaim deeds for the Street Vacation Area
19 contemplated by this resolution, to record a Notice of Restrictions on those strips of land
20 anticipated in such future phase to be dedicated for the ultimate street construction as agreed
21 upon in the Development Agreement, subject to the review and approval of the City Attorney;
22 and

23 WHEREAS, The vacation of the Easement Vacation Area is subject to the reservation
24 of non-exclusive easements for the benefit of the SFPUC for the SFPUC utilities that are
25 located in, upon, or over any portion of the Easement Vacation Area in which the SFPUC’s in-

1 place and functioning utilities are located, to the extent necessary to maintain, operate, repair,
2 and remove existing sewer or water pipes and other convenient structures, equipment and
3 fixtures for the operation of such utilities; provided, however, that such non-exclusive
4 easements reserved will be automatically extinguished when alternative replacement facilities
5 are completed to the satisfaction of the City Engineer and the Board of Supervisors accepts
6 the facilities; and

7 WHEREAS, In a letter dated March 2, 2022 (the "Planning Letter"), the Planning
8 Department determined that the proposed vacations contemplated herein are consistent with
9 the General Plan, and with the eight priority policies of Planning Code, Section 101.1, comply
10 with applicable provisions of the Planning Code, and are consistent with the Project as
11 defined in the Development Agreement and the Project Approvals; a copy of said letter is on
12 file with the Clerk of the Board in File No. 220734 and is incorporated by reference herein; and

13 WHEREAS, In a letter dated June 13, 2022 (the "DRE Letter"), a copy of which is on
14 file with the Clerk of the Board in File No. 220734 and is incorporated by this reference, the
15 Director of Property determined that: the Development Agreement contemplates the vacation
16 of the Street Vacation Area; Exhibit J of the Development Agreement shows the general
17 locations of the property vacations and dedications required by the Project; Section 6.1.2 of
18 the Development Agreement requires that (a) all real property exchanged under the
19 Development Agreement be valued on a square foot basis, and shall be deemed equal in
20 value per square foot, (b) if any real property exchange under the Development Agreement
21 results in a net loss of acreage for the City, then the project sponsor must pay to the City the
22 fair market value of the real property loss at the time of transfer based on the then-current use
23 of the property so transferred, and (c) the City shall not be required to pay for any net gain in
24 real property; provided, however, such gain can be applied against future real property

25

1 transfers for purposes of determining whether there has been a net loss as described above;
2 and

3 WHEREAS, The Director of Property also determined in the DRE Letter that: the
4 proposed real property transfers associated with Subdivision Maps 10699 and 10700 result in
5 a net gain in real property owned by the City; therefore, no payment is owed by the Project for
6 the vacation of the Street Vacation Area; and this net gain should be credited against future
7 real property transfers for the Project; and

8 WHEREAS, In PW Order No. 206691, dated June 15, 2022, a copy of which is on file
9 with the Clerk of the Board of Supervisors in File No. 220734 and incorporated herein by
10 reference, the Director of Public Works determined that: (a) upon satisfaction of the applicable
11 condition or conditions, the Street Vacation Area and Easement Vacation Area will no longer
12 be necessary for the City's present or prospective future public street, sidewalk, and public
13 service easement purposes as all existing physical public or private utilities located in the
14 Street Vacation Area and all existing physical public utilities within the Easement Vacation
15 Area will be relocated to the satisfaction of the City as part of the construction of the Project;
16 (b) with certain exceptions noted, the public interest, convenience, and necessity do not
17 require that any easements or other rights be reserved for any public or private utility facilities
18 that are in place in the Street Vacation Area or the Easement Vacation Area and that any
19 rights based upon any such public or private utility facilities shall be extinguished
20 automatically upon the effectiveness of the vacation; (c) in accordance with California Streets
21 and Highways Code, Section 892 and 8314, for those portions of the Street Vacation Area
22 and Easement Vacation Area to be conditionally vacated, upon satisfaction of the applicable
23 condition or conditions, the rights-of-way and parts thereof proposed for vacation will no
24 longer be useful as a nonmotorized transportation facility, as defined in California Streets and
25 Highways Code, Section 887, because the Development Agreement requires the dedication

1 and construction of an extensive street, bicycle path, pedestrian path, park, and trail system
2 that is more extensive than the areas being vacated hereby and that is designed to integrate
3 with existing built streets in the adjacent neighborhoods; (d) the Project Sponsor is the owner
4 of all of the private property adjacent to the Street Vacation Area and the Easement Vacation
5 Area, and the proposed street vacations do not deprive any private landowner of access to
6 the built public street grid; and,

7 WHEREAS, Subject to the reservations and conditions specified in this Resolution,
8 those portions of the Street Vacation Area and Easement Vacation Area proposed to be
9 conditionally vacated will be unnecessary for prospective public use once the applicable
10 condition has been satisfied; and

11 WHEREAS, Except as specifically provided above, the public interest, convenience,
12 and necessity require that no other easements or other rights be reserved for any public or
13 private utility facilities that are in place in the proposed Street Vacation Area or the Easement
14 Vacation Area and that any rights based upon any such public or private utility facilities be
15 extinguished upon Board approval of the vacation actions; now, therefore, be it

16 RESOLVED, That pursuant to California Streets and Highways Code, Sections 8300 et
17 seq., and San Francisco Public Works Code, Section 787(a), the Board of Supervisors hereby
18 declares that it intends to order the vacation of the Street Vacation Area, as shown in Public
19 Works SUR Map Nos 2022-003, 2022-004, 2022-005, 2022-006, 2022-007, and 2022-008,
20 and the Easement Vacation Area as shown in Public Works SUR Map Nos. 2022-009, 2022-
21 010, 2022-011, 2022-012, 2022-013, 2022-014, and 2022-015, which are incorporated herein
22 by reference, subject to the conditions and to the reservations described above; and, be it

23 FURTHER RESOLVED, That notice is hereby given that on _____, 2022,
24 beginning at 3:00 P.M. in the Legislative Chambers of the Board of Supervisors, all persons
25 interested in or objecting to the proposed vacations will be heard; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors acknowledges the PW Order
2 No. 206691 findings, including among other things, that (a) upon satisfaction of the applicable
3 condition or conditions, the Street Vacation Area and Easement Vacation Area will no longer
4 be necessary for the City’s present or prospective future public street and sidewalk and public
5 service easement purposes; (b) upon satisfaction of the applicable condition or conditions, the
6 rights-of-way and parts thereof proposed for vacation will no longer be useful as a
7 nonmotorized transportation facility, as defined in California Streets and Highways Code
8 Section 887, because the Parkmerced Project includes new facilities for bicycle and
9 pedestrian movement that are equal to or in excess of what may currently exist; and (c) the
10 value of such exchange for future public right-of-way and other public benefits is equal for, or
11 in favor of, the City; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board
13 to transmit to the Department of Public Works a certified copy of this Resolution, and the
14 Board of Supervisors urges the Director of Public Works and the Clerk of the Board to publish
15 and post this Resolution and to give notice of the hearing of such contemplated action in the
16 manner required by law.

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